Bill as Introduced

HB 646-FN – AS AMENDED BY THE HOUSE

25mar03... 0793h

2003 SESSION

03-0479
03/09

HOUSE BILL ***646-FN***

AN ACT relative to liquor licenses and fees.

SPONSORS: Rep. Francoeur, Rock 85

COMMITTEE: Commerce

ANALYSIS

This bill makes a variety of changes in the laws relative to liquor licenses and fees.

This bill is a request of the liquor commission.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

6 New Paragraph; Definition; Food Service Business. Amend RSA 175:1 by inserting after paragraph XXXI-a the following new paragraph:

XXXI-b. "Food service business" means a business kept, used, maintained, advertised, and held out to the public primarily as a place where meals are served. At least 50 percent of the sales of a food service business shall be food consumed on the premises. A food service business with annual food sales of at least $75,000 shall be exempt from the 50 percent requirement.

7 Definitions; Private Group; Private Club Added. Amend RSA 175:1, LIV-a to read as follows:

LIV-a. ***"Private club" means an organization incorporated under the laws of this state, whose members are equal shareholders, whose assets belong to the members equally, and whose members have an equal vote in club affairs and a right to run for club offices. The licensed area of a private club shall be operated solely for the use of members and their accompanied guests, and shall be open for inspection by investigators of the commission and local law enforcement officials whenever operating.***

LIV-b. "Private group" means an assembly of persons gathered for a designated social or business occasion, present by invitation or reservation.

8 Definitions; Wholesale Distributor; Reference Changed. Amend RSA 175:1, LXVI to read as follows:

LXVI. "Wholesale distributor" means a person licensed by the commission to engage in the purchase of beverages only from the holders of wholesale distributor licenses, beverage manufacturer licenses, beverage vendor licenses, or [~~beverage vendor importer~~] ***brew pub*** licenses. Wholesale distributors may resell, to other licensees, beverages in their original containers, as prepared for the market by the manufacturer, but not for consumption, except for tasting on the premises of the wholesaler.

9 Advertising; References Changed. Amend RSA 175:4, IV to read as follows:

IV. The following statement shall be posted on the premises of all [~~on-sale and off-sale~~] ***on-premises and off-premises*** licensees and at state liquor stores: "According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects." Such statement shall be located in a conspicuous and prominent place within the establishment and shall appear on a contrasting background.

10 Transportation of Liquor; References Changed. Amend RSA 175:6, I-II to read as follows:

I. No person shall transport liquor in this state in a greater quantity than 3 quarts, unless said liquor was purchased from a state store, from a direct shipper, from a holder of a combination or retail wine license in accordance with RSA [~~178:16 and RSA 178:17~~] ***178:18, and RSA 178:19*** or from a winery holding a limited winery special sales license in accordance with RSA [~~178:6~~] ***178:8***. Provided, however, that the commission in its discretion may grant to an individual, upon application, a license to transport for a specific journey liquor not purchased at a state store for the person's own personal use, in a quantity not to exceed 3 gallons. Quantities exceeding 3 gallons may

be transferred with a license issued by the commission providing a fee of 25 percent of the entire value of the product is paid to the commission. [~~It shall be lawful for import warehousers, under rules adopted by the commission pursuant to RSA 541-A to transport liquor as provided by RSA 178:5, II.~~] It shall be lawful for common carriers to transport liquor to state stores, to state warehouses, to licensees under this title, to purchasers of liquor at state stores, and from manufacturers to state warehouses, state stores, and to the state line for transportation outside the state; for licensees under this title to transport liquor from state stores to their place of business; and for manufacturers to transport within the state to state warehouses and state stores and to the state line for transportation outside the state.

II. Upon written authorization from the commission it shall be lawful for any out-of-state wholesaler of liquor or any licensed liquor vendor, [~~table~~] wine vendor, [~~liquor manufacturer~~] ***rectifier,*** or domestic wine manufacturer to pick up from, transport, and deliver liquor or table wines, as applicable, to any commission warehouse, to any other licensed warehouse, to the state line, or to their place of business.

11 Commission to Sell; References Changed. Amend RSA 176:11, II to read as follows:

II. In the event that the commission determines New Hampshire liquor revenues are being diverted by actions taken by persons holding either liquor and wine representative[~~,~~] ***or*** liquor [~~vendor or table~~] ***and*** wine vendor licenses who compete directly or indirectly with the commission for market share in this or other states, the commission may take such marketing or merchandising action, or both, as it deems necessary, including sanctions against products supplied by the competing entities.

12 Liquor Dispensed Only Through Commission; References Changed. Amend RSA 177:6 to read as follows:

177:6 Liquor Dispensed Only Through Commission. Except as provided in RSA [~~178:5, II, RSA 178:6, II, and RSA 178:14-a~~] ***178:8, II and RSA 178:27***, no liquor shall be sold in any state store, nor by any sales agent, nor by any person holding an [~~on-sale or off-sale~~] ***on-premises or off-premises*** retail license under RSA 178, except that obtained from the commission.

13 Liquor Licenses and Fees. RSA 178 is repealed and reenacted to read as follows:

CHAPTER 178

LIQUOR LICENSES AND FEES

178:1 Licenses Required; Enforceability of Contracts.

I. No person shall manufacture for sale, or sell in any method or manner, directly or indirectly, or distribute by selling, transferring, giving, or delivering to another, or leaving, bartering, or exchanging with another, or offering or agreeing to do the same, in any method or manner, directly or indirectly, or keep for sale any liquor or beverage without first registering to do business with the secretary of state and obtaining a license for such activity under the provisions of this title. Any violation of this section shall be a class B felony for each violation.

II. Any name or trade name displayed outside a business licensed under this chapter shall be registered with the secretary of state by the applicant for the licenses issued under this title. If the name or trade name is owned by someone other than the user, the user shall obtain the consent to use that name or trade name from the registered owner.

III. Any person applying for a liquor and wine representative license shall have been a New Hampshire resident, or shall have at least one director, officer, or partner who has been a New Hampshire resident for at least 3 years immediately preceding the date of the application.

IV. All contracts and agreements entered into by liquor and wine representatives shall be enforceable under New Hampshire laws and shall have termination notices of not less than 60 days.

V. Notwithstanding any other provisions of law, each club-bottle as defined in RSA 175:1, XVII shall register to do business with the secretary of state. Nothing contained in this chapter shall be construed to permit the operator of a club-bottle to sell beverage or liquor, directly or indirectly, or otherwise replace beverage or liquor, consumed by persons over 21 years of age and holding lawful title, for a fee or anything of value.

178:2 Licenses Authorized; Training Required.

I. The commission may issue licenses to individuals, partnerships, limited liability companies and partnerships, or corporations but not to unincorporated associations, on applications duly made therefor for the manufacture, warehousing, sale, offer for sale, or solicitation of orders for sale of liquor or beverages within the state, subject to the limitations and restrictions imposed by this title. The commission shall keep a full record of all applications for licenses, of all recommendations for and remonstrances against the granting of licenses, and of the action taken on such applications.

II. Notwithstanding any other provision of law, the commission shall require all persons who hold a retail license under the provisions of this chapter to attend a training program within 45 calendar days of the issuance of the license. These provisions shall not apply to any person who holds a retail license on the effective date of this paragraph. The commission shall provide the training program without additional fees or cost to the licensee. The commission shall adopt rules, pursuant to RSA 541-A, relative to the administration of the training program.

III. The commission shall develop and provide a training program which shall include, but not be limited to, information on state law, alcohol sales practices, criminal and civil liability, and management practices which are intended to reduce access to alcohol by persons under the age of 21 and overservice of alcohol to patrons.

IV.(a) Within 45 days of the issuance of a retail license, the training program shall be attended by:

(1) The proprietor of a sole proprietorship or a manager designated by the proprietor to attend in lieu of the proprietor.

(2) All partners in a partnership or a manager designated by the partners to attend in

lieu of the partners.

(3) An officer of a corporation or a management representative designated by the corporation to attend in lieu of an officer.

(4) A member of a limited liability company or a manager designated by the limited liability company to attend in lieu of a member.

(b) Prior to the effective date of a one-day license, the training program shall be attended by a management representative of the applicant.

V. The commission may suspend, pursuant to RSA 541-A:30, III, the license of any person who holds a license under the provisions of this chapter for failure to comply with the requirements of paragraph IV. The license shall not be reissued until the required training is completed.

178:3 License Applications, Qualifications, and Renewal.

I. Persons seeking a license under this chapter shall file an application with the commission which is in such form and contains such information as the commission may establish by rule consistent with the purposes of this chapter.

II. The commission shall establish application fees which are sufficient to recover the fully distributed costs of processing and investigating each type of license application required. All applications shall be processed in accordance with RSA 541-A:29. Only United States citizens, registered resident aliens, partnerships, or limited liability companies, limited liability partnerships, or corporations currently registered with the secretary of state to do business in New Hampshire shall be licensed under this chapter.

III. All license applications shall be made in the name of the proposed licensee and shall be signed and sworn to by the proposed licensee. In the case of a partnership, limited liability company or partnership, or corporate applicant, the application shall be signed and sworn to by all partners or an officer of the proposed licensee, or in the case of a limited liability company or partnership by each member if a natural person, or by a duly appointed representative of the membership if any other person, or by the manager of the limited liability company.

IV. An applicant intending to employ a trade name in the proposed business shall submit evidence with its application which demonstrates that the trade name is currently registered in New Hampshire.

V. The commission shall receive and evaluate sufficient information to identify and evaluate the qualifications of all persons with the de jure or de facto right to control the operations and policies of the proposed licensee. Among other things, license applications shall disclose fully and accurately:

(a) The applicant's identity, the applicant's permanent residence address in the case of an individual, and the applicant's principal place of business.

(b) The names and addresses of any persons who own or have a right to control any interest in the proposed licensee.

(c) Any agency agreement or other contract between the applicant and third persons intended to affect the operation of the proposed business, and the identity of the third party involved.

(d) The name, location, physical layout, and nature of the proposed business.

(e) Any substantial business interests involving the manufacture, sale, or distribution of liquor or beverages held by any person identified pursuant to subparagraph V(b).

(f) All licenses issued to and all other license applications filed by the applicant, and by any person identified pursuant to subparagraph V(b), pursuant to this title during the previous 5 years.

VI. No license shall be issued under this chapter to any person who has been convicted of a felony, or to any partnership, limited liability company or partnership, or corporation when a partner, director, officer, member, or any other person with a controlling interest in the operation of the business has been convicted of a felony.

VII. The commission shall not issue a license under this chapter unless it is satisfied that:

(a) The application is complete in all respects.

(b) The applicant and any person listed pursuant to subparagraph V(b) are at least 21 years of age and of sufficiently good character to leave no substantial doubt that the proposed business shall be operated in strict accordance with all applicable state and federal alcoholic beverage control laws and rules.

(c) The applicant has accurately disclosed its interests in other business activities, and there is no substantial likelihood that these interests would interfere with the operation of the proposed business in a lawful manner and in accordance with the provisions of this chapter. Any application may be denied if the proposed licensee, or a person with a substantial ownership interest in the applicant, has other business interests in this or any other state which the commission believes would create unreasonable opportunities for unfair competition or unlawful activities, or which would unduly hinder the commission in exercising its regulatory and financial responsibilities.

(d) In the case of corporate, limited liability company or partnership, or partnership applicants controlled by persons who do not reside in the United States, the proposed business would not be managed in a manner which would unduly hinder the commission from exercising its regulatory and financial responsibilities. Inaccessibility of relevant records or unresponsiveness to nondiscriminatory commission inquiries which result from foreign control shall be grounds for revoking or suspending a license which has already been granted.

(e) The person or persons actually managing the proposed business on a day-to-day basis are of good character and are professionally qualified to perform such work in a manner which complies with the laws of this state and the rules of the commission.

(f) The proposed location of the business is an appropriate one, considering the nature of the business, the nature of the surrounding neighborhood, and the number of similar businesses in that neighborhood.

VIII. All license applications shall be updated and amended within 30 days following any change in the information stated in the application. This obligation shall continue after the application has been granted. Failure to notify the commission of such changes shall be grounds for denying a pending application or revoking or suspending a license which had already been granted.

IX. A transfer of the right to control a corporate, limited liability company or partnership, or partnership applicant or existing licensee requires prior commission approval. Minor ownership changes, and changes in corporate, limited liability company or partnership, partnership, or trade names which do not involve ownership change shall be automatically approved upon the filing of appropriate documentation.

X. Any applicant denied a license under this chapter shall be granted a hearing by the commission, upon the applicant's request.

XI. There shall be no presumption that any liquor license shall be renewed. The commission shall review all license requests for renewal, and shall not renew any license unless the licensee meets all of the current requirements for the issuance of a license. The commission may consider the licensee's record of violations, the manner in which the licensee has operated during the term of the license, the effect of the license on the neighborhood or community, and any other facts presented at the renewal hearing in determining whether to renew the license.

178:4 Exception. Notwithstanding the provisions of RSA 178:3, the commission may issue licenses to a person who has been convicted of a felony, other than abduction, arson, incest, manslaughter in the first degree, mayhem, murder, rape, robbery, or trafficking in drugs, provided that not less than 5 years shall have passed since such person completed his or her sentence or was placed on parole or probation, and, upon state and federal criminal history checks, the commission is satisfied that during this interim period the person has led an exemplary life, has no legal criminal actions pending, and has not been convicted of any further crime except for minor traffic violations.

178:5 Insurance for Liquor Liability.

I. If the commission finds that a licensee or applicant has twice within 24 months violated RSA 179:5 under circumstances not involving enforcement activity initiated solely for the purpose of verifying noncompliance with RSA 179:5, the commission may require, as a condition of the issuance, renewal, or reinstatement of any license that the licensee or applicant furnish sufficient security for liquor liability of the licensee of up to a limit of $100,000 for any one person and $300,000 for all persons per incident. Such security may be provided by:

(a) A continuous certificate of an insurance company or surety company authorized to transact business in this state, attesting to such coverage, which shall remain in effect unless cancelled or non-renewed in accordance with RSA 417-C, with a copy of notice of cancellation or non-renewal provided to the commission; or

(b) The deposit with the commission of money or securities satisfactory to the commission. Such securities shall be of a type which may be legally purchased by a savings bank or

trust funds. Money or securities so deposited shall be subject to execution to satisfy judgment for liquor liability, but otherwise shall not be subject to attachment or execution.

II. The commission shall adopt rules, pursuant to RSA 541-A, relative to procedures and criteria necessary for a certificate of insurance for liquor liability to be required for the issuance of a liquor license.

178:6 Liquor Manufacturer License.

I. A liquor manufacturer licensee may ferment, distill, blend, age, and bottle liquor other than wine in this state. A liquor manufacturer licensee may sell the liquor it manufactures to the commission for resale in this state.

II. No liquor manufactured, blended, or bottled in this state by any manufacturer shall be sold or delivered in this state in any manner which is inconsistent with the provisions of this title.

III. Each liquor manufacturer shall have the right to transport the liquor it manufactures, blends, or bottles in bottles or other closed containers to the state border for transportation and sale outside the state to holders of a United States basic permit issued under the Federal Alcohol Administration Act.

178:7 Rectifier License.

I. A rectifier licensee may age, blend, and bottle liquor at its premises, may purchase liquor from sources both inside and outside this state for such aging, blending, and bottling, and may sell the liquor it produces to the commission for resale in this state.

II. No liquor which is aged, blended, or bottled in this state by any rectifier shall be sold or delivered in this state in any manner which is inconsistent with the provisions of this title.

III. Each rectifier shall have the right to transport the liquor it ages, blends, or bottles in bottles or other closed containers to the state border for transportation and sale outside the state to holders of a United States basic permit issued under the Federal Alcohol Administration Act.

178:8 Wine Manufacturer License.

I. Wine manufacturer licensees may ferment fruit or other agricultural products naturally containing sugar to produce table wine containing at least 6 but not more than 15.5 percent alcohol by volume, and to produce from that wine fortified wine containing at least 15.5 but not more than 24 percent alcohol by volume.

II. Each manufacturer of domestic wines in this state shall have the right to sell and to transport and deliver wines manufactured by it directly to the holders of on-premises or off-premises licenses issued by the commission. No domestic wine manufactured in this state by any manufacturer shall be sold or delivered in this state in any manner which is inconsistent with the provisions of this title.

III. Each wine manufacturer shall have the right to sell at retail or wholesale at its winery for off-premises consumption any of its wines. Visitors at said premises may be provided with reasonable samples of wine for tasting. Pursuant to rules adopted by the commission, a wine

manufacturer may transport its products to a farmers' market, and may sell such products at retail in the original container.

IV. Each wine manufacturer shall maintain records and prepare reports for the commission which shall indicate the sales made under this section and shall pay to the commission monthly a fee equal to 5 percent of such sales on or before the tenth day of the month following the sale.

V. Each wine manufacturer shall have the right to transport wines manufactured by it to the state border for transportation and sale outside the state.

VI. Each wine manufacturer shall have the right to hire sales representatives subject to RSA 179:11 as it desires, and shall have the right to solicit sales of its wines directly to retail licensees.

VII. The holder of a wine manufacturer license, or designee, may be issued an on-premises license at the discretion of the commission. The annual fee each license issued under this section shall be as required under RSA 178:29.

178:9 Liquor and Wine Vendor License.

I. A liquor and wine vendor licensee may sell liquor to the commission for resale in this state.

II. Liquor and wine vendor licenses may be issued only to a manufacturer of liquor, or to the person designated by the manufacturer as the sole supplier of its products for the state of New Hampshire.

III. Liquor and wine vendors shall have a licensed representative conduct their business in this state.

IV. Liquor and wine vendor licensees may designate a liquor and wine representative as the sole supplier of its domestic, table, or fortified wine.

178:10 Liquor and Wine Representative License.

I. A liquor and wine representative license shall authorize its holder to offer for sale or solicit orders for the sale of liquor in this state.

II. Liquor and wine representative licenses shall be issued only to persons designated as authorized New Hampshire representatives by liquor and wine vendor licensees. Liquor and wine vendors shall not designate more than one representative for any brand.

III. A liquor and wine representative may employ sales persons, who shall carry a copy of the representative's license and a letter of authorization from the representative when working in this state.

IV. A liquor and wine representative may not hold any other license except a liquor and wine vendor license.

178:11 Liquor/Wine/Beverage Warehouse License.

I. A liquor/wine/beverage warehouse license shall only entitle the licensee to receive, warehouse, and ship, for a fee, any liquor, wine, or beverage or combination of liquor, wine, or

beverage as defined by RSA 175:1 belonging to any retailer, vendor, wholesale distributor, or manufacturer, licensed in this state pursuant to title XIII. The commission may adopt rules pursuant to RSA 541-A to administer the provisions of this section.

II. A liquor/wine/beverage warehouse licensee shall possess a suitable warehouse facility for product storage and maintain adequate business records readily available for inspection by the commission.

III. A liquor/wine/beverage warehouser shall not sell any liquor, wine, or beverage stored on the warehouser's premises.

IV. All liquor, wine, or beverage shall be separated in such a manner that the commission may determine upon audit the ownership of such product.

V. Liquor/wine/beverage warehousers shall submit a monthly report both to the liquor commission enforcement division and the warehouse and transportation division of the commission by the tenth day of the following month indicating the quantity, type, size, and brands of all product received, stored, or shipped on their premises.

VI. All additional fees relating to transportation or shipping charges shall be borne by the liquor/wine/beverage warehouser, manufacturer, or liquor and wine vendor to cover shipment of bailment or other liquor or wine products to the commission's central warehouse for subsequent distribution.

178:12 Beverage Manufacturer License.

I. Beverage manufacturer licenses shall authorize the licensee to manufacture beverages within the state and to sell the beverages manufactured to wholesale distributors.

II. The holder of a beverage manufacturer license may be issued one on-premises license for the manufacturer's premises, providing all requirements of the license are fulfilled. The annual fee for each license issued under this section shall be as required under RSA 178:29.

III. The holder of a beverage manufacturer license may operate a hospitality room on the premises in which the licensee may make available to visitors of legal drinking age for on-premises consumption free of charge samples of beverages manufactured on the premises. The hospitality room shall require commission approval in respect to its location, service facilities, and seating arrangements.

IV.(a) The holder of a beverage manufacturer license may sell beverages manufactured on its premises to:

(1) The licensee's employees who are of legal drinking age at such discounts as are customary in the business;

(2) The general public for off-premises consumption in quantities not to exceed a single 15.5 gallon keg or the equivalent of one case of 12 ounce containers per person per day; or

(b) A holder of a beverage manufacturer license who manufactures 15,000 barrels or less during its licensing period may elect to distribute its beverages directly to retail licensees and/or to

distribute its beverages pursuant to RSA 180, provided that total in-state direct retail sales do not exceed 5,000 barrels.

V. Beverage manufacturers shall pay a fee as required by RSA 178:22 for each gallon of beverage sold or provided under paragraphs III and IV.

VI. The holder of a beverage manufacturer license may sell beverages manufactured on its premises to New Hampshire wholesalers, subject to the conditions of RSA 180.

VII. Beverage manufacturers may hire representatives to promote their products, who shall carry a copy of the beverage manufacturer's license and a letter authorizing them to conduct business for the manufacturer on their person at all times when conducting the beverage manufacturer's business.

VIII. Each beverage manufacturer shall have the right to transport the beverage it manufactures in barrels, kegs, bottles, or other closed containers within the state for sale to licensees and to the state border for transportation and sale outside the state.

178:13 Brew Pub License.

I. A brew pub license shall authorize the licensee to manufacture beer in quantities not to exceed 2,500 barrels annually primarily for consumption on the licensed premises.

II. A brew pub licensee may sell beer manufactured on the premises to individuals for on-premises and off-premises consumption and to New Hampshire licensed retailers and wholesalers. A brew pub shall maintain a full service restaurant and may subsequently serve beverage and liquor as permitted by RSA 178:19, II(a)(l) and RSA 178:20, V(q).

III. Each brew pub shall maintain records showing all transactions associated with the business and shall file reports with the commission on or before the tenth day of the following month, which shall indicate the sales made under paragraph II.

IV. A brew pub licensee shall pay the same monthly fee as required by RSA 178:26 for each gallon of beverage manufactured less the quantities sold outside New Hampshire or to New Hampshire wholesalers. Fees shall be paid to the commission on or before the tenth day of the following month.

V. Each brew pub licensee shall have the right to transport the beverage it manufactures in barrels, kegs, bottles, or other closed containers within the state for sale to licensees and to the state border for transportation and sale outside the state.

178:14 Carrier Licenses.

I. A carrier license shall authorize the licensee to transport and deliver beverage and liquor within this state and to pick up from the holder of a rectifier license or a beverage, liquor, or wine manufacturer license for delivery outside the state.

II. A copy of the carrier license shall be carried in each vehicle used to transport beverage or liquor.

178:15 Beverage Vendor.

I. The holder of a beverage vendor license may sell beverages to New Hampshire wholesale distributor licensees.

II. The holder of a beverage vendor license shall furnish to the commission, on or before the tenth day of each month, a report under oath, on a form prescribed by the commission showing the quantity of beverages sold or delivered to each wholesale distributor licensee during the preceding calendar month. A license may be revoked for failure to submit such a report.

III. Representatives of beverage vendors shall carry a copy of the beverage vendor license and a letter authorizing them to conduct business for the vendor on their person at all times when conducting the beverage vendor's business.

IV. Beverage vendors shall be exclusive New Hampshire agents for any manufacturer whose product is sold in this state by the vendor.

178:16 Wholesale Distributor License.

I. Wholesale distributor licenses shall authorize the licensees to sell beverages in barrels, bottles, or other closed containers to licensees for resale or to the general public. The holder of a wholesale distributor license shall maintain a regular place of business in this state.

II. Each wholesale distributor holding a license under this section shall annually give to the state of New Hampshire a bond with sureties satisfactory to the commission in such penal sum as may be determined by the commission, conditioned upon the payment of the fees required under the provisions of this chapter. The amounts due under said bond shall be recoverable in an action of debt to be brought by the attorney general upon complaint of the commission. The commission may waive the giving of such bond if satisfactory reports and payments are made which precede the statutory requirements.

III. The holder of a wholesale distributor license may hold one on-premises license with respect to the premises designated in such wholesale distributor license.

IV. Representatives of wholesale distributors shall carry a copy of the wholesaler distributor license on their persons at all times when conducting the wholesaler's business.

V. No person shall have through stock ownership, interlocking directors, or otherwise, an interest or control, either direct or indirect, in the business of the holder of a wholesale distributor license, unless he or she has been a resident of the state for at least 3 consecutive years immediately prior thereto. The provisions of this section shall not apply to the renewal of wholesale permits which were in existence on March 15, 1957, nor shall it be deemed to refer to persons who acquired their interest as heirs-at-law or spouse of the deceased, by the law of intestate succession, or, in the case of a will, those who acquired their interest under a will, provided that such legatees are also heirs-at-law or spouse of the deceased.

178:17 Off-Premises Special Licenses.

I. The commission may issue a special license to an assignee, sheriff, or other person, including an administrator or executor, to sell liquor or beverages which may have come into his or

her possession in his or her official capacity.

II. The commission may issue a special license to any public television station, public radio station, or nonprofit corporation to auction wine and liquor to the public. Such auctions shall be part of the special licensee's regular fund raising program. The special licensee shall hold only one auction of wine and liquor per year. Only wine and liquor donated to the special licensee may be auctioned under this paragraph. Wine and liquor donated for the purposes of this paragraph need not have been purchased in this state.

178:18 Combination License.

I. Off-premises licenses shall be issued only for grocery and drug stores not holding on-premises licenses. Such licenses shall authorize the licensees to sell fortified wine, table wine, and beverages for consumption only off the premises designated in the licenses and not to other licensees for resale. Such sale shall be made only in the immediate container in which the beverage, wine, or fortified wine was received by the off-premises combination licensee; except that in the case of the holder of a wholesale distributor license, beverages may be sold only in such barrels, bottles, or other containers as the commission may by rule prescribe. There shall be no restriction on the number of combination retail wine and beverage licenses held by any person. The license shall authorize the licensee to transport and deliver beverages ordered from and sold by the licensee and to transport and deliver table or fortified wines ordered from and sold by the commission and sold by the licensee in vehicles operated under the licensee's control or an employee's control.

II. All sales of beverages, fortified wines, and table wine shall be recorded on cash registers. No additional registers shall be added during the remainder of the year without prior approval of the commission. No rebate shall be allowed for cash registers discontinued during the license year.

178:19 Retail Wine License.

I. A retail wine license may be issued by the commission to any person operating a retail outlet in this state which shall allow the licensee to sell both fortified and table wines directly to individuals at retail on the premises for consumption off the premises; provided, however, that persons holding any license authorizing the sale of liquor or wine by the glass under this chapter shall sell the wines authorized pursuant to this section in a separate area of the premises from the areas licensed for on-premises consumption. A separate license shall be required with respect to each place of business of an applicant. The license shall authorize the licensee to transport and deliver fortified and table wines ordered from and sold by the commission and sold by the licensee in vehicles operated under the licensee's control or an employee's control.

II. All sales of wine shall be recorded on cash registers. No additional registers shall be added during the remainder of the year without prior approval of the commission. No rebate shall be allowed for cash registers discontinued during the license year.

III. On-premises licensees licensed under this chapter shall maintain separate rooms for storage, shelving, display, and sale of fortified and table wine for consumption off the premises. Such

rooms shall be equipped with at least one cash register which shall be capable of separately registering wine sales, and such rooms shall have an attendant at all times while open for business. Wine purchased for resale by virtue of the retail wine license shall be purchased on separate invoices from that wine intended for consumption in the dining room or lounge, and separate sales records shall be maintained for this purpose.

178:20 On-Premises Beverage and Wine Licenses.

I. The commission may issue a license to any of the types of businesses specified in paragraph II of this section in any town which has voted to accept the provisions of RSA 663:5, I(b) and (c). The license issued shall entitle the licensee to serve beverages and wines and similar vinous liquors or fruit juices containing at least 1/2 percent and not over 24 percent alcohol by volume at 60 degrees Fahrenheit, by the glass or other suitable container, and by the bottle if the cap or cork is removed, for consumption on the premises designated by the commission.

II. The commission may authorize bed and breakfasts with suitable cooking and dining areas, dining cars, vessels serving food, restaurants, and outlets of the New Hampshire Fair Association who are members in good standing to serve beverages and wines in any areas approved by the commission at such times as food is available. New Hampshire Fair Association outlets shall not be subject to reduced fees as provided by RSA 178:29.

III. No beverages or liquor shall be consumed in the licensed areas except those that are sold by the licensee.

IV. No beverages or liquor shall be removed from the licensed premises by patrons, except as provided by RSA 179:27-a.

V. Notwithstanding the fact that the town of Errol has voted or votes in any referendum to prohibit the sale of liquor and beverages, a license as provided in paragraph I to sell beverages and wines by the glass or by the bottle, if the cork is drawn, to customers, may be issued to any full service restaurant in said town but only if the restaurant is open and does business at least 10 months of every calendar year and if said restaurant shall meet all other requirements of this section.

178:21 On-Premises Beverage and Liquor Licenses.

I.(a) The commission may issue a license to any of the types of businesses specified in paragraph II of this section in any town which has voted to accept the provisions of RSA 663:5, I(b), (c), and (d). The license shall entitle the licensee to serve beverages containing at least 1/2 percent and not more than 6 percent alcohol by volume at 60 degrees Fahrenheit by the glass or other suitable container and by the bottle with the cork or cap removed; liquor containing more than 6 percent alcohol by volume at 60 degrees Fahrenheit, by the glass or other suitable container; and wines, by the glass, by the bottle with the cork or cap removed; or other suitable container, under rules adopted by the commission.

(b) No beverage or liquor shall be consumed on the premises except that which is sold by

the licensee.

(c) No beverage or liquor shall be removed from the licensed premises by patrons, except as provided by RSA 179:27-a.

II. The commission may authorize establishments, as they are defined in RSA 175:1, having full service restaurants to sell beverages and liquor at such time as food is available.

(a)(1) Licenses for Full Service Restaurants. The commission may issue a license to any full service restaurant. Such license shall entitle the licensee to sell beverages and liquor at tables in the approved dining rooms of the restaurant with or without meals when the restaurant kitchen is in operation and meals are being actively promoted and served in that dining room. The dining room shall not, however, be used as a substitute for lounge operations. Licenses shall be granted only to restaurants approved by the commission and which show the commission on forms, filed with the license application, covering the 12 most recent calendar months prior to filing, that at least 50 percent of the gross sales of any such licensee is in food. Restaurants with annual food sales of at least $75,000 shall be exempt from the 50 percent requirement. The commission shall at least annually review each license, and application for renewal, on the conditions stated in this paragraph.

(2) The dining room shall be open for business at least 5 days a week for evening meals, unless the commission has granted an exemption.

(3) Private groups contracting for function rooms may also be served beverages and liquor without food.

(4) Notwithstanding the fact that the towns of Newington, New Hampton, and Landaff have voted or vote in any referendum to prohibit the sale of liquor and beverages, a license to sell beverages by the glass or other suitable container or by the bottle with cap removed; wines or fortified wines by the bottle with cap removed; wines or fortified wines by the bottle, if the cork is drawn, or liquor by the glass or the suitable container to customers with meals at tables only, may be issued to any full service restaurant in the towns of Newington, New Hampton, and Landaff, but only if the restaurant is open and does business at least 10 months of every calendar year and if said restaurant shall meet all other requirements of this section.

(5) Except as provided in this paragraph, no beverages or liquor shall be consumed in the licensed areas except those that are sold by the licensee. With the permission of the commission, a licensee may charge a fee for consumption of privately owned table wine stored on the premises and consumed with the purchase of a full-course meal.

(b)(1) Hotel Full Service Restaurant. The commission may issue a license to any hotel in any town. Notwithstanding the fact that the town where the hotel is located has voted not to approve the sale of beverages in said town, the license issued to a hotel shall entitle the licensee to:

(A) Sell beverages and liquor by the glass or other suitable container and wine by the bottle, if the cork is drawn, or by other suitable container to guests in the dining room or in the rooms of guests.

(B) Sell beverages, liquor, and wine by the bottle which shall be delivered to the rooms of guests, provided that such sales are not made below the cost of such beverages and liquor.

(C) Include a specified quantity of complimentary beverages and liquor as part of a contract for the hosting of a convention or offer a specified quantity of complimentary beverages or liquor in soliciting such conventions. As used in this paragraph "convention" means an assembly of persons participating in a business, political, professional, or other organizational gathering. Notwithstanding RSA 175:4 or any rules adopted under that section, hotels may advertise and offer package deals to resident guests, which include complimentary drinks, provided such offers shall be limited to persons of legal drinking age.

(D) Sell beverages and liquor in bottles or containers not exceeding one liter capacity, which shall be stored under lock and key in a cabinet or miniature refrigerated bar in hotel rooms and which shall be available only to hotel room guests who are of legal drinking age.

(2) The dining room shall be open for business at least 5 days a week for evening meals, unless the commission has granted an exception.

(3) Hotels may serve beverages and liquor in the dining room without meals provided the hotel kitchen is in operation and meals are being actively promoted and served in the dining room. The dining room may not be used as a substitute for lounge operations.

(c) Bed and Breakfasts. The commission may issue a license to any bed and breakfast which has 4 rentable rooms and full service dining area capable of seating the total number of registered guests and shall entitle the licensee to:

(1) Sell liquor and beverages to guests with meals in the dining room or in the rooms of guests.

(2) Sell liquor and beverages by the bottle which shall be delivered to the rooms of registered guests, provided that the charge for such liquor and beverages is not below cost.

(d) Dining Cars. The commission may issue a license to any railroad or car corporation, or designee, operating any dining cars in which food is served within this state, authorizing the holder of the license to sell in such cars liquor and beverages to be consumed in such cars. Such license shall be good throughout the state in both license and non-license territory, and only one such license shall be required for all cars operated in the state by the same owner.

(e) Vessels. The commission may issue a special license to the owner or operator of a passenger vessel operating out of any port of the state. Such license shall allow the sale of liquor with food or beverages in any area of the vessel approved by the commission.

178:22 On-Premises Cocktail Lounge Licenses.

I. The commission may issue a license to the types of businesses listed in RSA 178:22, V in any town which has voted to accept the provisions of RSA 663:5, I(b), (c), and (d). The license issued shall entitle the licensee to serve beverages, by the glass, by the bottle with cap removed or in any other suitable container, wines by the glass, by the bottle with the cork or cap removed or in any

other suitable container, or liquor by the glass or other suitable container.

II. No person under the age of 18 shall be in the cocktail lounge unless accompanied by a parent, legal guardian, or adult spouse.

III. No beverage or liquor shall be consumed on the licensed premises except that sold by the licensee.

IV. No beverages or liquor may be removed from the licensed premises by patrons, except as provided by RSA 179:27-a.

V. The commission may authorize the following types of businesses as they are defined in RSA 175:1 to sell beverages and liquor in cocktail lounges:

(a) Airports. The commission may issue a cocktail lounge license to any operator of an airport or designee. Such cocktail lounge license shall allow the licensee to serve liquor and beverages in such rooms as may be designated by the commission. Food and coffee shall be available without requiring a minimum or cover charge.

(b) Alpine Slides. The commission may issue a cocktail lounge license to any operator or designee of an alpine slide facility. Such license shall allow the licensee to sell liquor and beverages to persons within rooms approved by the commission.

(c) Ballrooms.

(1) The commission may issue a cocktail lounge license to any ballroom which has seating accommodations for at least 500 patrons. The cocktail lounge license shall allow the licensee to sell liquor and beverages to patrons but only at such times as "live entertainment," as defined in RSA 175:1, is being provided by the licensee.

(2) Any ballroom may open its facilities to the public for functions of a limited duration during which time liquor and beverages shall not be available to patrons and during which time all liquor and beverages shall either be removed from the area open to the public or locked and unaccessible to persons other than employees approved by the commission. Any licensee of a ballroom may so open the facilities upon notice in writing to the commission at least 5 business days prior to the function. If the facility is open for special functions at which time liquor and beverages are not available to patrons, the commission shall not impose any conditions as to who may attend such functions or whether or not live entertainment is provided so long as local fire and building code requirements are met.

(3) Any licensee of a ballroom may receive a supplemental license from the commission to close all or part of the ballroom facilities to the public for special social functions at which only bona fide members of a social club or organization or persons who have been invited to a family social function shall be admitted. The commission shall issue such a license to allow the licensee to sell liquor or beverages to persons attending such social functions if the licensee applies for one at least 5 business days prior to the function and pays a fee for each such function. If only part of the ballroom facilities are used for such a function, the licensee may operate the remaining

facilities under his license issued under subparagraph (c)(1).

(d) Bowling Facilities. The commission may issue a cocktail lounge license to any operator of a bowling facility, or designee. Such license shall allow the licensee to serve liquor and beverages to patrons in rooms at the bowling facility as may be designated by the commission.

(e) Caterers, On- and Off-Site.

(1)(A) The commission may issue a cocktail lounge license to any caterer with on-site permanent kitchen facilities and permanent dining facilities capable of seating 100 persons or more. Such license shall allow the licensee to serve liquor and beverages with or without meals to members of a private party in any room of such on-site catering facility designated by the commission. For the purposes of this paragraph, persons under the age of 18 shall be allowed in rooms where beverages and liquor are served without a parent or guardian present. Such lounge license may allow the licensee to serve liquor and beverages on the premises of any public building approved by the commission. Licenses shall be granted only to such caterers as the commission, at its discretion, shall approve and then only to such caterers as shall show the commission on forms and under rules adopted by the commission that at least 50 percent of their combined food and liquor and beverage sales shall fall within the category of food. Caterers with annual food sales of $100,000 or more shall be exempt from the 50 percent requirement. Caterers shall notify the commission not less than 5 days in advance of a function specifying date and time of the scheduled function. Notwithstanding any other provision of law, a caterer, with the approval of the commission, may subcontract for the cooking, preparing or serving of food pursuant to the caterer's liquor license. The commission shall adopt rules in accordance with RSA 541-A to carry out the provisions of this subparagraph. New premises or locations shall be approved by the commission 10 days before the scheduled events.

(B) The commission may issue a supplemental license to an on-site caterer licensed to sell beverages and liquor with food to the public on dates approved by the commission when no private function is being catered under RSA 178:22, V(e)(1)(A), unless such premises which have been approved by the commission are capable of being physically separated between public and private functions. The supplemental license may be issued to the applicant for 18, 36, or 52 events per license year. The fee charged for such license shall be $5 for 18, 36, or 52 events. A person issued a supplemental license under this subparagraph shall meet all requirements of RSA 178:22, I-IV. The caterer shall request the commission's approval at least 5 days before any scheduled event to be serviced by a supplemental license. The commission may suspend or revoke the caterer's supplemental license without affecting any other license issued for the premises.

(2) The commission may issue a license to any person operating an off-site catering service or any person holding a full service restaurant license, hotel full service restaurant, or convention center license to conduct an off-site catering business on the premises of other licensed establishments or the premises of any public building approved by the commission. For the purposes of this paragraph, persons under the age of 18 shall be allowed in rooms where liquor and beverages

are sold. A license issued under the provisions of this paragraph shall allow the licensee to serve liquor and beverages with or without meals to members of a private party contracting for such service. Such caterers shall notify the commission not less than 5 days in advance of a function specifying the date, time, and location of the scheduled function. New premises and locations shall be approved by the commission at least 10 days before the scheduled event.

(3) For the purposes of subparagraph (e):

(A) "Private group" means an assembly of persons gathered for a designated social or business occasion, present by invitation or reservation and shall in no way be construed to mean the general public.

(B) "Public building" means any building maintained and available for any person, group, or organization, which may include retail business establishments, when they are not open to the public; licensed premises, provided there is a physical, unmovable barrier between the licensed business and the catered area; and tents, gazebos, or other defined outdoor areas, provided 2 separate toilet facilities are located in the immediate vicinity. A public building shall not be construed to mean a private residence.

(4) Premises restrictions:

(A) The holder of a caterer's on- or off-site license shall ensure, at every function, that all state laws are complied with and that any entertainment provided shall be approved by the commission.

(B) On-site caterers shall file, between January 15 and February 15 of each year, a certificate form with the commission covering food and beverage and liquor sales for the previous calendar year. All catered sales shall be noted on the certificate form which shall be furnished by the commission.

(f) College Clubs. A college or university club may be entitled to a license for the sale of beverages and liquor to members and guests in a room or rooms approved by the commission.

(g) Military Club. An operator or designee of a military club may be entitled to a license for the sale of liquor and beverages to members and guests in a room or rooms approved by the commission.

(h) Veterans' Clubs, Private Clubs, and Social Clubs.

(1) The commission may issue cocktail lounge licenses to private, social, or veterans' clubs incorporated under the laws of the state and which may be affiliated with any national fraternal organization, for the sale of liquor and beverages to members and guests in a room or rooms approved by the commission. A licensee under this subparagraph shall sell for convenience and for a reasonable profit to be determined by the commission. Each licensee shall make a sworn report to the commission for each month on or before the fifteenth of the following month, in such form as the commission may require, showing the income from liquor and beverages sold and the expenses properly chargeable to the business for the month. The cost of the cocktail lounge license

shall be considered an expense chargeable to the business. Veterans clubs which qualify as "club-veterans' under RSA 175:1, XXII shall be exempt from the requirements of subparagraphs V(h)(6)-(8) and V(h)(9)(B)-(12).

(2) No person under the age of 18 shall be in any room where liquor and beverages are sold, except persons under the age of 18 shall be allowed in rentable rooms approved by the commission when beverages and liquor are served without a parent or guardian present at such times the club is using a supplemental license.

(3) The commission may issue to a club licensed under subparagraph (h)(1) a supplemental license to set up a separate bar facility to serve liquor and beverages to private groups in a rental hall approved by the commission. This supplemental license shall allow the club to hold up to 18 events, 36 events, or 52 events for the fees established in RSA 178:29, I. The club shall be responsible for compliance with this title and any rules adopted under it. The club shall notify the commission at least 5 days before any scheduled event which shall be serviced by such bar facility. The commission may suspend the use of any bar facility without affecting the status of any other license in effect on the club premises.

(4) Clubs may allow private groups to bring in or sell their own liquor and beverages in approved rental facilities provided there is a complete separation between the club area and the rental area.

(5) Every member of a club, affiliated with a national fraternal organization and licensed under subparagraph (h), shall be entitled to canteen privileges at every club with which his or her club is affiliated in this state. Such canteen privileges shall include the right to bring guests to affiliated clubs, providing the member has on his or her person, and displays upon request, a current membership card of the national fraternal organization.

(6) No licensee corporation shall enter into a contract with any person to provide services, equipment, or any other thing of value if that person is also a director, officer, or employee of the licensee corporation.

(7) No licensee corporation shall permit a person, either elected or appointed, to hold multiple corporate offices or permit an officer to hold the position of director.

(8) No licensee corporation shall permit a director or officer of the club to be an employee of the licensee corporation.

(9) All clubs shall annually provide written documentation to the commission which shall include:

(A) A certificate from the secretary of state which shall demonstrate that the nonprofit corporation holding a license under this subparagraph is registered and in good standing with the secretary of state;

(B) Minutes of all membership meetings, meetings held by officers and directors, and any special meetings;

(C) Copies of all contracts entered into between the licensee corporation and any director, officer, or manager of the licensee corporation, as well as any provider of services to the club.

(10) For the purposes of subparagraph (h):

(A) "Minutes" means detailed written memoranda of a transaction, proceedings, or club operations.

(B) "Contract" means any oral or written agreement between the licensee corporation and any other person, to do or not do a particular thing. The definition of a contract for the purposes of this section shall not be limited by its enforceability.

(11) No director, officer, or employee of a licensee corporation shall engage in any undertaking that shall place the personal interests of a person ahead of the interests of the membership of the club.

(12) Violations of subparagraph (11) of this subparagraph shall be investigated by the enforcement division of the liquor commission and directed to the department of justice for examination of issues unrelated to this title.

(i) Convention Centers. The commission may issue a cocktail lounge license to any convention center. Such license shall allow the licensee to sell liquor and beverages in rooms approved by the commission, to persons within the convention center. Liquor and beverages shall be sold with meals in the public dining rooms. Persons under 18 years of age shall be accompanied by a parent, legal guardian, or adult spouse when in convention rooms where liquor or beverages are being sold. Patrons of any age may be allowed in the dining rooms.

(j) Golf Facility. An operator or designee of a golf facility may be entitled to a cocktail lounge license for the sale of liquor and beverages to patrons in rooms or any clearly defined area under the licensee's control approved by the commission.

(k) Hotel. The commission may issue a cocktail lounge license to any hotel holding a hotel full service restaurant license issued under RSA 178:21, II(b)(1) to serve liquor and beverages in any room of a hotel designated by the commission. No cocktail lounge shall be operated on days that the dining room is closed. No cocktail lounge shall operate before the dining room opens for meals, except if breakfast and noon meals are not offered, the lounge may operate 2 hours before the dining room opens for the evening meal. The commission may extend the cocktail lounge license to include the use of a dining area in the restaurant of the hotel after such area has been closed for serving meals, but not before 9:00 p.m., as an overflow area for the cocktail lounge when the lounge is filled to capacity. In the overflow area, liquor and beverages need not be served with meals. The commission may grant, regulate, suspend, or revoke a cocktail lounge license without affecting any other license granted to a hotel.

(l) One Day Licenses for Voluntary Nonprofit Organizations.

(1) Notwithstanding the provisions of RSA 178:2, I, the commission may issue a

limited license to any responsible individual representing a voluntary nonprofit group or organization approved by the commission. Such license shall authorize the licensee to sell, on premises approved by the commission, beverages and liquor on the approved premises.

(2) No license shall be issued under subparagraph (l)(1) unless the organization's representative obtains:

(A) Official approval of the chief of the local fire department as to the safety of the premises.

(B) Official approval of the local health department concerning sanitary accommodations.

(C) Official approval of the chief of police as to accessibility of the premises.

Written statements from such officials shall accompany the application for the license. Such application shall be filed with the commission 15 days before the date on which the license is needed.

(3) No person under the age of 18 shall be allowed in those areas where liquor and beverages are served, unless accompanied by a parent, legal guardian, or adult spouse. The selectmen of the town in which such licenses are held may, at their discretion, assign police officers to the premises where liquor or beverages are being served.

(4) No license shall be issued under subparagraph (l)(1) for premises holding other licenses issued by the commission except rental facilities on licensed club premises approved by the commission. Notwithstanding any other provision of law, the commission or its investigators may suspend without warning any license issued under subparagraph (l)(1) if, in their opinion, such sale of liquor and beverages is contrary to the public interest.

(m) Performing Arts Facility. The commission may issue a cocktail lounge license to any nonprofit performing arts facility which seats more than 50 persons. The commission shall determine by rule whether a facility is a nonprofit performing arts facility. The cocktail lounge license shall allow the licensee to sell liquor and beverages to patrons in any rooms designated by the commission.

(n) Race Tracks.

(1) The commission may issue to any operator of a race track or designee a cocktail lounge license which shall allow the licensee to serve liquor and beverages to patrons in such rooms or areas as are located within the confines of the track and are approved by the commission and only during the hours set by the commission. Liquor and beverages sold by a licensee under this subparagraph need not be consumed with meals, provided that suitable food services, approved by the commission, are available for patrons. A licensee under this subparagraph may sell beverages and liquor on dates other than those on which races take place.

(2) Notwithstanding the requirements of RSA 178:22, II and V, a commercial motor vehicle racetrack facility with a paved course of at least 1/4 mile may elect to have an exception to the cocktail lounge definition of RSA 175:1, XXIII and requirements under RSA 178:22, v(n) to sell

beverages only, from commission-approved beverage service facilities located in areas approved by the commission within the commercial motor vehicle racetrack facility and allow patrons to carry beverages, not exceeding 2 containers at any time as approved by the commissioner, to approved grandstand seating, other seating accommodations, or areas approved for alcoholic beverage consumption by the commission under such rules as the commission may adopt pursuant to RSA 541-A.

(o) Racquet Sports Facility. The commission may issue a cocktail lounge license to the operator of a racquet sports facility or designee to serve beverages and liquor in such rooms as the commission shall approve.

(p) Rail Cars. The commission may issue a cocktail lounge license to any railroad or rail car corporation, or their designees, operating rail cars authorizing the licensee to sell liquor and beverages in such cars to be consumed in such cars. The license shall be good throughout the state in both license and non-license territory, and only one license shall be required for all cars operated on the same line by the same owner.

(q) Full Service Restaurants. The commission may issue a cocktail lounge license to any full service restaurant holding a full service restaurant license under RSA 178:21, II(a)(1), to serve liquor and beverages in any room of the restaurant designated by the commission. The cocktail lounge shall be operated in conjunction with the dining rooms. No cocktail lounge shall be operated on days that the dining room is closed. No cocktail lounge shall operate before the dining room opens for meals, except if breakfast and noon meals are not offered, the cocktail lounge may operate 3 hours before the dining room opens for the evening meals. Liquor and beverages served in such room need not be consumed with meals. The commission may extend the cocktail lounge license to include the use of a dining area in the restaurant, after such area has been closed for serving meals, but not before 9:00 p.m., as an overflow area for the cocktail lounge when the lounge is filled to capacity. In the overflow area, liquor and beverages need not be served with meals. Licenses shall be granted only to such restaurants as the commission, at its discretion, shall approve and then only to such restaurants as shall demonstrate to the commission, in the manner prescribed by the commission, that at least 50 percent of the combined restaurant and lounge and lounge sales shall fall within the category of food. Restaurants with annual food sales of at least $75,000 shall be exempt from the 50 percent requirement, and the commission shall prorate the annual food sale requirements for seasonal restaurants. The commission may grant, regulate, suspend, or revoke a cocktail lounge license without affecting any other license granted to such restaurant.

(r) Ski Areas. The commission may issue a cocktail lounge license to any operator of a downhill or cross-country ski area or designee. The license shall allow the licensee to serve liquor and beverages to patrons in such rooms as may be designated by the commission.

(s) Vessels.

(1)(A) Watercraft. The commission may issue a cocktail lounge license to any owner

or operator of a passenger vessel operating out of any port of the state. Such license shall allow the sale of liquor and beverages in any area of the vessel approved by the commission.

(B) Any licensee may open its vessel to school groups, youth organizations, or other gatherings of persons under the age of 18 years, for functions of a limited duration during which time all liquor and beverages shall not be made available to patrons and during which time all liquor and beverages shall either be removed from the vessel or be locked and unaccessible to persons other than employees approved by the commission. Any licensee who opens its vessel to groups under age 18 shall give written notice to the commission of such function at least 5 business days prior to the function. The provisions of RSA 178:22, II shall not apply during these functions.

(2) Airship. The commission may issue a cocktail lounge license to any owner or operator of an airship to serve liquor and beverages to passengers on the airship. The license shall permit the service of liquor and beverage in any airship owned or operated by the licensee holding a certificate from the Federal Aviation Administration. A photocopy of the license issued under this section shall be conspicuously posted on each airship. The provisions of RSA 178:22, II shall not apply to this subparagraph.

(t) Billiards/Pool Hall. The commission may issue a cocktail license to any person who operates a billiards/pool hall. Such license shall allow the licensee to serve liquor and beverages to patrons within the billiards/pool hall.

(u) Sports/Entertainment Complex.

(1) The commission may issue a cocktail lounge license to the owner of a sports/entertainment complex, or any operator or designee contracting with the owner of the complex. Such license shall allow the sale or service of liquor and beverage in any clearly defined areas approved by the commission. Liquor and beverage shall be sold only at such times as a fee is charged for admission to an event at the sports/entertainment complex. Liquor and beverage shall not be sold or consumed in stadium or skybox seating at any intercollegiate or interscholastic event. The provisions of RSA 178:22, II shall not apply to this license.

(2) The commission may issue to any sports/entertainment complex licensed under subparagraph (u)(1) a supplemental license to set up a separate bar facility to serve liquor and beverages to private groups in any area approved by the commission. The supplemental license shall allow the sports/entertainment complex to hold up to 9 events, 18 events, 36 events, and 52 events for the fees established in RSA 178:29, I. The sports/entertainment complex shall be responsible for compliance with this title and any rules adopted under it. The sports/entertainment complex shall notify the commission at least 5 days before any scheduled event which shall be serviced by such bar facility. The commission may suspend the use of any bar facility without affecting the status of any license in effect on the sports/entertainment complex premises.

178:23 Seasonal and Multiple Year License.

I. The commission may issue seasonal retail licenses to persons who are otherwise eligible

for an on-premises license under RSA 178:21 or RSA 178:22, an off-premises license under RSA 178:18, or a license under RSA 178:19 or RSA 178:20. Seasonal licenses shall be issued under the same terms and conditions as annual licenses, but shall be effective for 6 months.

II. No seasonal license shall be renewed unless 30 days have elapsed since the expiration of the previous seasonal license.

III. The fee for a seasonal license shall be 1/2 the applicable annual fee for the equivalent on-premises or off-premises license.

IV. The commission may issue licenses valid for 2 or 3 years under the same terms and conditions as annual licenses.

V. The fee for a multiple year license shall be 2 or 3 times the annual fee for that license, as applicable.

178:24 Authorization for Other Areas. The commission may grant to on-premises licensees operating from permanent, immovable premises permission to extend service for beverages and liquor to any clearly defined area, including but not limited to, rooms, patios, or swimming pool areas located on the premises or to an outside café-style area where licensed by ordinance and with written approval of local officials.

178:25 Transfer of Location. A holder of an on-premises license restricted to the service of private groups may petition the commission for permission to operate under such license at a location owned or controlled by the licensee other than that designated in such license. The commission may grant such permission upon the following conditions:

I. Notice of the number of days during which the new premises are to be used shall not exceed 3 consecutive days at any one time, nor more than 6 nonconsecutive days, for any organization.

II. The petition shall have attached to it written statements from the officials of the town where the new premises are located as follows: approval of the chief of the fire department as to safety of the premises, approval by the health department as to sanitary accommodations, and approval by the chief of police as to accessibility of the premises.

III. During the time the substitute premises are in use the premises at the original location shall be closed.

IV. No games of chance of any sort shall be allowed at the additional premises which are so used under permission from the commission.

178:26 Additional Fees.

I. In addition to the annual license fees provided in this chapter, a fee of $.30 for each gallon of beverage sold or transferred for retail sale or to the public shall be required for licenses issued to wholesale distributors, beverage manufacturers, and brew pubs; provided, however, that if beverage container mandatory deposit legislation is enacted, such fee shall be $.18 per gallon as of the effective date of such legislation. For failure to pay any part of the fees provided or under this

section when due, 10 percent of such fees shall be added and collected by the commission from the licensee.

II. A sum of money from all sources of funds available to the department of transportation equivalent to 1/15 of all fees collected under paragraph I of this section shall be dedicated and used exclusively for the purpose of increased roadside litter removal for class I through class V highways; provided, however, that in the event beverage container mandatory deposit legislation is enacted, such amount shall cease to be so dedicated as of the effective date of such legislation.

III. Each wholesale distributor, beverage manufacturer, or brew pub shall on or before the tenth day of each month pay the license fees as provided by paragraph I covering sales or transfers made during the preceding calendar month.

178:27 Direct Shippers.

I.(a) Notwithstanding any other provision of law to the contrary, any person currently licensed in its state of domicile as a beverage manufacturer, importer, wholesaler, or retailer shall apply for a direct shipper permit from the commission.

(b) Applicants for a direct shipper permit shall be exempt from the provision of RSA 178:1, I requiring registration with the secretary of state, if the applicant is duly organized and registered to do business under the laws of the state in which the applicant is domiciled.

II. A direct shipper may ship directly to New Hampshire consumers over 21 years of age or licensees in packages clearly marked "Alcoholic Beverages, adult signature (over 21 years of age) required." All shipments from direct shippers into the state shall be made by a licensed carrier and such carriers are required to obtain an adult signature. Direct shippers or carriers shall not ship into areas of the state where alcohol beverages may not be lawfully sold. Liquor and wine that has been registered for sale to the commission with the commission during the previous 2 months may be direct shipped only if the shipper offers to sell a matching amount to the commission at wholesale. Shipments of any other products shall be considered unlicensed shipments under the provisions of RSA 178:1, I.

III. No direct shipper shall ship more than 60 individual containers of not more than one liter each of liquor and wine to any one licensee in New Hampshire or to any consumer or consumer's address in New Hampshire in any calendar year. Furthermore, in the event any manufacturer or wholesaler direct shipper wishes to ship more than a total of 1,200 individual containers of not more than one liter each of any particular liquor or wine directly to any combination of licensees and/or consumers in New Hampshire, the shipper shall offer to sell a matching amount to the commission or beer distributor at wholesale prices.

IV. No direct shipper shall ship more than 27 gallons of beer or beverage in individual containers of not more than one liter to any consumer's address in New Hampshire in any calendar year. No direct shipper shall ship beer or beverage to a New Hampshire licensee.

V. Direct shippers shall file invoices for each shipment with the liquor commission showing

the retail price of the product, and shall pay a fee of 8 percent of the retail price for shipments of liquor, wine, beer, or beverage to the commission. Such filings shall be monthly, and arrive at the commission no later than the tenth of the month following shipment. Direct shippers shall maintain records for at least 3 years which will permit the commission to ascertain the truthfulness of the information filed and permit the commission to perform an audit of the direct shippers' filings upon reasonable request. Wholesale shipments of any liquor or wine shall be permitted only in accordance with RSA 175:6.

VI. The liquor commission shall adopt rules, pursuant to RSA 541-A, relative to:

(a) The application procedures and form for the direct shipper permit authorized under paragraph I.

(b) The signature form or other identification procedures to be used by direct shippers to ensure that consumers to which liquor and beverage are being shipped are over 21 years of age.

(c) Filings of direct shippers under paragraph V.

VII. Notwithstanding the provisions of RSA 179:58, any person holding a direct shippers permit under this section who ships liquor, wine, or beer to a person under 21 years of age, shall be guilty of a class B felony and shall have such permit permanently revoked.

VIII. Upon notification by authorities in another state which imposes a reciprocal enforcement policy, a New Hampshire licensee proved to be making illegal direct shipments to consumers and licensees in said state shall be subject to action by the liquor commission. Such actions may include fines and suspension and revocation of New Hampshire liquor licenses.

178:28 Discount and Credit on Sales to Licensees. Pursuant to RSA 541-A and in furtherance of the objectives of this chapter and title, the commission shall adopt rules providing for the following:

I. When fixing the price for sale of liquor and wine to on-premises licensees, the commission may allow discounts at percentages to be determined by the commission from the regular retail price on case lot orders F.O.B. the warehouse or commission direct delivery system. No discount determined by the commissioner under this paragraph shall be less than 10 percent.

II. The commission shall adopt a schedule of hours and procedures by which wine and liquor may be purchased from the warehouse or state liquor store for resale by on-premises licensees on a credit basis, the terms of which shall provide for payment of accounts within a time period not to exceed 30 days and not less than 15 days to be determined by the commission.

III. The commission may adopt procedures by which on-premises licensees may purchase liquor for resale by credit card from state liquor stores, the warehouse, or the commission direct delivery system.

IV. A schedule of hours and procedures by which holders of off-premises retail licenses may purchase fortified wines and table wines by the bottle at state retail liquor stores.

V. A schedule of hours and procedures by which fortified wines and table wines may be purchased at the discount price for resale by holders of off-premises retail licenses at percentages of

discount to be determined by the commission. Such discounts shall be no less than 15 percent less than the regular retail price in the liquor stores and 20 percent less than the regular price F.O.B. at the warehouse.

VI. A schedule of hours and procedures by which fortified wines and table wines may be purchased for resale by holders of off-premises retail licenses on a credit basis, the terms of which shall provide for payment of accounts within a time period not to exceed 30 days and not less than 15 days to be determined by the commission.

178:29 Fees; Expiration Dates; Transfers.

I. On-premises licensees shall pay the following applicable fees annually:

	Supplemental Only	Beverages and Wine	Beverages and Liquor	Cocktail Lounge
Airport				$1,200
Alpine Slide				$1,200
Ballroom	$45			$1,200
Bed and Breakfast		$480	$840	
Beer Festival				
One-day	$250			
Two-day	$300			
Three-day	$350			
Billiards/Pool Hall				$1,200
Bowling Facility				$1,200
Catering (all)				$1,200
Catering (off-site only)				$ 840
Catering (on-site only)				
18 events-	$ 5			
36 events-	$ 5			
52 events-	$ 5			
Club Military				$ 100
Club Social				
9 events	$ 250			
18 events	$ 450			
36 events	$ 750			
52 events	$1,200			
Club Private				$1,200
Club Veterans				
9 events	$ 250			
18 events	$ 450			

36 events	$ 750				
52 events	$1,200				
College Club					$1,200
Convention Center					$2,400
Dining Car		$480			$ 840
Fairs		$112			
Golf Facility					$1,200
Hotel				$840	$1,200
One day License					$ 100
Performing Arts					$ 360
Racetrack/Motor Vehicle					$1,800
Racetrack/Pari-Mutuel					$3,000
Racquet Sports					$1,200
Rail Cars					$1,200
Restaurant		$480		$840	$1,200
Ski Facility					$1,200
Special License				$ 25	
Sports/Entertainment Complex					$1,800
9 events	$ 250				
18 events	$ 450				
36 events	$ 750				
52 events	$1,200				
Vessel		$480		$840	$1,200

II. Off-premises licenses shall pay the following applicable fees annually:

(a) Retail wine:

(1) 1 register $216

(2) 2-3 registers $408

(3) 4 or more $648

(b) Combination license:

(1) 1 register $336

(2) 2-3 registers $540

(3) 4 or more registers $812

(c) Agency store license:

(1) 1 register $336

(2) 2-3 registers $540

(3) 4 or more registers $812

III. Annual beverage licenses shall be as follows:

(a) Beverage manufacturer license:

(1) Domestic sales of 15,000 barrels or less per year, $1,200;

(2) Domestic sales of more than 15,000 barrels per year, $1,692.

(b) Beverage vendor license:

(1) Sales of 200 barrels or less per year, $720;

(2) Sales of more than 200 barrels per year, $1,920, for each manufacturer whose beverages are sold or offered for sale.

(c) Wholesale distributor license, $2,500.

IV. Carrier license, $120.

V. Annual wine and liquor licenses shall be as follows:

(a)(1) Domestic wine manufacturers of less than 1,000 cases of wine per year, $100.

(2) Domestic wine manufacturers of 1,000 or more cases of wine per year, $1,140.

(b) Domestic manufacturers of liquor, $1,692.

(c) Liquor and wine vendors:

(1) Sales of less than 1,000 cases per year, $300.

(2) Sales of between 1,000 and 5,000 cases per year, $1,500.

(3) Sales of between 5,000 and 10,000 cases per year, $3,000.

(4) Sales of between 10,000 and 25,000 cases per year, $6,000.

(5) Sales of between 25,000 and 50,000 cases per year, $9,000.

(6) Sales of over 50,000 cases per year, $12,000.

(d) (1) Wine and liquor representative with 4 or fewer salespersons, $500.

(2) Wine and liquor representative with 5 or more salespersons, $1,000.

(e) Liquor/wine/beverage warehouse license, $756.

VI. Licensees upgrading a license type or increasing the number of registers shall pay the prorated difference between their current fee and the higher fee. Any required fee shall accompany the application.

VII. A license, other than a special, seasonal, fair, or one day license, shall expire on the last day of the month of the licensee's birthday. When the licensee is not a natural person, all licenses, other than special, seasonal, fair, or one day licenses, issued pursuant to this chapter shall expire on the last day of the month in which such licensee was incorporated or otherwise organized. Any license may be revoked prior to its expiration date by the commission for cause.

VIII. Licenses shall not be transferred except with the consent of the commission. Each license shall designate the place of business for which it is issued. When transferred, a license shall, unless revoked for cause by the commission, remain valid, pursuant to paragraph VII, until the date on which such license would have expired had it not been transferred. The initial renewal of any such transferred license shall be effective until the last day of the month of the licensee's birthday. When the licensee is not a natural person, the initial renewal of any such transferred license shall be

effective until the last day of the month in which such licensee was incorporated or otherwise organized. The fee for the initial renewal of any such transferred license shall be prorated. Subsequent renewals of transferred licenses shall each be effective for one year, unless revoked for cause by the commission.

178:30 Beer Festival Licenses.

I. The commission may issue a supplemental beer festival license to the holder of a beverage manufacturer license, brew pub license, wholesale distributors license, beverage vendor license, on-premises license, or off-premises license. The commission may also issue a beer festival license to a responsible person representing a voluntary nonprofit group or such group's designee. Notwithstanding any other provisions of law, the holder of a license under this section shall be allowed to organize, advertise, and hold an event not exceeding 3 days in length, promoting the products of the beverage industry. The provisions of RSA 178:22, I, III, and IV shall apply to any license issued under this section. The sales and services of alcoholic beverages shall be in a clearly defined area. Applications for a license under this section shall be filed with the commission 15 working days before the date on which the license is needed.

II. For purposes of regulation, any person issued a license under paragraph I shall be subject to all applicable statutory provisions and rules adopted under this title, except as directed by this section. Any violations committed by a supplemental licensee shall be considered violations against the applicant's annual or seasonal license.

III. No alcohol other than beverages and specialty beer shall be served under this license.

IV. Holders of a license issued under paragraph I may temporarily register beverages and specialty beer not currently registered for sale in New Hampshire. Registration shall be on forms provided by the commission. Registration forms shall be filed with the commission and an administration fee of $10 per brand registered shall be assessed. Temporary registration of beverages and specialty beer shall not be allowed once a registration form is filed with the commission. Any temporary registration filed under this paragraph shall expire upon the termination of the event or shall not exceed 3 consecutive days, whichever is longer.

V. Beverages registered with the commission under paragraph IV shall be purchased by the holder of the license. Additionally, fees of $.30 per gallon of beverages or specialty beer purchased under this paragraph shall be paid to the commission by the licensee within 10 business days of the expiration of the license. Payment shall be accompanied by any forms and documentation required by the commission.

VI. Beverages purchased under paragraph V which are partially consumed or not consumed shall be returned to the supplier for credit or shall be destroyed.

VII. Notwithstanding any other provision of this chapter, holders of beverage manufacturer, beverage vendor, wholesaler, and brewpub licenses or any other industry member not licensed in New Hampshire may furnish draft beer equipment and/or representatives to dispense and promote

their beverages at licensed beer festivals.

VIII.(a) No license shall be issued under paragraph I unless the applicant obtains:

(1) Official approval of the chief of the local fire department as to the safety of the location; and

(2) Official approval of the local health department concerning sanitary conditions; and

(3) Official approval of the local police department as to the accessibility and public safety of the location and the event.

(b) Written statements from such officials shall accompany the application for a license issued under paragraph I. The selectmen, city council, city manager, or town administrator may at their discretion, assign police officers to the location of the event where alcoholic beverages are served.

IX. Notwithstanding any other provision of law, the commission or its investigators may suspend, without warning, any license issued under paragraph I, if in their opinion, such continued sale or service of alcoholic beverages is contrary to the public interest.

14 Holders of Licenses; References Changed. Amend RSA 179:11 to read as follows:

179:11 Holders of Beverage Manufacturer, [~~Beverage Vendor Importer,~~] Wholesale Distributor, Beverage Vendor, [~~Beverage Representative,~~] and Other Licenses; Prohibited Interests.

I. No holder of a beverage manufacturer license, brew pub license, wholesale distributor license, *or* beverage vendor license[~~, beverage vendor importer license, or beverage representative license~~] shall sell, cause to be sold, rent, lend or cause to be loaned, or give to any [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee or to the owner of the premises on which the business of any [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee is to be conducted any money, equipment, furniture, fixtures, or property with which the business of any [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee is to be conducted, nor shall any [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee purchase, cause to be purchased, rent, borrow, solicit, or accept from any holder of a beverage manufacturer license, brew pub license, wholesale distributor license, *or* beverage vendor license[~~, beverage vendor importer license, or beverage representative license~~] any money, equipment, furniture, fixtures, or property with which the business of the [~~on-sale or off-sale permittee~~] ***on-premises or off-premises licensee*** is to be conducted, nor shall any holder of a beverage manufacturer license, brew pub license, wholesale distributor license, *or* beverage vendor license[~~, beverage vendor importer license, or beverage representative license~~] install or service equipment, furniture, fixtures, or property of any [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee, except as may be designated by the commission.

II. There shall be no restriction on the number of [~~off-sale~~] ***off-premises*** licenses held by any person. No holder of a beverage manufacturer license, brew pub license, wholesale distributor license, *or* beverage vendor license[~~, beverage vendor importer license or beverage representative~~

~~license~~] shall in any way contribute or pay any money or anything in lieu thereof to any [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee, or the licensee's agent or employees, or to any group, association, or organization thereof, including, but not limited to, payment for the placement, display, or sale of any beverage. Nothing in this section shall prohibit any licensee from being a member of a club holding a permit or license under this title, nor prohibit the sale or purchase, for resale, of merchandise or beverages for the conduct of the business of any [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee. Nothing in this section shall prohibit a holder of a beverage manufacturer license, brew pub license, wholesale distributor license, ***or*** beverage vendor license[~~, beverage vendor importer license or beverage representative license~~] from bringing such holder's own product from the storeroom of [~~an on-sale or off-sale~~] ***an on-premises or off-premises*** licensee to a warm shelf, display, refrigerated retail space, or refrigerated storage. Nothing in this section shall prohibit the holder of a beverage manufacturers license, wholesale distributors license, brew pub license, ***or*** beverage vendors license[~~, beverage vendor importers license, or beverage representative license~~] from rotating, reorganizing, cleaning, and resetting such holder's own product once the product is on [~~an on-sale or off-sale~~] ***an on-premises or off-premises*** licensee's warm shelf, or in [~~an on-sale or off-sale~~] ***an on-premises or off-premises*** licensee's refrigerated retail space, or refrigerated storage.

III. No holder of [~~an on-sale or off-sale~~] ***an on-premises or off-premises*** license shall knowingly employ in any capacity any person who is the holder of any license provided under this title, except that the holder of an [~~on-sale~~] ***on-premises*** license may employ the holder of an [~~off-sale~~] ***off-premises*** license in an entertainment capacity.

IV. Except as provided in paragraphs IV-a and IV-b, no holder of a beverage manufacturer license, brew pub license, ***or*** beverage vendor license [~~or beverage vendor importer license~~] and no member of a limited liability company, officer, director, employee, or agent of a beverage manufacturer licensee, brew pub licensee, ***or*** beverage vendor [~~or beverage vendor importer~~] licensee shall have an interest, either direct or indirect, in the business of the holder of a wholesale distributor [~~on-sale or off-sale~~] ***on-premises or off-premises*** license.

IV-a. Notwithstanding RSA 179:11, IV or any other provision of this chapter, a beverage manufacturer[~~,~~] ***or*** beverage vendor[~~, or beverage vendor importer~~] may participate in a limited partnership as defined in RSA 304-B with a wholesale distributor in which the beverage manufacturer[~~,~~] ***or*** beverage vendor[~~, or beverage vendor importer~~] is a limited partner and the wholesale distributor is a general partner. The duration of any such limited partnership arrangement shall not exceed 10 years.

IV-b. This section shall not prohibit a beverage manufacturer[~~,~~] ***or*** beverage vendor[~~, or beverage vendor importer~~] from extending financing to a wholesale distributor. In the event of a default by the wholesale distributor, the beverage manufacturer[~~,~~] ***or*** beverage vendor[~~, or beverage vendor importer~~] shall not control or operate the wholesale distributor for more than 180 days.

IV-c. Any financial agreement allowed under paragraph IV-a or IV-b shall be submitted to the commission for approval and shall comply with all applicable statutes and administrative rules of the commission.

IV-d. No holder of a beverage manufacturer license[~~,~~] ***or*** beverage vendor license,[~~–or beverage vendor-importer license~~] who enters into a limited partnership or lender/debtor relationship with a wholesale distributor shall have any managerial control over the day-to-day operations of such wholesale distributorship.

V. Except as provided under RSA [~~178:10~~] ***178:12***, II or RSA [~~178:13, IV~~] ***178:16, III***, no holder of a wholesale distributor license and no officer, director, stockholder, member of a limited liability company, employee, or agent of the holder of a wholesale distributor license shall through interlocking stock ownership, interlocking directors, or otherwise, have an interest, either direct or indirect, in the business of the holder of an [~~on-sale~~] ***on-premises*** license. Nothing in this paragraph shall be construed to apply to normal credit relations between licensees.

VI. The provisions of paragraphs IV through V shall also apply to liquor and wine manufacturers, liquor and wine vendors, ***and*** liquor and wine representatives[~~, and liquor and wine salespersons~~].

15 Limited Credits; References Changed. Amend RSA 179:13, I-III to read as follows:

I. Each holder of a wholesale distributor, brew pub, or beverage manufacturer license shall report to the commission the name and license number of any [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee who is delinquent in making payment of accounts over a total of $100 within 10 days, including Sundays and holidays, from the date of delivery of beverages on the premises of such [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee or on the premises of a liquor/wine/beverage warehouser storing the beverages for [~~an on-sale or off-sale~~] ***an on-premises or off-premises*** licensee. Each holder of a wholesale distributor license, brew pub license, beverage manufacturer license, ***or*** beverage vendor license[~~, or beverage vendor-importer license~~] shall report to the commission the name and license number of any holder of a wholesale distributor license who is delinquent in making payments of accounts within 30 days from the date of delivery of beverages on the premises of such holder of a wholesale distributor license. Such report to the commission shall include the amounts purchased and the dates when payments were due and shall be forwarded to the commission within 5 days after said accounts become delinquent, unless the fifth day of such period is a Sunday or holiday in which case the report shall be forwarded the day following such Sunday or holiday.

II. Each holder of a beverage manufacturer license, a beverage vendor license, brew pub license, [~~beverage vendor-importer license,~~] or wholesale distributor license shall immediately notify the commission of the receipt of the payment of any account which has been reported to the commission as delinquent. Post-dated checks beyond the 5-day reporting period shall not constitute payments of accounts for the purchases of beverages. Checks given in payment for beverages which

are returned for nonpayment after the 5-day reporting period shall immediately constitute a delinquency and shall, upon return, be reported to the commission. Payments collected by [~~beverage representatives or~~] agents shall be reported as delinquent unless actually received at the place of business of the holder of the beverage manufacturer license, beverage vendor license, brew pub license, [~~beverage vendor importer license,~~] or wholesale distributor license on or before the fifth day of the reporting period. [~~Payment of licensees' accounts by a holder of a beverage representative license when not actually collected from the licensee shall constitute a delinquency.~~] When collections are made by [~~a beverage representative or~~] ***an*** agent, the sales slips or invoices shall be clearly marked with the name of the person making the collection and the date of such collection.

III. The commission shall inform holders of beverage manufacturer licenses, beverage vendor licenses, brew pub licenses, [~~beverage vendor importer licenses,~~] and wholesale distributor licenses of the names of licensees who are delinquent in making payments of a total amount of $100 or more under the provisions of this section and no holder of a beverage manufacturer license, beverage vendor license, [~~beverage vendor importer license,~~] brew pub license, ***or*** wholesale distributor license [~~or beverage representative license~~] shall knowingly make any delivery of beverages to any licensee whose payments for purchases of beverages are reported as delinquent under this section. The commission may withhold names of delinquent licensees under circumstances in which there is a dispute over payments, an agreement to liquidate which has been approved by the commission, or other reason which the commission may deem proper.

16 Reports; References Changed. Amend RSA 179:14 to read as follows:

179:14 Reports. Each beverage manufacturer licensee, beverage vendor licensee, [~~beverage vendor importer licensee,~~] brew pub licensee, and wholesale distributor of beverages within the state shall, on or before the tenth day of each month, furnish to the commission, on a form prescribed, a statement under penalty of perjury showing the quantity of beverages sold for resale and the quantity of beverages sold under an [~~off-sale~~] ***off-premises*** license during the preceding calendar month, within the state.

17 Transportation of Beverages and Wine; Reference Changed. Amend RSA 179:15 to read as follows:

179:15 Transportation of Beverages and Wine. A person may transport or deliver beverages and wines in this state without a license, provided such beverages and wines were obtained as authorized by this title and provided such beverages and wines are for consumption only and not for resale purposes. Licensees may transport and deliver to their place of business beverages and wines purchased as authorized under this title, and, except [~~on-sale~~] ***on-premises*** licensees, may transport and deliver anywhere in the state such beverages and wines ordered from and sold by them in vehicles operated under the control of themselves or of their employees or agents, provided that the owner of such vehicles shall carry a copy of the license issued by the commission in the vehicle driven on behalf of the licensee for whom they are transporting such beverages and wines. Every person

operating such a vehicle, when engaged in such transportation or delivery, shall carry a copy of the license in the vehicle so operated, and shall carry such evidence as the commission by rule may prescribe showing the origin and destination of the beverages and wines being transported or delivered. Upon demand of any law enforcement officer, investigator, or employee of the commission, the person operating such vehicle shall produce for inspection a copy of the license and the evidence required by this section. Failure to produce such license or evidence shall constitute prima facie evidence of unlawful transportation. Except as otherwise provided, beverages and wines may be transported within the state only by a railroad or steamboat corporation or by a person regularly and lawfully conducting a general express or trucking business, and in each case holding a valid carrier's license issued by the commission. Nothing in this section shall prohibit individual retail licensees from arranging for the delivery of wine products to a location central for the parties involved.

18 Hours of Sales; References Changed. Amend RSA 179:17, II(a)-(b) to read as follows:

(a) [~~Off-sale~~] ***Off-premises*** licensees may sell from 6:00 a.m. to 11:45 p.m., 7 days a week.

(b) [~~On-sale~~] ***On-premises*** licensees may sell from 6:00 a.m. to 1:00 a.m., 7 days a week.

19 Hours of Sales; References Changed. Amend RSA 179:17, IV-V to read as follows:

IV. All beverages and liquor served on the premises of [~~on-sale~~] ***on-premises*** licensees shall be consumed no later than 30 minutes after expiration of the serving hour. No beverages shall be moved from any [~~off-sale~~] ***off-premises*** licensee's establishment at any time except during those periods indicated as hours of sale.

V. No bottle club shall be operated or maintained after the hours fixed for the sale of beverages by [~~on-sale~~] ***on-premises*** licensees.

20 Entertainment and Entertainers; References Changed. Amend RSA 179:19, II to read as follows:

II. [~~On-sale~~] ***On-premises*** licensees may provide entertainment and dancing, in clearly defined areas on their licensed premises, provided they have received written authorization by the town or city and they have provided the commission with a copy of that authorization. A cover charge may be assessed to cover the cost of live entertainment. Notwithstanding any other provision of law, [~~paragraphs~~] ***paragraph*** III [~~and IV~~] shall not be construed to permit a person under the age of majority to perform, paid or unpaid, as a dancer in any licensed premise.

21 Entertainment and Entertainers; References Changed. Amend RSA 179:19, V to read as follows:

V. [~~On-sale or off-sale~~] ***On-premises or off-premises*** licensees may install amusement machines on their premises. Nothing in this paragraph shall be construed in any way to limit the powers of municipalities under RSA 31:41-d to adopt bylaws relative to licensing amusement machines and to determining the number, location, and types of machines allowed in the municipality.

22 Employee Restrictions; References Changed. Amend RSA 179:20, II to read as follows:

II. No [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee shall consume beverage or liquor while working. No employee, with or without compensation, shall consume beverage or liquor while working.

23 Employment of Minors; References Changed. Amend RSA 179:23, I-III to read as follows:

I. No licensee shall employ any minor, with or without compensation, to serve or otherwise handle liquor or beverages, except that [~~off-sale~~] ***off-premises*** licensees may employ minors of not less than 15 years of age when beverages or wine is sold in the original container and delivered in the place of business of the seller, or at the vehicle of the buyer parked on or adjacent to the premises of the seller. To act as a cashier in a selling capacity a minor shall be at least 16 years of age, providing a person at least 18 years of age is in attendance and is designated in charge of the employees and business.

II. An [~~on-sale~~] ***on-premises*** licensee may employ any person not less than 18 years of age to serve or otherwise handle liquor and beverages while employed as a waiter, waitress, bartender, or hostess in a licensed premises. Minors not less than 15 years of age may be employed in dining areas and minors not less than 16 years of age may be employed in lounge areas to clean tables, remove empty containers and glasses, and assist in stocking. A person at least 18 years of age shall be in attendance and be designated in charge of the employees and business.

III. The provisions of this section shall in no way prohibit an [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee from employing persons 18 years of age or older to sell, serve, or otherwise handle or be left in charge of the employees and the business.

24 Compliance With Other Agencies; References Changed. Amend RSA 179:26 to read as follows:

179:26 Compliance With Other Agencies.

I. All [~~on-sale~~] ***on-premises*** licensees shall have a valid license or certificate issued by state or local public health officials before the commission shall issue a license.

II. All [~~on-sale~~] ***on-premises*** licensees shall have a valid permit of assembly or certificate issued by state or local fire authorities before the commission shall issue a license.

25 Restrictions on Serving and Congregating of Patrons; Reference Changed. Amend RSA 179:27, I to read as follows:

I. Liquor and beverages may be served to patrons in [~~on-sale~~] ***on-premises*** establishments while seated at tables or booths, at the bar, seated at drink rails, or while standing at the bar or drink rails.

26 Removal of Opened Table Wine Bottle; Reference Changed. Amend RSA 179:27-a, I to read as follows:

I. Notwithstanding any other provision of law, any [~~on-sale licensee, which maintains a license for a restaurant, as defined by RSA 175:1, XXXIII or LIX, where full course meals are~~

~~regularly served in conjunction with such~~] ***food service business holding an on-premises*** license[~~,~~] may allow any person who has purchased a full course meal and purchased and partially consumed a bottle of table wine with said meal, to remove such partially consumed bottle from the premises upon departure, provided that the person is not in a state of intoxication as defined in RSA 507-F:1, IV and such bottle of table wine is removed and transported in a manner consistent with paragraph II.

27 Advertising Restrictions; Samples; Reference Changed. Amend RSA 179:31, II(g) to read as follows:

(g) All beverage furnished as samples shall be considered sales for the requirements of RSA [~~178:28, I and RSA 178:30, I~~] ***178:26***.

28 Advertising Restrictions; References Changed. Amend RSA 179:31, XI-XII to read as follows:

XI. No advertising or promotion shall be done by the use of a billboard. Advertising shall not contain any reference to a "happy hour" except that a "happy hour schedule" may be posted within the licensed premises, not in view of any public way, and an [~~on-sale~~] ***on-premises*** licensee may advertise or promote the holding of a "champagne brunch" or similar package.

XII. No holder of a beverage manufacturer license, wholesale distributor license, [~~beverage representative license,~~] ***or*** beverage vendor license[~~, or a beverage vendor importer license~~] shall advertise, either directly or indirectly, in any booklet, program, program book, yearbook, magazine, newspaper, periodical, brochure, circular, or other similar publication published by, for, or in behalf of any religious, fraternal, educational, patriotic, social, or civic group. No [~~on-sale~~] ***on-premises*** licensee or [~~off-sale~~] ***off-premises*** licensee, any group thereof, or any holder of a beverage manufacturer license, wholesale distributor license, [~~beverage representative license,~~] ***or*** vendor license [~~or vendor importer license~~], through any control, ownership, interlocking ownership, interlocking directors, or otherwise shall advertise or cause any manner or form of advertising to be inserted in such publications.

29 Purchase of Supplies. Amend RSA 179:32 to read as follows:

179:32 Purchase of Supplies.

I. All licensees shall purchase their supplies of liquor and wine from the commission or as provided by law.

II. All on-premises or off-premises licensees shall purchase their supplies of beverages from licensed wholesale distributors, manufacturers, brew pubs, or as otherwise specifically provided by law.

30 Beer Containers; References Deleted. Amend RSA 179:33, I-II to read as follows:

I. Holders of beverage vendor or [~~beverage vendor importer or~~] beverage manufacturer licenses shall use bottles or cans, and cases or containers for the sale of beer in the state which shall be specifically authorized by the commission.

II. Holders of beverage vendor or [~~beverage vendor importer or~~] beverage manufacturer

licenses shall have their packaging or containers specifically approved by the commission and shall be fined $250 for each packaging or container violation.

31 Sizes of Wine Containers; Reference Deleted. Amend RSA 179:34 to read as follows:

179:34 Sizes of Wine Containers. A holder of a [~~wine vendor license or~~] wine manufacturer license shall use bottles and containers for the sale of wine in the state which shall be specifically authorized by the commission.

32 Sale on Credit; Reference Changed. Amend RSA 179:43, II to read as follows:

II. Notwithstanding the provisions of paragraph I, [~~on-sale and off-sale~~] ***on-premises and off-premises*** licensees may extend credit through the medium of credit cards or to commercial accounts, for which payment is received within 30 days of the date of the transaction.

33 Free Drinks; References Changed. Amend RSA 179:44, II to read as follows:

II. Notwithstanding the above, beverage manufacturers, beverage vendors, [~~beverage vendor importers,~~] brew pubs, wholesale distributors and their [~~beverage representatives or~~] liquor or wine vendors, their liquor and wine representatives, domestic wine manufacturers, and [~~on-sale and off-sale~~] ***on-premises and off-premises*** licensees may conduct beverage, liquor, or wine tasting, as applicable, on licensed premises. Liquor, beverage, or wine tasting shall be conducted only during such hours as are authorized by the commission for the sale of the product on the premises.

34 Free Drinks; Reference Changed. Amend RSA 179:44, V to read as follows:

V. All samples furnished for tasting shall be considered sales for the requirements of RSA [~~178:28, I and RSA 178:30, I~~] ***178:26***.

35 Off-Premises Special License Restriction. Amend the section heading of RSA 179:47 to read as follows:

179:47 [~~Off-Sale~~] ***Off-Premises*** Special License Restriction.

36 Leasing or Renting Concessions or Part of Business; Reference Changed. Amend RSA 179:48, II to read as follows:

II. No persons shall be employed by any [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee to serve or sell beverages or liquor whose compensation is based on a percentage of the sale price of such liquor or beverage.

37 Premises Restrictions; References Changed. Amend RSA 179:51-54 to read as follows:

179:51 Lighting and Conduct Requirements for On-Sale Licensees. Holders of [~~on-sale~~] ***on-premises*** licenses shall conduct their premises in an orderly manner at all times, and the premises shall be well lighted.

179:52 Posting of Licenses. Every [~~off-sale or on-sale~~] ***on-premises or off-premises*** license shall be posted in a conspicuous place on the premises named in the license.

179:53 Alteration of Premises.

I. An [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee shall notify the commission of any alteration to the licensed premises.

II. No licensee shall alter the premises so as to provide for both on-sale and off-sale on the same premises[~~, except as provided in RSA 178:17, I~~].

III. No licensee shall sell liquor or beverage from a drive-in window.

179:54 Beverage Taps in View of Public; Names Displayed on Beer Dispensers.

I. All new beverage installations on [~~on-sale~~] ***on-premises*** licensees' premises, except in [~~the part of premises of licensees operating as a full service restaurant~~] ***food service businesses holding on-premises licenses***, shall have their taps in view of the public.

II. [~~On-sale~~] ***On-premises*** licensees shall display on dispensers of draught beer a knob or sign, illuminated or otherwise, clearly visible to patrons describing the brand or beverage dispensed from such outlets.

38 Beverage Distributor Agreements; Definitions. Amend RSA 180:1 to read as follows:

180:1 Definitions. In this chapter:

I. "Beverage distributors agreement" means a commercial relationship, not necessarily in writing, of definite or indefinite duration, between a beverage manufacturer license holder, brew pub, ***or*** beverage vendor, [~~or beverage vendor importer,~~] and a wholesale distributor, pursuant to which the wholesale distributor has been authorized to distribute one or more of the brewer's brands of beverages. A beverage distributors agreement shall not be considered to be a franchise relationship. The performance or accomplishment of any of the following acts shall constitute prima facie evidence of an agreement:

(a) The shipment or preparation for shipment of fermented malt beverages by any beverage manufacturer, beverage vendor, [~~beverage vendor importer~~] or its agents to a wholesale distributor within this state;

(b) The acceptance of any order for fermented malt beverages by any brew pub, beverage manufacturer, beverage vendor, [~~beverage vendor importer~~] or its agents to a wholesale distributor within this state; or

(c) The payment by a wholesale distributor and the acceptance of payment by any beverage manufacturer, brew pub, beverage vendor, [~~beverage vendor importer~~] or its agent or the shipment of an order for beverages intended for sale within this state.

II. "Beverage sales territory" means the area of primary sales responsibility expressly or impliedly designated by any agreement between a wholesale distributor and a brew pub, beverage manufacturer, ***or*** beverage vendor[~~, or beverage vendor importer~~] for the brand or label of a beverage manufacturer or brew pub, or an area designated in a filing with the state liquor commission for self-distribution by a brew pub or beverage manufacturer.

III. "Good cause" means the failure by any party to an agreement, without reasonable excuse or justification, to comply substantially with an essential and reasonable requirement imposed by either party.

IV. [~~"Goodwill,"~~] ***"Good will,"*** unless otherwise agreed, means earnings before taxes

resulting from the wholesale distributor's sale of the beverage manufacturer's[,] *or* beverage vendor's[~~, or beverage vendor importer's~~] brand or brands of beverages averaged over the wholesale distributor's last 3 fiscal years, or averaged over the wholesale distributor's recent fiscal years in which the wholesaler has had such earnings if fewer than 3 fiscal years.

V. "Wholesale distributor licensee" means any person offering beverages for sale or resale to retailers without regard to whether the business of the person is conducted under the terms of an agreement with a beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~].

39 Acts Prohibited; Reference Deleted. Amend the introductory paragraph of RSA 180:2 to read as follows:

No beverage manufacturer license holder, brew pub, *or* beverage vendor [~~or beverage vendor importer~~] shall:

40 Acts Prohibited; References Changed. Amend RSA 180:2, II-III to read as follows:

II. Require a wholesale distributor to assent to any condition, stipulation, or provision limiting the wholesale distributor's right to sell the product of any other beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~] anywhere in the state, provided that the acquisition of the product of another beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~] in the reasonable judgment of the beverage manufacturer, brew pub, *or* beverage vendor, [~~or beverage vendor importer,~~] would materially impair the quality of service or quantity of sales of the existing brand or label of the beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~] seeking to impose the condition, stipulation or provision.

III. After designating a sales territory for which any wholesale distributor shall be primarily responsible, enter into any agreement with any other wholesale distributor for the purpose of establishing an additional agreement for its brand or label in the same territory served by a wholesale distributor with that particular brand or label, or file with the commission for self-distribution in the designated territory. No wholesale distributor, brew pub, or beverage manufacturer shall make any sale or delivery of a beverage to any [~~on-sale or off-sale~~] ***on-premises or off-premises*** licensee whose place of business is not within the territory designated.

41 Acts Prohibited; References Deleted. Amend RSA 180:2, VII-IX to read as follows:

VII. Induce, coerce, or attempt to induce or coerce, any wholesale distributor to do any illegal act or thing by threatening to amend, cancel, terminate, or refuse to renew any agreement existing between a beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~] and a wholesale distributor.

VIII. Take retaliatory action against a wholesale distributor who files or manifests an intention to file a complaint of alleged violation of state or federal law or regulation by the beverage manufacturer, brew pub, *or* beverage vendor [~~or beverage vendor importer~~] with the appropriate state or federal regulatory authority. Retaliatory action shall include, but shall not be limited to,

refusal without good cause to continue the agreement.

IX. Require any wholesale distributor to waive compliance with any provisions of this chapter. In all cases the rights of free association of both beverage manufacturers, brew pubs, *or* beverage vendors [~~or beverage vendor importers~~] and wholesale distributors for any lawful purpose shall remain unrestricted and uninhibited.

42 Cancellation; References Deleted. Amend the introductory paragraph of RSA 180:3 to read as follows:

Notwithstanding the terms, provisions, or conditions of any agreement, no beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~] shall amend, cancel, terminate, or refuse to continue or renew any agreement, or request a wholesale distributor to resign from an agreement, unless good cause can be established or proven for amendment, termination, cancellation, nonrenewal, noncontinuation, or requesting a resignation. The mere sale or purchase of a beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~] shall not constitute good cause, but prima facie evidence of good cause may include:

43 Cancellation; Reference Deleted. Amend RSA 180:3, IV to read as follows:

IV. Failure by the wholesale distributor to comply substantially, without reasonable excuse or justification, with any reasonable and material requirement imposed upon the wholesale distributor by the beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~].

44 Notice of Intent to Terminate; References Deleted. Amend the introductory paragraph RSA 180:4 to read as follows:

Prior to any termination procedure initiated by the beverage manufacturer, brew pub, *or* beverage vendor [~~or beverage vendor importer~~], a wholesale distributor shall be informed in writing of any claimed deficiency existing in [~~his~~] *the* sales territory and shall be given reasonable time to make requested corrections. After this reasonable time has elapsed, a beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~] shall provide a wholesale distributor at least 90 days' prior written notice of any intent to amend, terminate, cancel, or not renew any agreement. The notice shall state all the reasons for the intended amendment, termination, cancellation, or nonrenewal. The notice provisions of this section shall not apply if the reason for the amendment, termination, cancellation, or nonrenewal is:

45 Notice of Intent to Terminate; References Deleted. Amend RSA 180:4, V-VI to read as follows:

V. Willful breach of any material provision of a written agreement between a beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~] and a wholesale distributor.

VI. Any attempted transfer of business assets of the wholesale distributor, voting stock of the wholesaler, voting stock of any parent corporation of the wholesale distributor, any change in the

beneficial ownership or control of any entity other than a parent corporation owning or controlling voting stock of the wholesale distributor, or any attempted or actual transfer or assignment of the beneficial interest of membership in a limited liability company, when the wholesale distributor has failed to give reasonable prior written notice to the beverage manufacturer, brew pub, *or* beverage vendor [~~or beverage vendor importer~~] of the proposed transfer.

46 Compensation; References Deleted. Amend RSA 180:5 to read as follows:

180:5 Compensation.

I. Any beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~] which amends, cancels, terminates, or refuses to continue or renew any agreement; requests a wholesale distributor to resign from an agreement, without good cause shown, as used in RSA 180:3; or unreasonably withholds consent to any assignment, transfer, or sale of a wholesale distributor's business, shall pay the wholesale distributor reasonable compensation for the value of the wholesale distributor's business lost due to the terminated brand or label. The value of the wholesale distributor's business shall include inventory and other tangible assets and its good will, if any.

II. In the event that the beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~] and the wholesale distributor are unable to agree on the reasonable compensation to be paid under paragraph I, the matter may, by agreement of the parties, be submitted to a neutral arbitrator to be selected by the parties; or, if having agreed to arbitration the parties cannot agree on an arbitrator, the arbitrator shall be selected in accordance with RSA 542:4. The costs of arbitration shall be paid in equal shares by the wholesale distributor and the beverage manufacturer, brew pub, *or* beverage vendor [~~or beverage vendor importer~~]. In all other regards, arbitration proceedings shall be governed by RSA 542.

47 Beverage Distributor Agreements; References Deleted. Amend RSA 180:8-11 to read as follows:

180:8 Sale of Beverage Manufacturer, Brew Pub, *or* Beverage Vendor[~~, or Beverage Vendor Importer~~]. The purchaser of a beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~] shall become obligated to all terms and conditions of the agreement in effect on the date of purchase unless subsequently terminated by the beverage manufacturer, brew pub, *or* beverage vendor[~~, or beverage vendor importer~~] for good cause. "Purchase" shall include, but not be limited to, the sale of stock, sale of assets, merger, lease, transfer, or consolidation.

180:9 Exclusive Wholesale Distributor Territorial Agreements. It shall be unlawful for a wholesale distributor, brew pub, or beverage manufacturer to sell any brand of beverage in this state except in the territory described in a distribution agreement authorizing sale of that brand or label within a designated area, and within that designated area the wholesale distributor, brew pub, or beverage manufacturer shall service all dealer and retailer licensees without discrimination. The distribution agreement shall be in writing and shall specify the brand or label it covers. When a beverage manufacturer[~~,~~] *or* beverage vendor[~~, or beverage vendor importer~~] sells several brands, the

agreement need not apply to all brands sold by the beverage manufacturer[~~,~~] *or* beverage vendor[~~, or beverage vendor importer~~] and may apply only to one brand. No beverage manufacturer, brew pub, beverage vendor, [~~beverage vendor importer,~~] or other supplier shall provide by the written distribution agreement for the distribution of a brand or label to more than one distributor for all or any part of the designated territory.

180:10 Filing. A copy of each distribution agreement and any amendment to it shall be filed with the commission by the beverage manufacturer, brew pub, *or* beverage vendor [~~or beverage vendor importer~~] and wholesale distributor, promptly following January 1, 1982, for any distribution agreement in effect on that date, or promptly following its execution for an agreement, renewal, or amendment made after that date.

180:11 Quality Control Services. Every beverage wholesale distributor shall service, for the purpose of quality control, all of the beverages it sells to its retailers. Each such wholesale distributor shall provide such additional quality control services and comply with such additional quality control standards as are from time to time specified in writing by the owner of the trademark of the brand or label of beverage, provided that such activities or standards are reasonable and are reasonably related to the maintenance of quality control. An exclusive territorial designation in any distribution agreement shall be changed only upon the written consent of the beverage manufacturer, beverage vendor, *or* brew pub, [~~or beverage vendor importer,~~] as applicable, and the wholesale distributor, and shall be filed pursuant to RSA 180:10, and the commission shall require each party to verify that the level of service within the designated territory shall not be affected by such change.

48 Sunday Dancing Permitted; References Changed. Amend RSA 332-D:6 to read as follows:

332-D:6 Sunday Dancing Permitted. Notwithstanding the provisions of RSA 332-D:4, public dancing shall be permitted after 2 p.m. on Sundays in hotels and restaurants licensed under RSA [~~178:19~~], ***178:21***, II(a) and (b), and in ballrooms licensed under RSA [~~178:20, V(c)~~] ***178:22, V(c)***, provided that such dancing shall have the approval of the state liquor commission.

49 Repeal. The following are repealed:

I. RSA 175:1, IX, relative to beverage representatives.

II. RSA 175:1, XI, relative to beverage vendor importers.

III. RSA 175:1, XLIII, relative to liquor and wine import warehouser.

IV. RSA 175:1, XLV, relative to liquor and wine salespersons.

V. RSA 175:1, LXIII, relative to service bars-portable.

VI. RSA 179:19, IV, relative to entertainers under 15 years of age.

VII. RSA 179:46, relative to sales of holders of wine vendor licenses.

50 Effective Date. This act shall take effect July 1, 2003.

LBAO
03-0479
Revised 1/30/03

HB 646 FISCAL NOTE

AN ACT relative to liquor licenses and fees.

FISCAL IMPACT:

The Liquor Commission indicates this bill will decrease state unrestricted revenue by $36,288 in FY 2004 and each year thereafter. There is no fiscal impact on county and local revenues or state, county and local expenditures.

METHODOLOGY:

The Commission states that this bill eliminates the $72 annual fee paid by beverage and liquor and wine sales representatives. Assuming 326 beverage and 178 liquor and wine sales representatives, the elimination of the annual fee will result in a $36,288 decrease in state unrestricted revenue beginning in FY 2004.

Amendments

Rep. Francoeur, Rock. 85
April 23, 2003
2003-1358h
03/09

Amendment to HB 646-FN

Amend the bill by replacing section 5 with the following:

5 Caterer-Off Site; Reference Changed. Amend RSA 175:1, XV(b) to read as follows:

(b) An off-site catering service which is a business held out and advertised to the public which has a permanent non-residential business office with securable beverage and liquor storage areas. With the approval of the commission, an off-site catering service without a kitchen may subcontract for cooking services or the preparing of food. [~~Notwithstanding RSA 178:20, V(e)(2), catering services under this paragraph shall sell liquor and beverages only with full course meals.~~]

Amend RSA 178:22, V(e)(4)(B) as inserted by section 13 of the bill by replacing it with the following:

(B) On-site caterers and off-site caterers shall file, between January 15 and February 15 of each year, a certificate form with the commission covering food and beverage and liquor sales for the previous calendar year. All catered sales shall be noted on the certificate form which shall be furnished by the commission.

Committee Minutes

Date: April 23, 2003
Time: 1:45 p.m.
Room: 102 LOB

The Senate Committee on Executive Departments and Administration held a hearing on the following:

HB 646-FN relative to liquor licenses and fees.

Members of Committee present:

Senator Prescott
Senator Cohen
Senator Estabrook
Senator Kenney
Senator Peterson

The Chair, Senator Russell Prescott, opened the hearing.

I'd like to open up the hearing on HB 646. I'm pleased to see the prime sponsor is here. Representative Francoeur. Thank you very much for coming.

Representative Francoeur: Thank you Mr. Chairman. I'm glad to beat you downstairs from the other meeting that I have to get back. For the record I'm Representative Sheila Francoeur representing Rockingham District 85 and I'm here to introduce HB 646. HB 646 is a reincarnation of a bill that we had last session in Commerce and then it went on to Ways & Means. Ways & Means held onto it into interim study and recommended further legislation. That's the legislation that you have in front of you. This bill has a history of reviewing licensing processing and fees for over five years. As I said, Commerce started working on this bill two years ago, working with the industry associations, interested parties and certainly the liquor commission. I think that what we have done here has streamlined and modernized the licensing process. The only amendments that we did in the house this year was a little tweaking of fees, a little streamlining and I also have for you and I will give to your clerk is a new amendment for your consideration dealing with off site catering. The people behind me will certainly speak to that. All

the experts are behind me. But I'd be happy to answer any questions if I may.

Senator Russell E. Prescott, D. 23: Any questions? Senator Estabrook.

Senator Iris Estabrook, D. 21: Thank you very much. Are you going to leave to the experts to outline what the changes are from current law?

Representative Francoeur: Absolutely.

Senator Iris Estabrook, D. 21: Could you give us the bill number from last session to which you are referring?

Unidentified Speaker: 710

Representative Francoeur: 710. I told you the experts were behind me.

Senator Russell E. Prescott, D. 23: Senator Peterson.

Senator Andrew R. Peterson, D. 11: Is this all new law or is it just the bold areas that are new?

Representative Francoeur: It's not new law senator. It's just a review and a streamlining of our liquor laws that should have been done quite some time ago.

Senator Andrew R. Peterson, D. 11: So are the strikes and the bolds basically the new law that we see in here? My understanding is that on average that there are 15 pages of agency rules for every page in law. So that would be hundreds of pages of strictures for the citizens of the state. That might give me some pause.

Representative Francoeur: Oh I don't think that will happen. We wouldn't want to do that. As it is I was just telling the commissioner I think I have been establishing a reputation over in legislative services of having the biggest bill.

Senator Russell E. Prescott, D. 23: I noticed that there were no other sponsors were on it with you. Is that because you are the one who spent so much time on this bill in the past that you feel so much more comfortable to be on it?

Representative Francoeur: No I think it was just that the commissioner and the department asked me to sponsor it. I was familiar with it because we did do quite a bit of work on it in commerce last session. I was more than happy to do because I think it is important that we get this done.

Senator Russell E. Prescott, D. 23: Any further questions? Seeing none we'll wait for the experts. Thank you. Any other Senators or Representatives wishing to speak on this bill? If there are no objections I'm going to start with the next person on the list which would be John Byrne.

John Byrne, New Hampshire Liquor Commission: Thank you senator. For the record my name is John Byrne, Commissioner of the New Hampshire Liquor Commission. I have been living with this bill for five years. I'm going to briefly give some testimony and then I'll be glad to answer any questions that I possibly can. As Representative Francoeur has stated, this has been a five-year effort on behalf of the commission. It began internally in the commission when myself and the Chief of the Bureau of Enforcement of Licensing felt that what we needed to do with Title 13 and especially with Chapter 178 was to recodify and streamline it in a way that when someone comes in to get licensed for alcoholic beverages, either distribution or sales that it reads as a road map for them to be officially licensed by the State of New Hampshire. We had a bill go into the legislative session last biennium, House Bill 710 that was more inclusive than what you see here. The bill that we have here in front of us deals primarily with changes with the wholesale end of the business. I'll explain those changes. The House Bill 710 also dealt with some substantial changes on the retail side of licensing for restaurants and grocery stores. Those changes are not in this bill. Those changes ran against some opposition or greater discussion and what we felt was that we'd take that out and continue the discussion and move ahead with the wholesale which was something that industry representatives were agreeing to streamline. So the 710 of last year has been cut down. All of the retail licensing changes have been taken out of the bill and they remain just as they are in Title 13. Title 13 is the law for the commission to license the sale and distribution of alcoholic beverages in the State of New Hampshire. What this bill will do is to streamline that licensing process. But many of the changes that you see in this bill are cosmetic. Many of the changes as you go through it you will see that we had to change terminology to be modernistic. We had old terminology in the bill. We had "on sale licensee, off sale licensee". They are now referred to as "on premise, off premise". On premise where you consume alcohol at the location, the restaurant. Off premise where you purchase a beverage and take it home. A lot of the changes as you will see throughout, the strike throughs are just terminology changes. Other changes that give this such depth is that if you begin on page 3, chapter 178, liquor licenses and fees, we recodified and restructured and moved around existing

law and put it in an order so that when someone's looking, the licensing process it reads in order. To do that we had to change and we had different sites if you will and those are changes that we had to make and those are strike throughs as well. However there are some major changes in the bill. I'd like to go over those. One of the changes is we've repealed, as an example of the modernization we're talking about. We repealed the Beverage Vendor Importer License. We put it in now that we used to have a Beverage Vendor License and a Beverage Vendor Importer License, domestic beer vs. a foreign beer. Companies will come in and get a license to ship either one of them. Now under definition and under law you get a Beverage Vendor License that covers domestic and foreign beer. There is one license for the vendor. We're likewise combining existing law as a Liquor Vendor License separate from a Wine Vendor License. We're combining these into a Liquor and Wine Vendor License. Reason being in today's universe of doing business in the alcoholic beverage industry, most companies aren't just spirit companies, aren't just wine companies. Even if they are they could have that license and do just spirits and just wines, a combined license.

Senator Russell E. Prescott, D. 23: Senator Peterson has a question.

Senator Andrew R. Peterson, D. 11: I'm sorry to interrupt you. Would it be possible for you to give us the sites of where you're speaking as you go? It's a long bill and if that's too difficult for you.

Mr.Byrne: I can site from now on. Those two changes are two definitions that are no longer in the bill. So we've combined them into a liquor and wine. If you go to page.

Senator Andrew R. Peterson, D. 11: Where would I find the new definition?

Mr. Byrne: The liquor and wine vendor license is on page 9, section 179:9, 178:9. Its on line 14. That is the combination of the liquor and the vendor license.

Senator Russell E. Prescott, D. 23: Senator Estabrook.

Senator Iris Estabrook, D. 21: I had a similar concern. I think it would be helpful if we started at the beginning and even if you said that these changes are housekeeping change reference in the statutes such as (inaudible)

Mr. Byrne: We can go right to page 2. First change here on page 2 is on line, I want to make sure I have the right line for you because I have a different copy. Line 8, Private club. This is a new definition. All of the other language that is in there is existing law except for the site. Currently under our law

we have a social club, fraternal club and a military club license. By definition we have had a couple of clubs come in, dinner clubs. People getting together, coming in for a license for a dinner club, they don't fit that definition.

Senator Andrew R. Peterson, D. 11: You have a college club as well.

Mr. Byrne: We do have a college club as well, a license. This definition if you see will follow the same rules, regulations and laws of a social club, veterans club or a military club. But in the sense of a social club they are not tied into the national organization with a charter. They may be just, as an example, there is a dinner club in Portsmouth that has been licensed. It was very difficult getting them a license. 100 Market Street because they didn't fit into out licensing scheme. It was a collection of individuals getting together, poured all of their resources together and they wished to have a liquor and wine license to serve food with their dinner. We ended up getting them a license but when we went through that process we found that there is a need here for this. There's another club on the Seacoast. It's the Swim Club. It didn't fit into the social club. The social club definition which is existing law, it won't change, you have to be in existence for one year. A lot of these people just got together, just put the club together, we felt that this was a good definition to add. That's what the Private Club does.

Do you wish me to go over, like on line 26 of page 2 you can see there where it's highlighted it says "on premises and off premises" and then on 33 where it changes the sites. What that basically is because the section has been restructured we had to change the site but the law hasn't changed.

The next change is actually on page 8. All of the language between now and page 8 is existing law. On page 8 on line 16 there is a new license called a rectifier license. What we have in current law is what you see above that, the Liquor Manufacturer Law. We're adding a rectifier license. The difference here is that a liquor manufacturer distills the product. A rectifier blends and bottles the product. We actually have a large rectifier in the state. It's Jenkins down in Londonderry. They have been licensed under the Liquor Manufacturer. It's not the correct license. We've also had some inquiries from some wineries who want to rectify some brandies. Having this license will allow us to have other rectifiers in the state.

Senator Russell E. Prescott, D. 23: Will it allow a small, for their own enjoyment, wine maker of honey wine? Will that allow them to get a license to sell their honey wine? Will a rectifier license allow them to do that?

Mr. Byrne: No they would probably have to go under a wine manufacturers license which is the next section down, 178:8 on line 25 of page 8.

Senator Russell E. Prescott, D. 23: Is that existing law?

Mr. Byrne: That is existing law.

Senator Russell E. Prescott, D. 23: Is honey wine recognized?

Mr. Byrne: I don't know it so I'm not sure. Wine is made from a lot of fruit. It's not unusual to have apricot wine so maybe. I don't know what the market is for it Senator.

Senator Russell E. Prescott, D. 23: Thank you so much.

Mr. Byrne: So the rectifier license is basically an added new license.

Senator Russell E. Prescott, D. 23: thank you.

Mr. Byrne: The next major change.

Senator Russell E. Prescott, D. 23: Senator Peterson.

Senator Andrew R. Peterson, D. 11: Just so that I can understand and perhaps wake myself up. The rectifier, that's basically a wholesaler? Is that correct?

Mr. Byrne: That's a bottler. What a rectifier will do, a rectifier will age, blend and bottle and sell to us.

Senator Andrew R. Peterson, D. 11: So someone who will repackage, middleman, retailer.

Mr. Byrne: The next change is on page 9. Line 24, liquor and representative license. The change we did here was actually on line 30 where it says, "a liquor and wine representative may employ sales persons who shall carry a copy of the representative's license." Current law, we have each salespersons licensed individually with the commissioner. At a cost of $72 per license. There's over 150 salespersons licensed. From our perspective, what we're doing with this change is we're licensing the brokerage itself. We're licensing the business. We're increasing the fee on that which I'll talk too later. We're saying that if we're licensing the business they can have as many salespersons as they want as long as that salesperson carries a copy of the license of the business with them when they're doing business instead. That's a substantive change.

Senator Russell E. Prescott, D. 23: That's where the $36,000?

Mr. Byrne: There were three items there. The brokers license, the beverage license and the carrier license. All changes very similar to that. I'm going to go over each one of them right now.

Senator Russell E. Prescott, D. 23: That's the total fiscal impact?

Mr. Byrne: Yes. The next change is the carrier's license, which would be on page 11 line 31. Actually line 35 is the change. Again it says a copy of the carrier's license shall be carried in each vehicle used to transport beverage or liquor. Current law, we license each vehicle. Each vehicle by carrier has to come in, get an application, fill it out, we license that vehicle. What we're saying here in the changes again we will license Ross Transportation, we license them and they have to have a copy of the license in each vehicle when it's transporting. That also adds an impact. The cost of each of this was $6 per license. We are doing away with that $6 but we did not change the actual cost to the carrier license.

The next change is on the next page under wholesale distributor. Line 25. Representatives of wholesale distributors shall carry a copy of the wholesale distributor license. This is the same change that we did with the brokers.

Now as we go forward starting on page 13 all the way through to page 28 there are no changes to existing law. They may have a different section like 178-28 today may be 178-22 in current law, 178 in this. There is no change in the actual law itself. These are all retail licensees. A combination license, on premise, off premise.

Senator Andrew R. Peterson, D. 11: Is the Alpine Slide referred to on page 17 a type of drink?

Mr. Byrne: No it isn't. It is an Alpine Slide. In order to have the service of alcohol beverage at an Alpine Slide in the State of New Hampshire we had to have a definition of an Alpine Slide in order to get a liquor license.

Senator Andrew R. Peterson, D. 11: I do have one serious question about this area though. If we're going all the way to 28, I'm sorry to detain you, but I do wonder about the college clubs. I understand that they are part of existing law. We have, they're found on page 19 on lines 24 and 25. We have a bill before us in the Senate Judiciary which has passed the house that has to do with house parties and the person sponsoring the house party would be guilty of a misdemeanor and carrying up to a year in jail. If they have a party and more than 5 people who are there are under 21 and one of them drinks. Is

there any relevance between that type of legislation and what goes on in college clubs?

Mr. Byrne: My own experience with the college clubs is I visited one one time. The college club at St. Anselm's. On campus it is a school run facility that is licensed to serve alcohol to people of adult age at St. Anselm's. They are licensed under these provisions of college club. They are covered by all of the laws of title 13 as far as service to underage or over service. It is two ways in which a college club if they violate RSA 179:5 which is underage and over service. There are two ways in which the judicial system or the administrative system handles it. One if you come to us and they are brought forward and that is an administrative penalty. For the first violation they would get a fine up to $500 or suspension of a license up to 7 days. If they had 5 violations within a 3-year period then their license would be revoked. If it was, whether our enforcement agents or whether it was a local policing department that sought, cited the violation, took it into the district court, they would be cited for a misdemeanor. If they're incorporated, that's only if they are a partnership with an individual. If they are incorporated they would be cited for a felony. If they are convicted of a felony they will automatically loose their license administratively with the commissioner. That's the scheme of enforcement for an underage or over service of a licensed college club. I'm not familiar with the bill you're talking about.

Senator Andrew R. Peterson, D. 11: It would seem that the bill has some real impact, particularly on fraternities and so forth and other activities at college. I just wondered how this college club, it was licensed obviously in a separate, fits into it. I thank you for the explanation.

Mr. Byrne: The next change again, all these are the existing retail licenses, the change that comes on page, actually page 28, line 34 is the inclusion of club private at $1200. That's the same amount for license that social clubs and veterans clubs pay for license. So that's the exact same amount. On page 29, actually it's the next page, page 30, line 8, wholesale distributor license. This is a change. This is an increase in that license fee. From $1920 to $2500. Again we did away with the sales representative persons license that they don't have to pay under this new bill. So we increased the license fee for the wholesale distributors. The same if you look down on line 22. Wine and liquor representatives. Line 21 and 22. Currently a wine and liquor would pay $156 for their license. Since we're doing away with the fees that they're paying for the salespersons. We have changed that so if they have 4 or fewer salespersons it's a $500 license, 5 more, it's a $1000. My discussion with the industry is that it is not onerous. That they agree to that change to save on the paperwork.

The remainder of the changes, if you look on page 32 and 33 are strikethroughs. But strikethroughs are basically as I mentioned in the beginning of licenses that are going away, like the beverage vendor importer license and reference to on premise and off premise. Two other changes in the bill, I'm going to jump you back to page 15, this is new law. On line 29 of page 15 that begins with "the permission of the commission a licensee may charge a fee for the consumption of privately owned table wine stored on the premises and consumed with the purchase of a full course meal. This is new law. This is a corkage fee that a licensee, a restaurant, XYZ restaurant is licensed for us for a full service restaurant to serve beer, wine and spirits. Under this they could have an individual who is a clientele who could have a wine bin. Wine that they have purchased themselves, brought in and stored on the facility that they can have their own wine, with their meal provided they buy a full course dinner. If a fee is charged by the licensee it is a pouring fee. It is not a fee for the state. It is a fee that the licensee charges the customer and the customer pays. It is a very common practice in many places around the country. I don't know if you've been down to Morton's Steakhouse in Boston recently. You walk in and you see all of these bins on the right hand side. It's also a very good, from my perspective, a good economic development opportunity for restaurants. The importation of alcoholic beverages into the state as governed by title 13. All of us are allowed only to bring in 3 quarts of wine and liquor into the state. The assumption is that the alcohol in that bin was brought in and purchased legally through the commission. It's in the bin and we can always do a check if there was ever a question about that. We could always do an audit and find out. This is something that the Hospitality Association has been discussing with us for awhile and we think it's a good change in law.

Senator Andrew R. Peterson, D. 11: I'm sorry to be something of a corker but is this when somebody brings their own bottle to the restaurant?

Mr. Byrne: That's right but they can't bring it. They have to have it stored there. Now what you can do, you can't bring your own product in there unless. They don't have a liquor license. You can bring all the product.

Senator Andrew R. Peterson, D. 11: There is a restaurant in our area you can bring a bottle of champagne and they'll put it on ice for you and serve it to you and so on. But that has nothing to do with what you're talking about.

Mr. Byrne: They can do that because they don't have a liquor license. Once they have a liquor license you can't do that. Unless now with this change you will be able to store it. If you want to bring a case of wine in and store it there and they will have to, the licensee will have to get permission from us. We would ask them for a business plan. How are you going to handle that?

So we know who the clients are and who owns the wine that is there. Typically these are one case size lots. It does not affect anyone who does not have a liquor license where you bring the wine in now.

On page 25 line 10, not line 10, I'm sorry, it's line 10 of the old bill. Line 8. The commission may issue a license valid for two or three years under the same terms. Currently all licenses for the liquor commission are annual licenses. What this would allow a licensee to decide whether it's a wholesaler of a retailer decide to have a two or three-year license. Not prorating the fees, but if I'm in business and I'm going to be doing business like D'Aggio Corporation or Gallo, I would buy a three-year license. I have paperwork once every three years. The staff is looking forward to this change. It will cut back on the paperwork and the industry, some in the industry are looking forward to it as well. So we're going to a multiple tiered license.

Those are the major changes in the bill. The rest of the bill if you go through it are really reference changes and terminology.

Senator Russell E. Prescott, D. 23: Very good. Senator Estabrook.

Senator Iris Estabrook, D. 21: I just wondered if you have any comment on the amendment that Representative Francouer mentioned?

Mr. Byrne: Yes thank you. We support the amendment. You will hear from Mr. Sullivan from the Restaurant and Lodging Association who is bringing forth this amendment. What this amendment for a caterer who is off site will do, under current definition of a caterer for off site, they can only serve alcohol with a full course meal. Given today's society some of the appetizers are as big as a full course meal. This will allow them to serve alcohol provided they meet the food requirement which we have for all of our restaurant licensees which is $75,000 a year in food or if their business is 50% food and 50% alcohol. With that change and the commitment we would support the amendment.

Senator Russell E. Prescott, D. 23: Do you know of any other amendments coming to this bill?

Mr. Byrne: No I don't. It doesn't mean I won't be surprised but I don't.

Senator Russell E. Prescott, D. 23: I do have a clarification. Concerning franchises, company franchises and good will there was legislation done, are you familiar with that, the company or the franchise when sold had some type of basis that went with worth based on taxes they paid and then the tax

law changed. Now there is a different type, there is no way of knowing in law what the franchises were. Is that something you are familiar with?

Mr. Byrne: No I'm not, not familiar at all.

Senator Russell E. Prescott, D. 23: Any other questions of the committee?

Senator Burton J. Cohen, D. 24: I'm sorry I came in just a little bit late but would it be accurate when I hear that this is just kind of updating and streamlining and housecleaning.

Mr. Byrne: That's correct. There are some changes in there but I don't think they are earth shattering.

Senator Burton J. Cohen, D. 24: You don't think they're what?

Mr. Byrne: Earth shattering.

Senator Russell E. Prescott, D. 23: Thank you for your testimony. Kevin Sullivan.

Kevin Sullivan, New Hampshire Lodging and Restaurant Association: We are in full support of House Bill 646. We worked with Chairman Byrne and also Aidan Moore to try to get the bill streamlined to see that it all works and everyone is happy. We were onboard with them for 710, some of our membership, not our membership but some members of our trade group had problems with it with the changes and the fees. That's why 646 came to be. So we are in full support of 646. I'm here to speak basically to the amendment. Just to further clarify that. There are 25 off site catering license in the State of New Hampshire. 21 of them are done through restaurants. So it's a restaurant that can also serve off site as a catering business. Those 25 restaurants are not bound to serve a full course meal. The other four are bound to serve a full course meal so it's kind of an unfair playing field as far as what is out there. Caterer A can bid on something but caterer B cannot. It is not the reverse in any situation.

Senator Russell E. Prescott, D. 23: The amendment will clarify that?

Mr. Sullivan: That amendment should clarify that and all of the caterers in question are onboard as far as the 50% or $75,000 minimum. As it stands now an off site catering service does not have to do that but if you're not doing that kind of dollar volume you probably shouldn't be in business in the first place. Any questions?

Senator Russell E. Prescott, D. 23: Any questions of the committee? Thank you very much for your testimony. George Roberts.

George Roberts, Anheuser Busch Incorporated: I am George Roberts. I represent Anheuser Busch Inc. and I also monitor legislation for a variety of clients, two racetracks which will have their season here. I want to reveal that. They do not have any problems with the new bill as presented as it ties to them. However, representing Anheuser Busch I think it's important to what has not been said. We don't have any disagreement with what Commissioner Byrne is trying to streamline his administrative enforcement statutes. By and large I think they make very good possibility for administration and stronger enforcement. We assume that the fees represent the 125% of the cost of administrating the licensing and the enforcement. You asked a question Mr. Chairman and you should think that perhaps some people are not aware. There was an attempt in the house to put language in on behalf of the distributors to change the relationship or the contractual agreements made by the brewers with the distributors. In such a manner as to disregard if they go to arbitration to actual status of the corporation. We oppose that. That language came out by the direction of the chair and the sponsor who was somewhat surprised by the involvement of that language. If you don't understand franchise law that well, it probably reads nice to use the words "goodwill" but the intent of that particular amendment was to say that the arbitrar when there is a decision to sell cannot even look at the default of the company who is wishing to sell back to the brewer or the scandal that might have occurred if in case that was the situation in determining the value of a business.

Now a business is worth generally two levels. Tangible assets and the word "goodwill" is a layman's interpretation as your reputation. But for the legal situation, a goodwill is the responsibility of both parties to come to a conclusion of what is a reasonable settlement of the total worth, which is the tangible assets and the respect of the general public in the purchasing and the using their product. That language is taken out. All I want to say to the committee is this, that the fact that the amendment has some merit but I would hope in the discussion between the house and the senate when it goes back that if for some reason, some technical reason, it goes to committee of conference that you would not be inclined to put back that language. I put it on the table because I am concerned that the distributors that are trying to get that amendment put back in are not here testifying. I believe in open disclosure and some people don't like that. They like to play charades and I'm not one of them. There is an attempt to put an amendment to this bill which would change the contractual relationships between the brewer and the distributor which are finally, which are minutely in detail as to how they will relate to each other including the dissolution of a corporation and the

attempt to sell the corporation back to a brewer. Those are contractual agreements and should not be interfered with by amendments by the legislature.

I'm just putting that on the table because an attempt was made in the house. The house committee did not think it was germane to the administrative purposes that this bill was put in to and for the fee revenue that it might (inaudible) took it out after some discussion. I want to make you aware in case there is an attempt in the committee of conference to make such an amendment. Or even on the floor of the senate. I would not want to jeopardize the work that both the commissioner and his staff and many members of the House Commerce Committee and Ways and Means attempted to make over those years. Not to jeopardize that, this non-germane issue shouldn't be in a fees administrative and so-called house-cleaning bill. I believe anybody who has a grievance should be able to come before the legislature but that particular issue should be a separate issue, a separate bill, introduced in another session. So you can have a determination whether you should do that or not and not jeopardize this bill one way or another, either for the negative or the positive. We would be willing to talk to people about that but would hope that they would not try to amend that within this committee or on the floor of the senate or attempt to do it in Committee of Conference.

Senator Russell E. Prescott, D. 23: Any questions of the committee?

Senator Andrew R. Peterson, D. 11: It's hard to explore the dimensions of an amendment that we don't see. Irrespective maybe since you are here and speaking on it you could just illuminate the issue a little bit in case it comes up later. My understanding having been engaged in the business of selling businesses at time and my professional life is that goodwill is often thought of as a blue sky, ethermeral kind of quantity but in fact it is actually quite substantial. It's an asset on one side of the ledger that justifies a price which is justified on the other side of the ledger by the income, by the net income that the business generates and the result of that being typically through a capitalization rate a value. In other words, if the income doesn't support the fact that there's goodwill, then goodwill is just the stuff that dreams are made of. If it does, then the value of the whole is greater than the sum of the asset parts because the income is generated by the company. Is that an accurate understanding?

Mr. Roberts: I think you're pretty close to the dime. In the original bill, House Bill 646 as introduced, it was in section 180:1 under the definitions of this chapter in Beverage distributors agreement definitions, Roman Numeral IV, they had attempted to add the words goodwill and they redefined that

from what is generally known in franchise law or business. It "means the amount the willing seller, under no compulsion to sell, would be willing to accept, and a willing buyer, under no compulsion to buy, would be willing to pay, for the wholesale distributor's rights to sell the beverage manufacturer's and beverage vendor's brand or brands of beverages."

Let me try to put this into perspective for you. I'll speak for Anheuser Busch only but there are other representatives from other major brewers here and of course there are a variety of brewers, domestic brewers for the small, regional or nationwide or even imported brewers. If you are going to be a distributor for a particular brand, you approach them or they approach you. They say that "we want you to have Granite State Beer" I don't think there is a beer called that. "We'd like to have you distribute that in your franchise district, which is a separate territory. In doing so, here's the compensation, here's the letter of agreement. We would expect you to do the following" and they would name advertising, transportation in a timely manner, they even put down the employee's personal appearance and manner, in a variety of things which are too minute to go over. The key things are in all the contracts that I've seen they have to run legally. They have to pay taxes in due time and New Hampshire is very strict, we're glad they are, they have to pay within a certain period of time. The retailer has to pay the distributor so he can pay the brewer. There are other obligations they have to do as far as cooling and transportation and be involved in with the management, with the brewer to make sure their distribution is getting to the public the way the brewer wants the product because they're the middle person. They're the person making the money getting the distribution but the brewer is making the product. His product is going to sell by its quality and by it's advertising by and large.

The other key element is the distributor does all the things they promised to do. These are contractual agreements. If there is a violation of a federal or state law or that contract, the brewer in the case of Anheuser Busch, would give a warning and say you have not followed under clause so and so, your thing about refrigeration or the distribution or the turn over of the stock. We want you to change that. The total violations they'll give them warnings. It hasn't happened in New Hampshire, we don't expect it to. We have good distributors but in some cases there are brewers that are foreign, the ones I've heard as example who have made a contract and say distribute my beer without too much involvement in writing a decent contract. In an abrupt time say you're not going to be our distributor anymore because you didn't distribute much. That really is the responsibility of the distributor to make sure that they or their legal counsel write a proper contractual agreement between each other so both parties are respected in that relationship.

We don't want to see the legislature insert itself and change which not statutory but what is common law, the definition of what goodwill is nor do we want the legislature as was proposed, to say to an arbitrator who you only go to and say "whatever that arbitrator tells me to do I will do. I will agree to do that." Both sides say that. But to say to an arbitrator that you can't look at the poor performance of that distributor, you can't look at the failure of that distributor, you can't look at the violation of the law of that distributor in deciding the value of a company.

Senator Andrew R. Peterson, D. 11: Very quick follow-up because it does help understand it better. I think what you've been saying can be distilled down to, your position would be that if there is buyout triggered in an agreement, a contractual agreement between a distributor and a brewer, that the buyout ought to follow the course that is in the contract and not be affected by other strictures that we pass and be part of this bill, that we would pass and have part of this bill. So that's essentially your position.

Mr. Roberts: Yes, that's correct.

Senator Russell E. Prescott, D. 23: Any further questions of the committee? I do not have any others wishing to speak. I will name the names and if you wish to speak come forward. Ivan Bass, Clark Corson, Stuart Trachy, anyone else wish to speak come forward and state your name for the record.

Mr. Burke: For the record Mr. Chairman and members of the committee. Bruce Burke representing Miller Brewing Company. Mr. Roberts on behalf of Anheuser Busch said it very well. We too would have some major concerns with any attempts to bring in the amended language that was amended out of House Bill 646 on the house side. This was a clear issue that the brewers oppose and I think Senator Peterson did distill the comments of Mr. Roberts very well in indicating that it would seriously imbalance the relationship between the brewers and the distributors. If this issue is to go any further in the deliberative process we would hope that there would be a public hearing on the measure. We had anticipated an amendment being offered here today. I understood moments before the hearing that there's still some work being done on some language that perhaps would be presented at a later time. With that I'll close my testimony.

Senator Russell E. Prescott, D. 23: Thank you very much for your testimony. Any other questions? Seeing none, thank you very much. If you'll come forward and state your name for the record.

Mr. Byrne: Just, as a follow-up there is a fiscal note on the bill of $36, 288. That the commission offered an amended fiscal note based on the increase of

the fees to the wholesale distributor and the brokerage fees that were in the amendment, the house amended bill. With those increased fees, we do not see a fiscal impact. I will leave that with the committee.

Senator Andrew R. Peterson, D. 11: We have an amended fiscal note.

Mr. Byrne: That says 0? I just wanted to make sure.

Senator Russell E. Prescott, D. 23: I would like to close the hearing on HB 646. Thank you very much.

Hearing closed at 2:40 p.m.

Respectfully submitted

Pamela Manocchi
May 2, 2003

Attachments

Rep. Francoeur, Rock. 85
April 23, 2003
2003-1358h
03/09

Amendment to HB 646-FN

Amend the bill by replacing section 5 with the following:

5 Caterer-Off Site; Reference Changed. Amend RSA 175:1, XV(b) to read as follows:

(b) An off-site catering service which is a business held out and advertised to the public which has a permanent non-residential business office with securable beverage and liquor storage areas. With the approval of the commission, an off-site catering service without a kitchen may subcontract for cooking services or the preparing of food. [~~Notwithstanding RSA 178:20, V(e)(2), catering services under this paragraph shall sell liquor and beverages only with full course meals.~~]

Amend RSA 178:22, V(e)(4)(B) as inserted by section 13 of the bill by replacing it with the following:

(B) On-site caterers and off-site caterers shall file, between January 15 and February 15 of each year, a certificate form with the commission covering food and beverage and liquor sales for the previous calendar year. All catered sales shall be noted on the certificate form which shall be furnished by the commission.

REMARKS OF NH LIQUOR COMMISSIONER
JOHN W. BYRNE

HOUSE BILL 646

Mr. Chairman and members of the House Commerce Committee, thank you for the opportunity to testify today on HB646. This legislation re-codifies the licensing process governing alcoholic beverage licenses in Title XIII of the Laws of the State of New Hampshire.

The Liquor Commission began reviewing its licensing process over four years ago. Two years ago we began working with the House Commerce Committee, industry associations and interested parties with a goal of simplifying the licensing process while maintaining governmental control over the consumption and distribution of alcoholic beverages.

A result of these efforts was the recommendation of HB710 by the Commerce Committee to the House in the previous legislative session. That bill was sent to the House Ways & Means Committee and subsequently referred for interim study.

The major difference in HB646 from last session's HB710 is in that this legislation there is no change to the on-premise and off-premise licensure requirements and fees for retail on-premise and off-premise licenses. This was the recommendation of the Ways & Means study committee. (page10)

Much of the changes to Title XIII in HB646 are editorial in nature, such as the change in terminology from on-sale to on-premise and off-sale to off-premise and reference changes and deletions throughout the bill.

Major changes in law in the bill that were also in last year's legislation are:

- Establish a Rectifier license. This would allow for the blending and bottling of liquor in the state. The lack of distillation by the licensee distinguishes this license from a liquor manufacturer's license. We have had inquiries for such a license. (page 7)

- Repeal Broker and Wholesale Distributor salesperson license. Currently we require each salesperson for liquor and wine brokers and wholesale distributors to be licensed separately from their employer. The bill would eliminate this requirement. Each salesperson would be required to carry a copy of their broker's and distributors' license and a letter of authorization from the company. (page 8)

- Repeal Carrier vehicle license. The commission currently licenses each vehicle a common carrier may use to transport alcoholic beverages. This change would require that each vehicle have a copy of the carrier's license available. (page 9)

- Allows for multiple year licenses. This would allow any licensee to apply for a license for 1, 2 or 3 years. This would reduce annual paperwork for many licensees. (page19)

New changes in this legislation is the following:

- Liquor & Wine vendor license fees. This bill would make the fees for these vendors the same. (page24)

- Beverage Distributor's Goodwill definition. The wholesale distributors provided this language. (page 31&33)

- Establish a definition for a "Private Club". Current law allows for social, fraternal and veterans clubs. This definition would allow private clubs to be licensed similar to other clubs. (page 2&15)

- On-Premise Corkage fee. The bill would allow Full Service Restaurants to charge a corkage fee for consumption of privately owned table wine stored on the premises that is consumed with a meal. (page12)

Finally, there is some editing that needs to be done in the Bill.

- RSA 178:29 Fees (page 21) needs to be better organized
- References to restricted and unrestricted licenses on pages 8, 29 & 31 need editing

Check current law on Section 29 (page 29)

Speakers

SENATE Executive Departments & Administration

Date 4/23/03 Time 1:45 p.m. Public Hearing on

Bill # HB 646-FN relative to liquor licenses and fees.

(Please print) Please check box(es) at left that apply.

SPEAKING?	FAVOR	OPPOSED	NAME	REPRESENTING
✓	☒	☐	☐	Rep Sheila Francoeur	Rock 8
✓	☒	☐	☐	John Byrne	Liq Commission
✓	☒	☐	☐	Kevin Sullivan	NHLRA
✓	☒	☐	☐	George Roberts	Policy Management Assoc. (Office Dist. Manager)
✓	☐	☐	☐	Ivan Bass	NHSLC
✓	☐	☐	☐	Clark Corson	
✓	☐	☒	☐	Stuart Tracy	N.H. Groc. Assoc.
	☒	☒	☐	Bruce Burke	Support to Amend. Dist.
	☐	☐	☐		
	☐	☐	☐		
	☐	☐	☐		
	☐	☐	☐		
	☐	☐	☐		
	☐	☐	☐		
	☐	☐	☐		
	☐	☐	☐		
	☐	☐	☐		
	☐	☐	☐		
	☐	☐	☐		
	☐	☐	☐		

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: May 14, 2003

THE COMMITTEE ON Executive Departments and Administration

to which was referred House Bill 646-FN

AN ACT relative to liquor licenses and fees.

VOTE: 4-0

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator Russell E. Prescott
For the Committee

HB646 Docket

Next|Prev|Results List|Main|Bill Status

Bill Title: relative to liquor licenses and fees.

Date	Body	Description
1/9/2003	H	Introduced and ref. to Commerce; HJ 12, p203
2/5/2003	H	Hearing Feb 19 9:15 RM302,LOB
3/3/2003	H	Subcom Work Session Mar 6 10:00 RM302,LOB
3/6/2003	H	Subcom Work Session Mar 18 10:00 RM302,LOB
3/19/2003	H	Maj Report OTP/AM for Mar 25 (Vote 15-0;CC)
3/19/2003	H	Prop Comm Am{0793}; HC26, p725-726
3/25/2003	H	Passed with Am; HJ 29-pt 1, p827 + pt 2, p965
4/10/2003	S	Introduced and Ref. to Executive Departments & Administration; SJ 12, Pg.318
4/16/2003	S	Hearing; April 23, 2003, Room 102, LOB, 1:45 p.m.; SC19
5/15/2003	S	Committee Report; Ought to Pass , [05/22/03]; SC23
5/22/2003	S	Ought to Pass,; SJ 17, Pg.441
5/22/2003	S	Sen. Prescott Floor Amendment{1701}, AA, VV; SJ 17, Pg.441
5/22/2003	S	Sen. Prescott Floor Amendment{1788}, AA, VV; SJ 17, Pg.441-445
5/22/2003	S	Ought to Pass with Amendments{1701},{1788}, MA, VV; Refer to Finance [Rule 26]; SJ 17, Pg.445
5/29/2003	S	Committee Report; Ought to Pass, [06/05/03]; SC25
6/5/2003	S	Ought to Pass, MA, VV; SJ 19, Pg.600
6/5/2003	S	Sen. Clegg Rules Suspension for 3rd Reading and Final Passage 2/3 nec., MA, VV; SJ 19, Pg.600
6/5/2003	H	House Conc with Sen Am, Rep Hunt MA VV; HJ 47, p1544
6/24/2003	H	Enrolled Am{2105}, Adopted;
6/24/2003	S	Enrolled Bill Amendment{2105}, Adopted
6/30/2003	H	Enrolled;
6/30/2003	S	Enrolled;
7/7/2003	H	Signed by the Governor on 7/7/2003 Eff: 7/1/2003* Chap: 0231
7/7/2003	H	*Multiple Effective Dates, Sec. 54 eff. 7/7/2003

Next|Prev|Results List|Main|Bill Status

Docket Abbreviations