CHAPTER 86
HB 407 - FINAL VERSION

22Mar2023... 0780h
04/13/2023 1312s

2023 SESSION

23-0620
08/04

HOUSE BILL ***407***

AN ACT relative to regulations on alcohol.

SPONSORS: Rep. Hunt, Ches. 14

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill makes various changes to the statutes relative to the regulation of alcohol.

This bill is a request of the liquor commission.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to regulations on alcohol.

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

86:1 Alcoholic Beverages; Entertainment and Entertainers. Amend RSA 179:19, VI to read as follows:

VI. Licensees shall not allow ***illegal*** gambling or wagering on their premises.

86:2 Alcoholic Beverages; Employment; Felon Exception. RSA 179:23, IV is repealed and reenacted to read as follows:

IV. Any corporate officer, member of a limited liability company, limited liability partnership, partnership or sole proprietor shall file an affidavit with the commission at the time of application or change of officers, attesting to the fact that they have not been convicted of a felony. Each licensee shall designate one or more persons to be in charge of the premises. For the purposes of this section, any corporate officer, member of a limited liability company, limited liability partnership, partnership or sole proprietor shall be deemed to be a person in charge of the licensed premises. For the purposes of this section, any designated person in charge of a licensee shall be considered so designated for all licenses held by the licensee. Licensees shall maintain records of all designated persons in charge and shall be made available to the commission upon request. The commission shall adopt rules, pursuant to RSA 541-A, relative to the procedures and criteria necessary for an employee to be designated as a person in charge.

86:3 On-Premises Cocktail Lounge Licenses. Amend RSA 178:22, V(q) to read as follows:

(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, beverages, and specialty 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, beverages, and specialty 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, beverages, and specialty 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.

86:4 Additional Fees; Nano Breweries. Amend RSA 178:26 to read as follows:

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***, and nano breweries***; 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. A fee of 5 percent of the wholesale price per case of any specialty beverage sold or transferred for retail sale or to the public shall be required for licenses issued to wholesale distributors or beverage manufacturers. 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. [Repealed.]

III. Each wholesale distributor, beverage manufacturer, [~~or~~] brew pub***, or nano brewery*** 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.

86:5 Hearings; Investigations. Amend RSA 179:56, III to read as follows:

III.(a) The commission shall adopt by rule under RSA 541-A a formal enforcement policy for licensees under its jurisdiction. This policy shall specify the disciplinary action which the commission shall take for violations of various laws under its jurisdiction. The enforcement policy shall also specify mitigating and aggravating factors which the commission shall consider in determining penalties for specific actions. [~~Except as provided in subparagraph (c), the commission shall not suspend or revoke a license until the licensee has been provided a hearing under RSA 541-A.~~]

(b) In applying its enforcement policy, the liquor commission shall establish and enforce specific determinate penalties for specific offenses. The commission shall not apply penalties such as license suspensions for indefinite periods of time.

(c) ***In addition to RSA 541-A:30, III,*** the commission may suspend, for a period of not more than 24 hours ***without a hearing***, any license issued under the provisions of this title, if a risk to public health, safety, or welfare constitutes an emergency requiring such suspension. Any such suspension shall be approved directly by at least one member of the commission before taking effect.

86:6 Direct to Consumer Shipments of Alcohol to New Hampshire Residents. RSA 178:27-b is repealed and reenacted to read as follows:

178:27-b Direct to Consumer Shipments of Alcohol to New Hampshire Residents.

I.(a) Notwithstanding any other provision of law to the contrary, any business licensed under this chapter as a beverage manufacturer, nano brewery, brew pub, wine manufacturer, liquor manufacturer or beverage distributor may apply for a direct to consumer shipping permit from the commission. The permit shall authorize the holder to sell and deliver alcoholic beverages to consumers 21 years of age or older

located within the state of New Hampshire and businesses licensed by the commission for on-sale and off-sale of alcoholic beverages. The permit shall also authorize the licensee to deliver alcohol manufactured or distributed under their license to consumers 21 years of age or older residing in New Hampshire by means of vehicles registered to the New Hampshire licensee and holding a carrier license under RSA 178:14. There shall be no fee to obtain a shipping permit under this section. Nothing in this paragraph shall relieve the licensee of their obligation to comply with the record keeping and reporting requirements of this section when shipping products directly to legal age New Hampshire consumers by means of a third party holding a carrier license under RSA 178:14. Direct to consumer permittees or carriers shall not ship into areas of the state where alcoholic beverages may not be lawfully sold. Shipments of any other products shall be considered unlicensed shipments under the provisions of RSA 178:1, I.

(b) Any individual engaged in the delivery of alcoholic beverages pursuant to this section shall be an employee who regularly receives a W-2 from the licensee and is at least 21 years of age. During deliveries conducted under this section, the person making the delivery shall obtain a signed receipt from the consumer. Consumers who appear visibly intoxicated or who a reasonable and prudent person would know are intoxicated, who do not produce identification verifying the consumer's age, or who fail to sign a receipt shall not be entitled to his or her delivery of alcoholic beverages.

(c) No holder of a direct to consumer shipping permit shall deliver any alcoholic beverages to any college, university, or school, whether public or private, located within the state. No holder of a direct to consumer shipping permit shall deliver any alcoholic beverages to any public library, public playground, or public park.

II. Violations of this section shall be subject to the penalties contained in RSA 179:58.

86:7 Repeal. The following are repealed:

I. RSA 179:53, II, relative to prohibiting a licensee from altering premises to provide for both on sale and off sale on the same premises.

II. RSA 179:57, I(d), relative to prohibiting any person convicted of a felony from being designated as being in charge of the premises.

III. RSA 178:20, V, relative to the sale of alcohol in the town of Errol.

IV. RSA 178:21, II(a)(4), relative to the sale of alcohol in the towns of Newington, New Hampton, and Landaff.

86:8 Alcoholic Beverages; Definitions and General Provisions; Purchases of Sacramental Wines. Amend RSA 175:3 to read as follows:

175:3 Purchases of Sacramental Wines.

I. Any duly authorized officer of a regularly organized religious body may order from any source for shipment to such religious body wines to be used for sacramental purposes only in the services of such religious body.

II. Notwithstanding any other provision of Title XIII, the commission shall be authorized to approve and offer for sale any sacramental wine containing 6 percent or less alcohol by volume.

86:9 Alcoholic Beverages; Liquor Licenses and Fees; On-Premises Beverage and Liquor Licenses; Dining Cars. Amend RSA 178:21, II(d) to read as follows:

(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, beverages, and specialty 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. *Dining cars traveling through New Hampshire from out of state jurisdictions may purchase supplies of liquor, wine, and beverages from sources other than as provided in RSA 179:32.*

86:10 Alcoholic Beverages; Liquor Licenses and Fees; On-Premises Cocktail Lounge Licenses; Rail Cars. Amend RSA 178:22, V(p) to read as follows:

(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, beverages, and specialty 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. *Rail cars traveling through New Hampshire from out of state jurisdictions may purchase supplies of liquor, wine, and beverages from sources other than as provided in RSA 179:32.*

86:11 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 20, 2023
Effective Date: August 19, 2023