

CHAPTER 70
HB 345 - FINAL VERSION

8Apr2021... 0239h

2021 SESSION

21-0156
08/10

HOUSE BILL **345**

AN ACT establishing a license for mushroom harvesters.

SPONSORS: Rep. Knirk, Carr. 3; Rep. Fellows, Graf. 8; Rep. Merchant, Sull. 4; Rep. M. Murray, Hills. 22; Rep. Bixby, Straf. 17; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill:

I. Establishes a license for wild mushroom identifiers, harvesters, and distributors.

II. Allows the department of health and human services to assess fines to people who distribute wild mushrooms without a license.

III. Requires the department of health and human services to develop a list of approved mushrooms for distribution as well as an educational curriculum for license applicants.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 70
HB 345 - FINAL VERSION

8Apr2021... 0239h

21-0156
08/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT establishing a license for mushroom harvesters.

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

1 70:1 New Subdivision; Wild Mushroom Harvesters. Amend RSA 143-A by inserting after
2 section 20 the following new subdivision:

Wild Mushroom Harvesters

4 143-A:21 Definitions. In this chapter:

5 I. "Community supported agriculture" or "CSA" means a distribution system in which a
6 farmer distributes produce directly to consumers.

7 II. "Department" means the department of health and human services.

8 III. "Distributor" means a person who purchases wild mushrooms from a harvester and sells
9 to food establishments or direct to the public. Distributor shall not include food establishments.

10 IV. "Food establishment" means a food service establishment or retail food store licensed
11 under RSA 143-A, as well as farmers market, farm stand, and CSA.

12 V. "Harvester" means a person who forages for and harvests wild mushrooms for sale to a
13 distributor, food establishment, or to the public.

14 VI. "Identifier" means a person who identifies wild mushrooms collected by a harvester on
15 behalf of a distributor or a food establishment.

16 VII. "Mushroom" means the fleshy, spore-bearing, fruiting body of a fungus.

17 VIII. "Tier 1 mushroom" means a wild mushroom which is easily identified, that has no toxic
18 look-alikes, and which is unlikely to cause illness in humans.

19 IX. "Tier 2 mushroom" means a wild mushroom which is difficult to identify, may have toxic
20 look-alikes, or may cause illness in some humans.

21 143-A:22 License Required.

22 I. No person shall identify, harvest, or offer wild mushrooms for sale unless he or she is
23 licensed by the department.

24 II. A wild mushroom identifier, harvester, and distributor may receive a tier 1 license upon
25 the following:

26 (a) Payment of a fee of \$75 to the department.

27 (b) Fulfilling educational requirements approved by the department.

28 (c) Passing an exam on the tier 1 mushroom list approved by the department.

29 III. A wild mushroom identifier, harvester, and distributor may receive a tier 2 license upon
30 the following:

CHAPTER 70
HB 345 - FINAL VERSION
- Page 2 -

- 1 (a) Payment of a fee of \$75 to the department.
- 2 (b) Fulfilling educational requirements set by the department.
- 3 (c) Passing an exam on the tier 2 mushroom list approved by the department.

4 IV. Licenses shall be valid for 5 years from the date of issue. A person holding a valid
5 mushroom identifier, harvester, and distributor license may renew such license after completion of
6 an on-line renewal course and payment of a \$30 fee.

7 V. A licensee may only identify, harvest, and sell mushrooms from the tier list corresponding
8 to the tier license they hold, however a tier 2 licensee may also identify, harvest, and sell mushrooms
9 from the tier 1 list.

10 VI. The department may revoke a license for good cause including, but not limited to, the
11 harvest, distribution or sale of wild mushrooms in a manner not consistent with this chapter and the
12 educational program required under this section, failure to keep records in accordance with this
13 subdivision, or the sale of wild harvested mushrooms not included on the tier 1 or tier 2 lists.

14 VII. A licensed mushroom identifier, harvester, and distributor shall present his or her
15 license to the purchaser of his or her mushrooms at the time of sale and to the department of health
16 and human services or to the department of agriculture, markets, and food upon request.

17 VIII. A person harvesting wild mushrooms for personal use shall not require a license.

18 IX. A licensee may harvest from a property only with documented permission from the land
19 owner or land manager.

20 143-A:23 Labeling Requirements; Recordkeeping.

21 I. All mushrooms harvested by a person licensed under this subdivision for sale shall be
22 labeled with the following:

- 23 (a) The name, address, and license number of the licensed mushroom identifier,
24 harvester, and distributor.
- 25 (b) The species of mushroom.
- 26 (c) The weight sold.
- 27 (d) The date of harvesting.
- 28 (e) The county of harvesting.

29 II. A copy of such label shall be retained by the licensed mushroom identifier, harvester, and
30 distributor for one year, as well as information on the specific harvest location of all mushrooms
31 harvested.

32 III. A copy of such label shall be retained by the food service establishment for 90 days.

33 IV. Such records shall be available for inspection upon request by the department of health
34 and human services and the department of agriculture, markets, and food.

35 143-A:24 Sale of Wild Mushrooms. A licensed food service establishment or retail food store
36 within the state may only sell wild mushrooms or food products made with wild mushrooms,
37 identified, harvested, and distributed in accordance with this subdivision unless purchased from an

CHAPTER 70
HB 345 - FINAL VERSION
- Page 3 -

1 out-of-state source approved by that state or country of origin. A licensed food service establishment
2 or retail food store purchasing or receiving wild mushrooms from a licensed wild mushroom
3 identifier, harvester, and distributor shall keep a record of all such transactions with the
4 information described in RSA 143-A:23 for no less than 90 days. Such records shall be available for
5 inspection upon request by the department of health and human services or the department of
6 agriculture, markets, and food. The department of health and human services shall add wild
7 mushrooms to the inspection requirements of licensed food establishments and retail food stores
8 including verifying that such wild mushrooms sold meet the requirements of this subdivision. The
9 department of agriculture, markets, and food may verify that wild mushrooms sold at farmers
10 markets and farmstands meet the requirements of this subdivision.

11 143-A:25 Revocation of License. A food service establishment or retail food store within this
12 state licensed under this chapter may have its license revoked under RSA 143-A:7 if the department
13 finds any of the following:

- 14 I. Records have not been kept in accordance with RSA 143-A:23 and RSA 143-A:24.
15 II. Purchasing or receiving wild mushrooms for use in food products from a person who is
16 not licensed under RSA 143-A:22 unless purchased from an out-of-state source approved by that
17 state or country of origin.
18 III. Purchasing or receiving wild mushrooms for use in food products that are not approved
19 as tier 1 or tier 2 mushrooms by the department, unless purchased from an out-of-state source
20 approved by that state or country of origin.

21 143-A:26 Penalty.

22 I. Any person who identifies, harvests, or distributes wild mushrooms without having a
23 license to do so as required by this subdivision may be subject to an administrative fine levied by the
24 commissioner of the department not to exceed \$1,000 for each violation.

25 II. The department may issue a cease and desist order to any person selling mushrooms in
26 violation of this subdivision at a farm stand, farmers market, food service establishment, or retail
27 food store.

28 III. A food service establishment or retail food store within this state licensed under this
29 chapter that violates this subdivision may be subject to an administrative fine levied by the
30 department of health and human services not to exceed \$1,000 per violation.

31 IV. A food service establishment or retail food store within this state licensed under this
32 chapter that distributes wild mushrooms in violation of this subdivision may be subject to an
33 administrative fine levied by the department of health and human services not to exceed \$1,000 per
34 violation.

35 143-A:27 Duties; Department of Health and Human Services. The department shall:

36 I. Maintain a database of all wild mushroom identifier, harvester, and distributor licensees.
37 Such database shall be available to the public on the department's Internet site.

CHAPTER 70
HB 345 - FINAL VERSION
- Page 4 -

1 II. Approve training courses and licensing exams for tier 1 and tier 2 mushroom identifier,
2 harvester, and distributor licenses.

3 III. Develop an education and notification program for food service licensees on the wild
4 mushrooms approved for harvest and sale on the tier 1 and tier 2 lists, including but not limited to
5 photos of such mushrooms.

6 143-A:28 Rulemaking. The department shall adopt rules under RSA 541-A relative to:

7 I. The content of the required educational courses for persons applying for a tier 1 or tier 2
8 mushroom identifier, harvester, and distributor license, including identification of mushrooms,
9 appropriate locations from which to harvest mushrooms, the safe handling and storage of
10 mushrooms, record keeping requirements, and ethics of harvesting; and which shall contain no less
11 than 12 hours of in-person instruction with a mandatory online preparation module.

12 II. The content of the required educational course for persons applying to renew a tier 1 or
13 tier 2 mushroom harvester and distributor license.

14 III. The content of an abbreviated course which shall contain no less than 4 hours of in-
15 person training which shall be offered for experienced identifiers, harvesters, and distributors who
16 demonstrate competency to the department. Experienced identifiers, harvesters, and distributors
17 may apply to the department for such course.

18 IV. A list of tier 1 mushrooms which are easy to identify, with no toxic look-alikes, and
19 which are unlikely to cause illness in humans.

20 V. A list of tier 2 mushrooms which are more difficult to identify, which may have toxic look-
21 alikes, or may make a small percentage of humans ill.

22 VI. The content and format of application forms, testing materials and procedures.

23 VII. The content of testing material and test taking procedures.

24 VIII. Evidence of licensure.

25 IX. The content of the database for mushroom identifier, harvester, and distributor
26 licensees.

27 X. Qualifications for trainers and instructors for educational courses for tier 1 and tier 2
28 mushroom identifier, harvester, and distributor license.

29 XI. A fine schedule for violations of this subdivision.

70:2 Effective Date. This act shall take effect July 1, 2022.

Approved: June 10, 2021
Effective Date: July 01, 2022