

CHAPTER 258
HB 599-FN – FINAL VERSION

13Mar2013... 0603h
05/23/13 1609s
05/23/13 1797s
26June2013... 2084CofC

2013 SESSION

13-0438
03/09

HOUSE BILL ***599-FN***

AN ACT relative to establishing a single liquor commissioner.

SPONSORS: Rep. Marilinda Garcia, Rock 8; Rep. Sad, Ches 1; Rep. Jasper, Hills 37; Rep. C. McGuire, Merr 29; Rep. D. McGuire, Merr 21; Sen. Carson, Dist 14

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill replaces the members of the liquor commission with a single liquor commissioner and a deputy commissioner.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Thirteen

AN ACT relative to establishing a single liquor commissioner.

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

1 258:1 Liquor Commission. Amend RSA 176:1 to read as follows:

2 176:1 Commission. There shall be a state liquor commission [~~consisting of 3 members~~] **under**
3 **the executive direction of a liquor commissioner, who shall also be known as the chairman**
4 **of the liquor commission**, appointed by the governor with the consent of the council. [~~Not more~~
5 ~~than 2 members shall belong to the same political party. Each member~~] **The commissioner shall**
6 **have significant business management experience and shall complete a criminal history**
7 **records check prior to confirmation by the council. The liquor commissioner** shall hold office
8 for a term of [~~6~~] **4** years. If a vacancy shall occur [~~in the commission~~], it shall be filled for the
9 remainder of the term. [~~Any or all of the commissioners~~] **The commissioner** may be removed by the
10 governor and council for cause.

11 258:2 Chairman; Compensation. Amend RSA 176:2 to read as follows:

12 176:2 [~~Chairman~~] **Liquor Commissioner**; Compensation. [~~The chairman of the commission~~
13 ~~shall be appointed and commissioned as such by the governor with the consent of the council, and his~~
14 ~~term shall be coterminous with each term of the governor unless his successor shall have been~~
15 ~~sooner appointed. The expiration or termination of a commission member's term of office as~~
16 ~~chairman of the commission shall in no way affect the length of his term as a commission member as~~
17 ~~established under RSA 176:1.] The annual salary of [~~each member of the commission~~] **the**
18 **commissioner** shall be as specified in RSA 94:1-a, and the [~~commissioners~~] **commissioner** shall
19 receive [~~their~~] **his or her** reasonable expenses while traveling in the performance of [~~their~~] **his or**
20 **her** duties, provided that [~~they~~] **the commissioner** shall not be allowed as expenses, travel between
21 [~~their places~~] **his or her place** of residence and [~~their~~] **the commissioner's** office in Concord, nor
22 shall [~~they~~] **the commissioner** be allowed board or lodging while in Concord. The [~~chairman of the~~
23 ~~commission~~] **commissioner** shall serve as the representative to the National Alcoholic Beverage
24 Control Association.~~

25 258:3 New Section; Deputy Commissioner. Amend RSA 176 by inserting after section 2 the
26 following new section:

27 176:2-a Deputy Commissioner.

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1 I. The commissioner shall nominate a deputy commissioner for appointment by the governor
2 with the consent of the council who shall be qualified to hold that position by reason of education and
3 experience. The deputy commissioner shall hold office for a term of 4 years and may be reappointed.
4 The deputy commissioner shall be subject to a background check by the state police prior to
5 appointment.

6 II. If a vacancy shall occur in said office, it shall be filled for the remainder of the term. The
7 deputy commissioner may be removed by the governor and council for cause.

8 III. The annual salary of the deputy commissioner shall be as specified in RSA 94:1-a.

9 IV. The deputy commissioner shall perform such duties as are assigned by the
10 commissioner. The deputy commissioner shall assume the duties of the commissioner in the event
11 that the commissioner is unable for any reason to perform such duties.

12 V. The deputy commissioner shall, subject to the supervision of the commissioner, exercise
13 authority as required to ensure that the divisions and their directors are implementing the
14 organizational goals and managing the work of the commission in an effective and efficient manner.

15 258:4 Requirements. Amend RSA 176:4 to read as follows:

16 176:4 Requirements. The ~~[members of the commission]~~ **commissioner and deputy**
17 **commissioner** shall devote their entire time to the service of the commission. ~~[No member of the~~
18 ~~commission]~~ **The commissioner and deputy commissioner** shall ~~[be directly or indirectly~~
19 ~~interested]~~ **not have any financial interest, direct or indirect**, in the liquor or beverage
20 business. The compensation and expenses of the ~~[commissioners]~~ **commissioner and deputy**
21 **commissioner** and the expenses of the administration of this chapter shall be paid by the state on
22 the warrant of the governor with the approval of the council.

23 258:5 Divisions and Directors. Amend RSA 176:8 to read as follows:

24 176:8 Divisions and Directors. The commission shall have 3 divisions under the direction of
25 unclassified division directors. The directors shall be ~~[appointed by the commission and serve at the~~
26 ~~pleasure of the commission based on]~~ **nominated by the commissioner for appointment by the**
27 **governor with the consent of the council and shall serve for terms of 4 years dependent**
28 **upon maintaining** good behavior and competence. There shall be a division of marketing,
29 merchandising, and warehousing, a division of administration, and a division of enforcement and
30 licensing. **The director of the division of enforcement and licensing shall be subject to a**
31 **background check by the state police prior to appointment.**

32 258:6 Investigations. Amend RSA 176:9, III to read as follows:

33 III. ~~[Any member of the commission]~~ **The commissioner, deputy commissioner**, assistant,
34 or liquor investigator may enter any place where liquor, beverages, or tobacco products are sold or
35 manufactured, at any time, and may examine any license or permit issued or purported to have been
36 issued under the terms of this title. They shall make complaints for violations of this title.

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1 258:7 Purchases by the Liquor Commission. Amend RSA 176:17 to read as follows:

2 176:17 Purchases by the Liquor Commission. The liquor commission shall purchase all liquor,
3 wine, and beverages from primary sources. For the purposes of this title, primary source means the
4 manufacturer or producer, whether or not it is within the state. If a primary source is not available,
5 the ~~[commission]~~ **commissioner** may, if ~~[it]~~ **he or she** feels it is in the best interests of the state,
6 ~~[vote at its regular meeting to]~~ allow an exemption and shall explain why such exemption has been
7 allowed.

8 258:8 Employment Prohibited. Amend RSA 179:21 to read as follows:

9 179:21 Employment Prohibited. No elected state official, ~~[member of the]~~ liquor ~~[commission]~~
10 **commissioner**, or employee of the liquor commission responsible for making recommendations to
11 the commission relative to the purchase of liquor, wine, or beer shall hold a liquor or wine
12 representative license for a period of ~~[±]~~ **one** year from the date that such person leaves office or
13 terminates such employment.

14 258:9 Employment Intervention. Amend RSA 179:22, II to read as follows:

15 II. It shall be unlawful for **the liquor commissioner or** any ~~[member or]~~ employee of the
16 commission knowingly to intervene in the selection, employment, or dismissal of any liquor or wine
17 representative, or other agent or employee of any distiller, importer, rectifier, or other holder of a
18 liquor or wine manufacturer license or liquor or wine vendor license.

19 258:10 Hearings. Amend RSA 179:56, I to read as follows:

20 I. The commission shall adopt and publish rules pursuant to RSA 541-A, to govern its
21 proceedings and to regulate the mode and manner of all investigations and hearings before it. All
22 hearings before the commission shall be in accordance with RSA 541-A:31-36. In any such
23 investigation or hearing the commission shall not be bound by the technical rules of evidence. The
24 commission~~[, or any member,]~~ may subpoena witnesses and administer oaths in any proceeding or
25 examination instituted before or conducted by it, and may compel, by subpoena, the production of
26 any accounts, books, contracts, records, documents, memoranda, and papers of any kind whatever.
27 Witnesses summoned before the commission shall be paid the same fees as witnesses summoned to
28 appear before the superior court, and such summons issued by any justice of the peace shall have the
29 same effect as though issued for appearance before such court.

30 258:11 Applicability.

31 I. The chairman and next senior member of the liquor commission holding their offices on
32 the effective date of this act shall remain in office until the expiration of their appointed terms. The
33 chairman shall assume the title and duties of the commissioner and the next senior member shall
34 assume the title and duties of the deputy commissioner for the remainder of their terms. The
35 salaries of the chairman and next senior member shall not be reduced during their service as
36 commissioner and deputy commissioner for the unexpired term.

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1 II. The initial appointment of division directors under RSA 178:8, as amended by this act,
2 shall be for abbreviated terms determined by the governor and council so that the expiration of
3 appointed terms shall be one year apart.

4 III. This act shall not affect the validity of any rule, order, or contract of the commission
5 adopted, issued, or executed prior to the effective date of such sections.

6 258:12 Effective Date. This act shall take effect 60 days after its passage.

7

8 Approved: July 24, 2013

9 Effective Date: September 22, 2013