

HB 456-FN – AS AMENDED BY THE SENATE

6Feb2014... 0014h
05/01/14 1513s
05/01/14 1648s

2013 SESSION

13-0712
03/10

HOUSE BILL ***456-FN***

AN ACT relative to liquor manufacturers and rectifiers and relative to samples of alcoholic beverages.

SPONSORS: Rep. Peckham, Rock 22; Rep. Schroadter, Rock 17

COMMITTEE: Commerce and Consumer Affairs

AMENDED ANALYSIS

This bill:

I. Allows a licensed rectifier to provide samples of liquor to visitors at its facility or to other licensees.

II. Allows liquor manufacturer licensees to distribute samples to off-premises and agency store licensees for tasting on licensed premises.

III. Establishes annual restrictions on alcoholic beverage samples.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 456-FN – AS AMENDED BY THE SENATE

6Feb2014... 0014h
05/01/14 1513s
05/01/14 1648s

13-0712
03/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to liquor manufacturers and rectifiers and relative to samples of alcoholic beverages.

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

1 1 New Paragraphs; Rectifier; Samples. Amend RSA 178:7 by inserting after paragraph III the
2 following new paragraphs:

3 IV. A rectifier producing less than 3,000 9-liter cases of liquor per year may provide to
4 visitors at its licensed rectifier facility samples of liquor for tasting. Samples shall not exceed 1/2
5 ounce, and shall not be provided to any person under 21 years of age. No more than one sample per
6 customer per day shall be provided.

7 V. Each rectifier shall maintain records and prepare reports for the commission which shall
8 indicate the samples provided to visitors under paragraph IV.

9 VI. The commission shall adopt rules, pursuant to RSA 541-A, relative to reports of rectifiers
10 under paragraph V.

11 2 New Paragraph; Liquor Manufacturer; Distribution of Samples. Amend RSA 178:6 by
12 inserting after paragraph VIII the following new paragraph:

13 IX. Each liquor manufacturer selling no more than the equivalent of 3,000 9-liter cases of
14 liquor per year at its licensed manufacturing facility shall have the right to distribute samples
15 directly to on-premises and agency store licensees for tasting on the licensed premises in accordance
16 with RSA 179:44.

17 3 Samples Provided for Tasting. Amend RSA 179:31, II to read as follows:

18 II.(a) Manufacturers, wholesale distributors, **rectifiers**, or wine and liquor vendors or their
19 salespersons may distribute samples of their products to licensees for purposes of tasting. The
20 following restrictions shall apply:

21 ~~(a) Beer samples shall not exceed one 6 pack.~~

22 ~~(b) Wine samples shall not exceed 2 750 ml. bottles.~~

23 ~~(c) Liquor samples shall not exceed one 750 ml. bottle.~~

24 ~~(d) Wine coolers samples shall not exceed one 4 pack, or the product's normal marketing~~
25 ~~unit.]~~

26 ~~(e)~~ (I) All liquor or wine for this purpose shall be purchased from the commission,
27 **except as provided in RSA 178:6, IX, RSA 178:7, V, and RSA 178:7, VI. The cost shall be no**

1 *more than the commission's original cost paid by the commission plus 8 percent.*

2 ~~[(2)]~~ (2) All beverage, wine, or liquor samples may be added to the retailer's inventory for
3 sale.

4 ~~[(3)]~~ (3) All beverage furnished as samples shall be considered sales for the
5 requirements of RSA 178:26.

6 (b) *Total samples distributed under this paragraph by any manufacturer,*
7 *wholesale distributor, rectifier, or wine or liquor vendor or their salespersons shall not*
8 *exceed the following in any calendar year per licensee:*

9 (1) *One 6-pack of beer.*

10 (2) *Two 750 ml. bottles of wine.*

11 (3) *One 750 ml. bottle of liquor.*

12 (4) *One 4-pack, or the product's normal marketing unit, of wine coolers.*

13 4 Free Drinks. Amend RSA 179:44 to read as follows:

14 179:44 Free Drinks.

15 I. No licensee shall give away free drinks to customers, patrons, members, or guests, in any
16 manner.

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

23 III. Liquor, beverage, or wine samples shall be consumed on the premises, and, except for
24 wine samples provided by wine manufacturers *and liquor samples provided by rectifiers or by*
25 *liquor manufacturers in accordance with RSA 178:6, IX*, liquor or wine for this purpose shall
26 be purchased from the commission under conditions prescribed by this title. Beverage samples for a
27 tasting shall only be obtained as prescribed by this title.

28 IV. The commission may adopt rules, pursuant to RSA 541-A, establishing the criteria and
29 procedures for liquor, beverage, and wine tasting within the state.

30 V. All samples furnished for tasting shall be considered sales for the requirements of RSA
31 178:26.

32 5 Effective Date. This act shall take effect 60 days after its passage.

HB 456-FN FISCAL NOTE

AN ACT relative to liquor manufacturers and relative to samples of alcoholic beverages.

FISCAL IMPACT:

The Liquor Commission states this bill, **as amended by the House (Amendment #2014-0014h)**, may decrease state revenue by an indeterminable amount in FY 2015 and each year thereafter. There is no fiscal impact on state, county, and local expenditures, or county and local revenue.

METHODOLOGY:

The Liquor Commission states this bill allows manufacturers to distribute samples to licensees for purpose of tasting. Additionally, the bill states 8 percent of the retail value of such samples shall be paid to the Commission. The Commission states there are three liquor licensed manufacturers, 34 wine licensed manufacturers, and 22 beverage and nano brewery manufacturers in the state. The Commission states it is not able to predict the number of manufacturers that will provide samples for tasting or sell directly to customers. As a result, the Commission is not able to determine how much revenue will be generated by the 8 percent charge for samples or the impact of manufacturers selling directly to customers versus through the Commission to determine the overall decrease in revenue. The Commission states it would lose approximately 20 percent of gross profit on each of the direct sales made by the manufacturers. Though the net impact of this bill may result in a loss of liquor revenue, the Commission states the loss would be immaterial given total liquor sales.