

SB 346 – AS AMENDED BY THE HOUSE

02/06/2014 0381s
7May2014... 1507h

2014 SESSION

14-2759
03/04

SENATE BILL **346**

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

SPONSORS: Sen. Sanborn, Dist 9; Rep. Sandblade, Hills 18; Rep. Schroadter, Rock 17

COMMITTEE: Commerce

AMENDED ANALYSIS

This bill:

- I. Requires that all liquor manufacturer licensees ferment and distill liquor from raw materials.
- II. Allows liquor manufacturer and rectifier licensees to distribute samples to off-premises and agency store licensees for tasting on licensed premises.
- III. Establishes annual restrictions on alcoholic beverage samples.
- IV. Allows a licensed rectifier to provide samples of liquor to visitors at its facility.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

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

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

1 1 New Paragraph; Definitions; Liquor Manufacturer. Amend RSA 175:1 by inserting after
2 paragraph XLIV the following new paragraph:

3 XLIV-a. "Liquor manufacturer" means a licensee who produces liquor from raw materials by
4 the process of fermentation and distillation.

5 2 New Paragraph; Definitions; Rectifier. Amend RSA 175:1 by inserting after paragraph LVIII
6 the following new paragraph:

7 LVIII-a. "Rectifier" means a licensee who produces liquor by combining liquor with other
8 products.

9 3 Liquor Manufacturer Licensee. Amend RSA 178:6, I to read as follows:

10 I. A liquor manufacturer licensee ~~may~~ **must** ferment[,] **and** distill **liquor from raw**
11 **materials, and may** blend, age, and bottle ~~liquor other than wine~~ **those liquors or wine**
12 **produced at the licensed premises** in this state. A liquor manufacturer licensee may sell the
13 liquor it manufactures to the commission for resale in this state.

14 4 Liquor Manufacturer; Retail Sales. Amend RSA 178:6, III to read as follows:

15 III. Each liquor manufacturer ~~[distilling less than 5,000 cases of liquor per year]~~ shall have
16 the right to sell at retail at its **licensed manufacturing** facility **no more than the equivalent of**
17 **3,000 9-liter cases** for off-premises consumption any of its liquor. Each retail sale shall be limited
18 to one 9-liter case or less per sale. No liquor manufacturer shall sell more than 12 9-liter cases of
19 liquor to any one customer in any calendar year.

20 5 Liquor Manufacturer; Sample Fee. Amend RSA 178:6, VI to read as follows:

21 VI. Each liquor manufacturer shall maintain records and prepare reports for the commission
22 which shall indicate the sales made under paragraph III **and samples distributed under**
23 **paragraph IX** and shall pay to the commission monthly a fee equal to 8 percent of such sales **or 8**
24 **percent of the retail value of such samples** on or before the tenth day of the month following the
25 sale **or the sample distribution**.

26 6 New Paragraph; Liquor Manufacturer; Distribution of Samples. Amend RSA 178:6 by
27 inserting after paragraph VIII the following new paragraph:

28 IX. Each liquor manufacturer selling no more than the equivalent of 3,000 9-liter cases of
29 liquor per year at its licensed manufacturing facility shall have the right to distribute samples
30 directly to on-premises and agency store licensees for tasting on the licensed premises in accordance

1 with RSA 179:44.

2 7 Samples Provided for Tasting. Amend RSA 179:31, II to read as follows:

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

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

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

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

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

11 ~~[(e) (1) All liquor or wine for this purpose shall be purchased from the commission,
12 except as provided in RSA 178:6, IX, RSA 178:6, VI, RSA 178:7, V, and RSA 178:7, VI. The
13 cost shall be no more than the commission's original cost paid by the commission plus 8
14 percent.~~

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

17 ~~[(g) (3) All beverage furnished as samples shall be considered sales for the requirements
18 of RSA 178:26.~~

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

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

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

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

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

26 8 Free Drinks. Amend RSA 179:44 to read as follows:

27 179:44 Free Drinks.

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

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

36 III. Liquor, beverage, or wine samples shall be consumed on the premises, and, except for
37 wine samples provided by wine manufacturers **and liquor samples provided by liquor**

1 *manufacturers in accordance with RSA 178:6, IX and rectifier in accordance with RSA*
2 *178:7, V*, liquor or wine for this purpose shall be purchased from the commission under conditions
3 prescribed by this title. Beverage samples for a tasting shall only be obtained as prescribed by this
4 title.

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

7 V. All samples furnished for tasting shall be considered sales for the requirements of
8 RSA 178:26, ***RSA 178:6, VI, and RSA 178:7, VI.***

9 9 New Paragraphs; Rectifier; Samples. Amend RSA 178:7 by inserting after paragraph III the
10 following new paragraphs:

11 IV. A rectifier may provide a reasonable number of samples of liquor for tasting to a visitor
12 at its licensed rectifier facility. Samples shall not exceed 1/2 ounce, and shall not be provided to any
13 person under 21 years of age.

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

17 VI. Each rectifier shall maintain records and prepare reports for the commission which shall
18 indicate the samples distributed under paragraph V and shall pay to the commission monthly a fee
19 equal to 8 percent of the retail value of such samples on or before the tenth day of the month
20 following the sample distribution.

21 10 Effective Date. This act shall take effect upon its passage.

SB 346 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 #2014-1507h)**, will have an indeterminable fiscal impact on state revenues in FY 2015 and each year thereafter. There is no fiscal impact on state expenditures, or county and local expenditures and revenue.

METHODOLOGY:

The Liquor Commission states this bill makes changes to laws related to liquor manufacturers and the sampling of alcoholic beverages. The Commission states there is one rectifier and four manufacturers licensed in the state, with several rectifier and manufacturer licenses in process. The Commission states it loses approximately 22 percent of its gross profit on sales conducted at the facility. The Commission has no information to determine the impact on revenue as it does not have information on how much product would be sold from the existing licensees or how many more rectifier or manufacturer licenses will be approved to determine the impact on revenue.