

Bill as Introduced

SB 181-FN-A - AS INTRODUCED

2009 SESSION

09-0853

03/05

SENATE BILL

181-FN-A

AN ACT

relative to the liquor commission and alcoholic beverages.

SPONSORS:

Sen. D'Allesandro, Dist 20; Sen. Barnes, Jr., Dist 17; Sen. Downing, Dist 22;
Sen. Kelly, Dist 10; Rep. Campbell, Hills 24; Rep. Hunt, Ches 7; Rep. Lerandean,
Ches 6; Rep. Ramsey, Hills 8

COMMITTEE:

Ways and Means

ANALYSIS

This bill makes various organizational changes to the liquor commission. This bill also modifies various sales and licensing restrictions relating to alcoholic beverages.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nine

AN ACT relative to the liquor commission and alcoholic beverages.

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

1 1 New Subparagraph; General Revenue Exceptions. Amend RSA 6:12, I(b) by inserting after
2 subparagraph (276) the following new subparagraph:

3 (277) Moneys deposited in the liquor commission fund established in RSA 176:16.

4 2 Definitions; Direct Shipper. Amend RSA 175:1, XXIX-a to read as follows:

5 XXIX-a. "Direct shipper" means any licensee outside the state of New Hampshire who
6 accepts orders [~~placed from~~] **to be shipped into** New Hampshire, by mail, telephone, Internet, or
7 any electronic or other means, for [~~liquor or beverages~~] **wine** and who ships, packages for shipment,
8 or facilitates in any way shipment of said [~~liquor or beverages~~] **wine** by a [~~third party or common~~]
9 **licensed** carrier to a New Hampshire location.

10 3 Advertising. Amend RSA 175:4, II-III to read as follows:

11 II. The commission is authorized to advertise and regulate the advertisement of liquor and
12 beverages through the medium of newspapers, magazines, periodicals, television and radio
13 broadcasting, sports films, travelogs, electronic or computer media, or other commercially acceptable
14 promotional means and methods which may become available. [~~All advertising of liquor and~~
15 ~~beverages within the state through the medium of billboards is hereby prohibited.~~]

16 III. Any funds appropriated to the commission for the purposes of paragraph II shall be
17 expended to optimize the profitability of the commission.

18 [~~(a) Eighty percent for liquor advertising with out of state media; and~~

19 ~~(b) Twenty percent for liquor advertising with media in the state.]~~

20 4 Transportation of Liquor. Amend RSA 175:6, I to read as follows:

21 I. No person shall transport liquor in this state in a greater quantity than 3 quarts, unless
22 said liquor was purchased from a state store, from a direct shipper, from a holder of a combination or
23 retail wine license in accordance with RSA 178:18, and RSA 178:19 or from a winery holding a
24 limited winery special sales license in accordance with RSA 178:8. Provided, however, that the
25 commission in its discretion may grant to an individual, upon application, a license to transport for a
26 specific journey liquor not purchased at a state store for the person's own personal use, in a quantity
27 not to exceed 3 gallons. Quantities exceeding 3 gallons may be transferred with a license issued by
28 the commission providing a fee of 25 percent of the entire value of the product is paid to the
29 commission; **the commission may waive the 25 percent fee, upon application, for good cause.**
30 It shall be lawful for common carriers to transport liquor to state stores, to state warehouses, to
31 licensees under this title, to purchasers of liquor at state stores, and from manufacturers to state

1 warehouses, state stores, and to the state line for transportation outside the state; for licensees
2 under this title to transport liquor from state stores to their place of business; and for manufacturers
3 to transport within the state to state warehouses and state stores and to the state line for
4 transportation outside the state.

5 5 Divisions and Directors. RSA 176:8 is repealed and reenacted to read as follows:

6 176:8 Divisions and Directors. The commission shall have 5 divisions under the direction of
7 unclassified division directors. The directors shall be appointed by the commission and serve at the
8 pleasure of the commission based on good behavior and competence. There shall be a division of
9 marketing, merchandising, and warehousing, division of store operations, division of administration,
10 division of enforcement and licensing, and division of finance. The director of the division of finance
11 shall be known as the chief finance officer. The directors shall be qualified by reason of professional
12 competence, education, and experience.

13 6 Reference Changed. Amend RSA 176:10 to read as follows:

14 176:10 Preference Given. Any person who served for not less than 90 days in the armed forces of
15 the United States during "any war in which the United States was engaged, and received an
16 honorable discharge from such service," shall be given preference in appointment under the
17 provisions of RSA 176:7, RSA 176:9, RSA [177:4] 177:1, and RSA 179:59, if qualified for such
18 positions.

19 7 Liquor Commission Funds. Amend RSA 176:16, I to read as follows:

20 I. *There is established the liquor commission fund which shall be nonlapsing and*
21 *continually appropriated to the liquor commission for the purposes of this title. The state*
22 *treasurer may invest moneys in the fund as provided by law and all interest received on*
23 *such investment shall be credited to the fund.* Except as provided in paragraph II, all gross
24 revenue derived by the commission from the sale of liquor, or from license fees, shall be deposited
25 into the ~~[general funds of the state]~~ *liquor commission fund.* ~~[The expenses of administration and~~
26 ~~all other expenditures provided for in this title shall be paid by the state treasurer on warrants of the~~
27 ~~governor with the advice and consent of council.]~~

28 8 State Stores. RSA 177:1 is repealed and reenacted to read as follows:

29 177:1 State Stores.

30 I. The commission may lease and purchase and equip, in the name of the state, such stores,
31 warehouses, supplies, materials, products, and other merchandising requirements for the sale or
32 promotion of liquor as are necessary to carry out the provisions of this chapter. The commission may
33 lease, in the name of the state, space in state stores to banks for the purpose of installing automated
34 teller machines. No newly established state store shall be operated within 200 feet of any public or
35 private school, church, chapel, or parish house.

36 II. The commission may close any state liquor store to improve profitability and efficiency.
37 In determining net operating profit or loss, the commission shall adhere to generally accepted

1 accounting principles for both revenues and expenses and shall include an allocation for indirect
2 costs. All information regarding a decision to close any state liquor store shall be made available, by
3 the commission, to the public upon request. The commission shall provide public notice prior to
4 closing any state liquor store.

5 III. The commission may in its discretion operate stores for the sale of liquor in such cities and
6 towns as shall have accepted the provisions hereof as hereinafter provided and may employ
7 salespersons to sell liquor in said stores. The commission's enforcement bureau shall complete
8 background checks on all full-time employees. No salesperson employed to sell liquor under the
9 provisions of this chapter shall sell liquor except such as may be legally obtained under the
10 provisions of this title. If a state liquor store closes, the commission shall make reasonable efforts to
11 provide state employees other positions, if available.

12 9 New Paragraph; Agency Liquor Stores; Rulemaking. Amend RSA 177:10 by inserting after
13 paragraph I the following new paragraph:

14 I-a. Application and qualifications.

15 10 Location of Agency Liquor Stores. RSA 177:11 is repealed and reenacted to read as follows:

16 177:11 Location of Agency Liquor Stores.

17 I. The commission shall have the authority to license an agency liquor store at its discretion.
18 An agency liquor store shall only be located in a municipality which has voted in favor of the
19 operation of state liquor stores under RSA 175:7. The commission shall not license any new agency
20 liquor stores after June 30, 2014.

21 II. The commission shall only issue an agency liquor store license, in accordance with
22 RSA 541-A:39. The commission shall hold a public hearing before issuing an agency liquor store
23 license in any municipality. The license application shall be processed by the director of the division
24 of enforcement and licensing. The director of the division of enforcement and licensing shall
25 recommend in writing approval or denial of any agency liquor store.

26 III. The commission shall notify any applicant denied a license of the reasons for the denial
27 by certified mail to the mailing address given by the applicant in the application for an agency liquor
28 store license.

29 IV. Any applicant aggrieved by a decision made by the commission may appeal the decision
30 in accordance with RSA 541.

31 V. Any retail licensee, whether proprietorship, partnership, limited liability company, or
32 corporation shall only be approved to establish one agency liquor store.

33 VI. Any applicant selected for an agency liquor store license shall pay a one-time background
34 check processing fee of \$500. The annual fee for agency liquor stores licensed after December 31,
35 2008 shall be \$1,000 per cash register.

36 VII. The commission shall collect data on new revenue, alcohol-related violations, social
37 disorder, population growth, alcohol availability, and emergency services relative to use or abuse of

1 alcohol in each municipality where an agency liquor store license has been issued. The commission
2 shall publish its findings in an annual report submitted to the governor and council, the fiscal
3 committee of the general court, the president of the senate, and the speaker of the house of
4 representatives.

5 11 References Changed. Amend RSA 178:11, V to read as follows:

6 V. Liquor/wine/beverage warehouseurs shall submit a monthly report both to the liquor
7 commission enforcement *and licensing* division and the [~~warehouse and transportation~~]
8 *marketing, merchandising, and warehousing* division of the commission by the tenth day of the
9 following month indicating the quantity, type, size, and brands of all product received, stored, or
10 shipped on their premises.

11 12 New Section; Conditional License. Amend RSA 178 by inserting after section 17 the
12 following new section:

13 178:17-a Conditional License.

14 I. The commission at its discretion may combine any license types or issue with conditions a
15 combination conditional license. The commission shall not issue any license that diverts revenues
16 from the liquor commission fund directly or indirectly. This section shall not be interpreted to create
17 a license category that does not exist in statute.

18 II. The commission shall issue a combination conditional license in accordance with
19 RSA 541-A:39. The commission may suspend or modify any licensing requirement established under
20 title XIII. The commission may deny, in its discretion, any license under this section that constitutes
21 a risk to public health, safety, or welfare of any community.

22 13 Corkage Fees. Amend RSA 178:21, II(a)(5) to read as follows:

23 (5) Except as provided in this paragraph, no beverages or liquor shall be consumed in
24 the licensed areas except those that are sold by the licensee. With the permission of the commission,
25 a licensee may charge a *corkage* fee for consumption of privately owned table wine stored on the
26 premises and consumed with the purchase of a full-course meal. *The licensee shall have a house*
27 *policy outlining the corkage fee and receiving of corked table wine. This policy shall be*
28 *available upon request by the division of enforcement and licensing. Any violation of title*
29 *XIII shall authorize the commission at its discretion to modify or suspend any licensee's*
30 *corkage policy.*

31 14 New Subparagraph; One Day Licenses; Donations to Nonprofit Organizations. Amend
32 RSA 178:22, V(1) by inserting after subparagraph (4) the following new subparagraph:

33 (5) Manufacturers, wholesale distributors, or wine and liquor vendors or their
34 salespersons may donate their products to any nonprofit organization with a one-day license issued
35 by the commission. The division of enforcement and licensing shall be notified 10 days prior to any
36 donation under this subparagraph. The notification shall include the amount and type of products,
37 licensee or organization, and vendor's or salesperson's name. All liquor or wine donated under this

1 subparagraph shall be purchased from the commission. The commission may in its discretion fix
2 either generally or specially the discount percentage for this purpose. If the commission determines
3 that revenues are being diverted, the commission may take such action it deems necessary, including
4 sanctions against any manufacturers, wholesale distributors, or wine and liquor vendors or their
5 salespersons. All beverage furnished as donations shall be considered sales for purposes of
6 RSA 178:26.

7 15 Direct Shippers. RSA 178:27 is repealed and reenacted to read as follows:

8 178:27 Direct Shippers.

9 I.(a) Notwithstanding any other provision of law to the contrary, any person currently
10 licensed in its state of domicile as a wine manufacturer, importer, wholesaler, or retailer shall apply
11 for a direct shipper permit from the commission.

12 (b) Applicants for a direct shipper permit shall be exempt from the provision of
13 RSA 178:1, I requiring registration with the secretary of state, if the applicant is duly organized and
14 registered to do business under the laws of the state in which the applicant is domiciled.

15 II. A direct shipper may ship directly to New Hampshire consumers over 21 years of age in
16 packages clearly marked "Alcoholic Beverages, adult signature over 21 years of age required." All
17 shipments from direct shippers into the state shall be made by a licensed carrier and such carriers
18 are required to obtain an adult signature. Direct shippers or carriers shall not ship into areas of the
19 state where alcohol beverages may not be lawfully sold. Wine that has been registered for sale to the
20 commission during the previous 2 months may be direct shipped only if the shipper offers to sell a
21 matching amount to the commission at wholesale. Shipments of any other products shall be
22 considered unlicensed shipments under the provisions of RSA 178:1, I.

23 III. No direct shipper shall ship more than 12 - 9 liter cases or equivalent of wine to any
24 address in New Hampshire in any calendar year. Furthermore, in the event any direct shipper
25 wishes to ship more than a total of 1,200 liters of any particular wine directly to any combination of
26 addresses in New Hampshire, the shipper shall offer to sell a matching amount to the commission at
27 the lowest price delivered into New Hampshire.

28 IV. Direct shippers shall file a monthly report with the division of enforcement and licensing
29 which shall arrive at the division no later than the tenth of the month following shipment regardless
30 of activity. Each report shall contain an invoice for each shipment showing the retail price of the
31 product, and shall pay a fee of 10 percent of the retail price for the shipments of wine. Direct
32 shippers shall maintain records for at least 3 years which will permit the commission to ascertain
33 the truthfulness of the information filed and permit the commission to perform an audit of the direct
34 shipper's filings upon reasonable request. Wholesale shipments of any wine shall be permitted only
35 in accordance with RSA 175:6.

36 V. Upon written notification, a carrier shall turn over to the commission all information
37 requested to identify who shipped the package including, but not limited to, the shipping address,

1 mailing address, phone number, and contact person. Any carrier that violates this paragraph shall
2 be fined or have its license suspended until the carrier complies with the request.

3 VI. The liquor commission shall adopt rules, pursuant to RSA 541-A, relative to:

4 (a) The application procedures and form for the direct shipper permit authorized under
5 paragraph I.

6 (b) The signature form or other identification procedures to be used by direct shippers to
7 ensure that consumers to which wine is being shipped are over 21 years of age.

8 (c) Filings of direct shippers under paragraph IV.

9 VII. Notwithstanding RSA 179:58, any person holding a direct shipper's permit under this
10 section who ships wine to a person under 21 years of age, shall be guilty of a class B felony and shall
11 have such permit permanently revoked.

12 VIII. Upon notification by authorities in another state which imposes a reciprocal
13 enforcement policy, a New Hampshire licensee proved to be making illegal direct shipments to
14 consumers and licensees in said state shall be subject to action by the liquor commission. Such
15 actions may include fines and suspension and revocation of New Hampshire liquor licenses.

16 16 New Paragraph; Direct Shipper Fees. Amend RSA 178:29 by inserting after paragraph V-a
17 the following new paragraph:

18 V-b. Direct shippers shall pay the following fees annually:

19 (a) Wine manufacturers, \$120.

20 (b) Importers, retailers, and wholesalers \$336.

21 17 New Paragraph; Probationary License Fees. Amend RSA 178:29 by inserting after
22 paragraph VIII the following new paragraph:

23 IX. An additional probationary license fee of \$300 shall be paid by all licensees during the
24 initial licensing period.

25 18 Prohibited Sales. Amend RSA 179:5 to read as follows:

26 179:5 Prohibited Sales.

27 I. No licensee, salesperson, direct shipper, common carrier, delivery agent, nor any other
28 person, shall sell or give away or cause or allow or procure to be sold, delivered or given away any
29 liquor or beverage to a person under the age of 21 or to an intoxicated individual. [~~For all deliveries
30 of packages by common carrier or delivery agent marked "alcoholic beverages" or "alcoholic
31 products," the addressee shall sign a delivery receipt.~~] In no case shall any section of this title be so
32 construed as to permit sale of liquor or beverages in any so-called saloon or speakeasy.

33 II. No licensee, manager, or person in charge of a licensed premises shall allow or permit any
34 individual, who is under the age of 21, to possess or consume any liquor or beverage on the licensed
35 premises.

36 III. *For all deliveries of packages that contain alcohol by common carrier marked*
37 *"alcoholic beverages" or "alcoholic products," the carrier shall obtain the signature of a*
38 *person 21 years of age or older.*

1 19 New Section; Sales to Intoxicated Persons. Amend RSA 179 by inserting after section 7 the
2 following new section:

3 179:7-a Sales to Intoxicated Person.

4 I. In this section, "standard size serving" means a drink containing not more than 1.5 ounces
5 of liquor, 4 ounces of wine, or 12 ounces of beverage other than wine.

6 II. The establishment of all the following facts by a person making a sale of liquor or
7 beverage to a person under the influence of alcohol constitutes prima facie evidence of innocence and
8 a defense to any prosecution for such sale:

9 (a) That the person receiving the liquor or beverage consumed only one standard size
10 serving of liquor or beverage and became intoxicated;

11 (b) That the signs and symptoms of the person receiving the liquor or beverage were
12 such that an ordinary and prudent person would not believe him or her to be intoxicated; and

13 (c) That no more than one standard size serving per hour and no more than four
14 standard size servings in a sitting were sold to the person.

15 20 Samples. RSA 179:31, II is repealed and reenacted to read as follows:

16 II. Manufacturers, wholesale distributors, or wine and liquor vendors or their salespersons
17 may distribute samples of their products to any licensee for purposes of tasting. No licensee shall
18 add any samples to its inventory for resale. The division of enforcement and licensing shall be
19 notified 10 days prior to any distribution of samples or donations. The notification shall include the
20 amount and type of products, licensee or organization, and vendor's or salesperson's name. All liquor
21 or wine distributed under this paragraph shall be purchased from the commission. The commission
22 may in its discretion fix either generally or specially the discount percentage for this purpose. If the
23 commission determines that revenues are being diverted, the commission may take such action it
24 deems necessary, including sanctions against any manufacturers, wholesale distributors, or wine
25 and liquor vendors or their salespersons. All beverage furnished as samples shall be considered
26 sales for the requirements of RSA 178:26.

27 21 Advertising Restrictions. Amend RSA 179:31, VIII-XII to read as follows:

28 VIII. Coupon offers shall be redeemed by the vendor or the vendor's agent as specified in the
29 offer. ~~[No redemptions shall be made by state stores.]~~

30 IX. ~~[Advertising of liquor or beverages shall not be inconsistent with the spirit of safety or~~
31 ~~safe driving.] Advertising or promotion of alcohol by the use of a billboard, sound trucks, or~~
32 ~~outdoor internally illuminated screen displays is prohibited. On-premises and off-premises~~
33 ~~licensees may advertise their liquor and beverage prices. Advertising of liquor or~~
34 ~~beverages shall not be inconsistent with the spirit of public health or safety. Any violation~~
35 ~~of title XIII by a licensee shall authorize the commission at its discretion to suspend the~~
36 ~~advertising and promotion of happy hours or regulate drink prices charged by the licensee.~~

37 X. It shall be the responsibility of the advertiser to insure that all advertising copy is in
38 complete conformity with the New Hampshire laws and rules.

1 XI. ~~[No advertising or promotion shall be done by the use of a billboard. Advertising shall~~
2 ~~not contain any reference to a "happy hour" except that a "happy hour schedule" may be posted~~
3 ~~within the licensed premises, not in view of any public way, and an on premises licensee may~~
4 ~~advertise or promote the holding of a "champagne brunch" or similar package.~~

5 XII.] No holder of a beverage manufacturer license, wholesale distributor license, or
6 beverage vendor license shall advertise, either directly or indirectly, in any booklet, program,
7 program book, yearbook, magazine, newspaper, periodical, brochure, circular, or other similar
8 publication published by, for, or in behalf of any religious, fraternal, educational, patriotic, social, or
9 civic group. No on-premises licensee or off-premises licensee, any group thereof, or any holder of a
10 beverage manufacturer license, wholesale distributor license, or vendor license, through any control,
11 ownership, interlocking ownership, interlocking directors, or otherwise shall advertise or cause any
12 manner or form of advertising to be inserted in such publications.

13 22 Purchase of Supplies. Amend RSA 179:32 to read as follows:

14 179:32 Purchase of Supplies.

15 I. All licensees shall purchase their supplies of liquor and wine from the commission or [as
16 provided by law] *licensed New Hampshire wine manufacturers.*

17 II. All on-premises or off-premises licensees shall purchase their supplies of beverages from
18 licensed wholesale distributors, manufacturers, brew pubs, or as otherwise specifically provided by law.

19 *III. The commission may, upon request, grant licensees permission to purchase*
20 *product not otherwise available in New Hampshire from direct shipper permittees or other*
21 *sources. The commission shall collect a fee established by the commission no less than*
22 *equal to that paid by direct shippers for all such purchases from other sources.*

23 23 Repeal. The following are repealed:

24 I. RSA 177:2, relative to closing of state stores.

25 II. RSA 177:4, relative to operation of state stores and salespersons.

26 III. RSA 179:31, I, relative to sound trucks and outdoor illuminated screen displays.

27 24 Divisions of the Liquor Commission; Transitional Provisions.

28 I. Pursuant to RSA 94:1-d, the liquor commission shall submit a recommendation relative to
29 the appropriate letter grade in RSA 94:1-a I(b) for 8 unclassified positions to the commissioner of
30 administrative services who shall submit the recommendation to an outside consultant for the
31 purpose of assessing the appropriate letter grade for the unclassified positions. The commissioner of
32 administrative services shall submit the consultant's report to the joint committee on employee
33 classification established in RSA 14:14-c, for its review and temporary letter grade allocation.

34 II. The liquor commission shall report to the director of personnel classified position
35 numbers to be abolished upon filling each of the division director positions established in RSA 176:8.
36 The funds budgeted to fund the abolished positions shall not lapse and shall be used towards the
37 compensation of the 5 unclassified positions.

1 III. Any classified employee of the liquor commission who is appointed to an unclassified
2 position shall retain all annual leave, sick leave, and bonus time already accumulated in the
3 classified system. Such annual leave, sick leave, and bonus time shall not be used until the
4 employee's cessation of employment or until the employee transfers to the classified service.

5 IV. Any classified employee of the liquor commission who is appointed to an unclassified
6 position shall accrue terminal pay pursuant to RSA 94:9 from the date of appointment to the
7 unclassified position.

8 25 Effective Date. This act shall take effect July 1, 2009.

LBAO
09-0853
02/03/09

SB 181-FN-A - FISCAL NOTE

AN ACT relative to the liquor commission and alcoholic beverages.

FISCAL IMPACT:

The Liquor Commission states this bill will decrease state general fund revenue and expenditures and increase liquor commission fund revenue and expenditures by an indeterminable amount in FY 2010 and each year thereafter. There is no fiscal impact on county and local revenue or expenditures.

METHODOLOGY:

The Liquor Commission states this bill makes various organizational changes to the Liquor Commission and modifies various sales and licensing restrictions relating to alcoholic beverages. This bill creates the liquor commission fund, a nonlapsing continually appropriated fund, for Liquor Commission revenue and expenditures. As a result, the Commission states general fund revenue will decrease and liquor commission fund revenue will increase by approximately \$124 million in FY 2010 and \$129 million in FY 2011 and state general fund expenditures will decrease and liquor commission fund expenditures will increase by \$41,004,259 in FY 2010 and by \$42,996,341 in FY 2011. The Commission did not estimate expenditures or revenue beyond FY 2011.

The bill will establish five unclassified director positions and as each position is filled, the Commission will report to the director of personnel classified position numbers to be abolished. The Commission assumes the unclassified positions will be group HH for the director of finance and group GG for the director of marketing, merchandise, and warehousing, director of store operations, director of administration, and director of enforcement and licensing. The Commission also assumes the current division directors will move into the new positions and assumes no cost of living increase for the five unclassified positions in FY 2011. The Commission states changing the five classified positions to unclassified positions may increase liquor commission fund expenditures by \$18,172 in FY 2010 and by \$22,338 in FY 2011.

This bill also establishes that any contracts or purchases less than \$200,000 do not need governor and council or fiscal committee approval, allows the Commission to close any store to improve profitability and efficiency, and provides the Commission the discretion where to operate stores. The fiscal impact of these parts of the bill cannot be determined.

The Commission states the bill makes changes to existing fees or adds new fees. The Commission assumes 500 probationary licenses will be issued at \$300 per license for an estimated increase in liquor commission fund revenue of \$150,000. The Commission also assumes the direct ship charge will result in \$1,100 licenses being issued at \$120 per license for an estimated increase in liquor commission fund revenue of \$132,000. The Commission is not able to determine increases in liquor commission fund revenue associated with the one-time background check processing fee of \$500 for new stores or the annual license fee of \$1,000 per cash register for new stores.

Amendments



Sen. D'Allesandro, Dist. 20
February 20, 2009
2009-0441s
03/09

Amendment to SB 181-FN-A

1 Amend the bill by replacing section 2 with the following:

2

3 2 Definitions; Direct Shipper. Amend RSA 175:1, XXIX-a to read as follows:

4 XXIX-a. "Direct shipper" means any licensee outside the state of New Hampshire who
5 accepts orders [~~placed from~~] **to be shipped into** New Hampshire, by mail, telephone, Internet, or
6 any electronic or other means, for liquor or beverages and who ships, packages for shipment, or
7 facilitates in any way shipment of said liquor or beverages by a [~~third party or common~~] **licensed**
8 carrier to a New Hampshire location.

9

10 Amend the bill by replacing section 7 with the following:

11

12 7 Liquor Commission Funds. Amend RSA 176:16 to read as follows:

13 176:16 Funds.

14 I. Except as provided in paragraph II, **the state treasurer shall credit** all gross revenue
15 derived by the commission from the sale of liquor, or from license fees, [~~shall be deposited into the~~
16 ~~general funds of the state. The expenses of administration and all other expenditures provided for in~~
17 ~~this title shall be paid by the state treasurer on warrants of the governor with the advice and consent~~
18 ~~of council.] **and interest received on such moneys, to a special fund, to be known as the**
19 **liquor commission fund, from which the treasurer shall pay all expenses of the commission**
20 **incident to the administration of this title. Any balance left in such fund after such**
21 **expenses are paid shall be deposited in the general fund on a daily basis.**~~

22 II. Fifty percent of the amount by which the current year gross profits exceed fiscal year
23 2001 actual gross profit, but not more than 5 percent of the current year gross profits derived by the
24 commission from the sale of liquor and other revenues, shall be deposited into the alcohol abuse
25 prevention and treatment fund established by RSA 176-A:1.

26 **III. Notwithstanding any other provision of law, if the expenditure of additional**
27 **funds over budget estimates is necessary for the proper functioning of the commission, the**
28 **commission may request, with prior approval of the fiscal committee of the general court,**
29 **that the governor and council authorize the transfer of funds from the liquor commission**
30 **fund for expenses related to retirement and health benefits.**

31 **IV. The commission may transfer funds for any specific purposes to funds for other**
32 **purposes within and among the appropriations for the operation of the commission. The**



Amendment to SB 181-FN-A

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1 *commission shall report on a semi-annual basis to the fiscal committee of the general court*
2 *all transfers accomplished under the provisions of this section. The provisions of this*
3 *section shall not be subject to RSA 9:16-a, RSA 9:17-a, and RSA 9:17-c.*

4
5 Amend the bill by replacing section 10 with the following:

6
7 10 Location of Agency Liquor Stores. RSA 177:11 is repealed and reenacted to read as follows:

8 177:11 Location of Agency Liquor Stores.

9 I. The commission shall have the authority to license an agency liquor store at its discretion
10 and in the best interests of the state. An agency liquor store shall only be located in a municipality
11 which has voted in favor of the operation of state liquor stores under RSA 175:7. The commission
12 shall not license any new agency liquor stores after June 30, 2014.

13 II. The commission shall only issue an agency liquor store license, in accordance with
14 RSA 541-A:39. The commission shall hold a public hearing before issuing an agency liquor store
15 license in any municipality. The license application shall be processed by the director of the division
16 of enforcement and licensing. The director of the division of enforcement and licensing shall
17 recommend in writing approval or denial of any agency liquor store.

18 III. The commission shall notify any applicant denied a license of the reasons for the denial
19 by certified mail to the mailing address given by the applicant in the application for an agency liquor
20 store license.

21 IV. Any applicant aggrieved by a decision made by the commission may appeal the decision
22 in accordance with RSA 541.

23 V. Any retail licensee, whether proprietorship, partnership, limited liability company, or
24 corporation shall only be approved to establish one agency liquor store.

25 VI. Any applicant selected for an agency liquor store license shall pay a one-time
26 background check processing fee of \$500; holders of an agency liquor store license on the effective
27 date of this paragraph shall pay a one-time background check processing fee of \$100. The annual fee
28 for agency liquor stores shall be \$500 per cash register up to a maximum of \$2,000.

29 VII. The commission shall collect data on new revenue, alcohol-related violations, social
30 disorder, population growth, alcohol availability, and emergency services relative to use or abuse of
31 alcohol in each municipality where an agency liquor store license has been issued. The commission
32 shall publish its findings in an annual report submitted to the governor and council, the fiscal
33 committee of the general court, the president of the senate, and the speaker of the house of
34 representatives.

35
36 Amend the bill by replacing section 12 with the following:

37



Amendment to SB 181-FN-A

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1 12 New Section; Combination Conditional License. Amend RSA 178 by inserting after section
2 17 the following new section:

3 178:17-a Combination Conditional License.

4 I. At its discretion, the commission may combine license types and issue a combination
5 conditional license to a licensee that holds or is seeking more than one license for a single
6 establishment. In issuing a combination conditional license, the commission may suspend or modify
7 any existing licensing requirement established under title XIII and may impose additional
8 conditions. The commission may deny, in its discretion, any license under this section that
9 constitutes a risk to public health, safety, or welfare of any community.

10 II. The commission shall issue a combination conditional license in accordance with RSA
11 541-A:39.

12 III. This section shall not be interpreted to create a license category that does not exist in
13 statute.

14

15 Amend the bill by replacing sections 14-16 with the following:

16

17 14 New Subparagraph; One Day Licenses; Donations to Nonprofit Organizations. Amend
18 RSA 178:22, V(1) by inserting after subparagraph (4) the following new subparagraph:

19 (5) Manufacturers, wholesale distributors, or wine and liquor vendors or their
20 salespersons may donate their products to any nonprofit organization with a one-day license issued
21 by the commission. All liquor or wine donated by wholesale distributors or wine and liquor vendors
22 under this subparagraph shall be purchased from the commission. All wine donated by
23 manufacturers shall be taken from existing stock at the winery and shall be considered retail sales
24 for the purposes of RSA 178:8, IV. The commission may in its discretion fix either generally or
25 specially the discount percentage for this purpose. If the commission determines that revenues are
26 being diverted, the commission may take such action it deems necessary, including sanctions against
27 any manufacturers, wholesale distributors, or wine and liquor vendors or their salespersons. All
28 beverage furnished as donations shall be considered sales for purposes of RSA 178:26.

29 15 Direct Shippers. RSA 178:27 is repealed and reenacted to read as follows:

30 178:27 Direct Shippers.

31 I.(a) Notwithstanding any other provision of law to the contrary, any person currently
32 licensed in its state of domicile as a beverage manufacturer, importer, wholesaler, or retailer shall
33 apply for a direct shipper permit from the commission.

34 (b) Applicants for a direct shipper permit shall be exempt from the provision of
35 RSA 178:1, I requiring registration with the secretary of state, if the applicant is duly organized and
36 registered to do business under the laws of the state in which the applicant is domiciled.

37 II. A direct shipper may ship directly to New Hampshire consumers over 21 years of age in

1 packages clearly marked "Alcoholic Beverages, adult signature over 21 years of age required." All
2 shipments from direct shippers into the state shall be made by a licensed carrier and such carriers
3 are required to obtain an adult signature. Direct shippers or carriers shall not ship into areas of the
4 state where alcohol beverages may not be lawfully sold. Liquor and wine that has been registered
5 for sale to the commission during the previous 2 months may be direct shipped only if the shipper
6 offers to sell a matching amount to the commission at wholesale. Shipments of any other products
7 shall be considered unlicensed shipments under the provisions of RSA 178:1, I.

8 III. No direct shipper shall ship more than 12 – 9 liter cases or equivalent of wine to any
9 address in New Hampshire in any calendar year. Furthermore, in the event any direct shipper
10 wishes to ship more than a total of 1,200 liters of any particular liquor or wine directly to any
11 combination of addresses in New Hampshire, the shipper shall offer to sell a matching amount to the
12 commission at the lowest price delivered into New Hampshire.

13 IV. No direct shipper shall ship more than 27 gallons of beer or beverage in individual
14 containers of not more than one liter or 30 units of liquor to any consumer's address in New
15 Hampshire in any calendar year. No direct shipper shall ship beer or beverage to a New Hampshire
16 licensee.

17 V.(a) Direct shippers shall report each shipment to the commission, and shall pay to the
18 commission a fee of 10 percent of the retail price of the product. Direct shippers shall file reports for
19 every month in which a shipment was made. The reports shall be made in the manner and form
20 required by the commission and include the following information:

21 (1) The total amount of alcoholic beverages shipped into or within the state for the
22 preceding month.

23 (2) The names and addresses of the purchasers to whom the alcoholic beverages
24 were shipped.

25 (3) The date of purchase, if appropriate, the name of the common carrier used to
26 make each delivery, and the quantity and retail value of each shipment.

27 (b) The commission may assess a \$250 penalty for failure to report to the commission in
28 a timely manner.

29 (c) Direct shippers shall maintain records for at least 2 years which will permit the
30 commission to ascertain the truthfulness of the information filed and permit the commission to
31 perform an audit of the direct shipper's filings upon reasonable request. Wholesale shipments of any
32 wine shall be permitted only in accordance with RSA 175:6.

33 VI. Upon written notification, a carrier shall turn over to the commission all information
34 requested to identify who shipped the package including, but not limited to, the shipping address,
35 mailing address, phone number, and contact person. Any carrier that violates this paragraph shall
36 be fined or have its license suspended until the carrier complies with the request.

37 VII. The liquor commission shall adopt rules, pursuant to RSA 541-A, relative to:



1 (a) The application procedures and form for the direct shipper permit authorized under
2 paragraph I.

3 (b) The signature form or other identification procedures to be used by direct shippers to
4 ensure that consumers to which wine is being shipped are over 21 years of age.

5 (c) Filings of direct shippers under paragraph IV.

6 VIII. Notwithstanding RSA 179:58, any person holding a direct shipper's permit under this
7 section who ships liquor, wine, or beer to a person under 21 years of age, shall be guilty of a class B
8 felony and shall have such permit permanently revoked.

9 IX. Upon notification by authorities in another state which imposes a reciprocal enforcement
10 policy, a New Hampshire licensee proved to be making illegal direct shipments to consumers and
11 licensees in said state shall be subject to action by the liquor commission. Such actions may include
12 fines and suspension and revocation of New Hampshire liquor licenses.

13

14 Amend the bill by replacing all after section 18 with the following:

15

16 19 Advertising Restrictions; Samples. Amend RSA 179:31, II to read as follows:

17 II.(a) *A licensee may provide up to 12 units of any product to the commission as*
18 *samples. The commission shall maintain a sampling policy.*

19 (b) Manufacturers, wholesale distributors, or wine and liquor vendors or their
20 salespersons may distribute samples of their products to licensees for purposes of tasting. *A liquor*
21 *and wine representative may receive 12 bottles per year, per item or vintage, of any new,*
22 *unregistered item. On-premises and off-premises licensees may receive 2 units per year, per*
23 *item or vintage. [The following restrictions shall apply:*

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

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

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

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

29 (e) All liquor or wine ~~[for this purpose]~~ *distributed as samples* shall be purchased
30 from the commission. *The commission may, in its discretion, fix either generally or specially*
31 *the discount percentage for this purpose. If the commission determines that revenues are*
32 *being diverted, the commission may take such action it deems necessary, including*
33 *sanctions against any manufacturers, wholesale distributors, or wine and liquor vendors*
34 *or their salespersons.*

35 ~~(f) All beverage, wine, or liquor samples may be added to the retailer's inventory for~~
36 ~~sale.~~

37 (g) All beverage furnished as samples shall be considered sales for the requirements of



1 RSA 178:26.

2 20 Purchase of Supplies. Amend RSA 179:32 to read as follows:

3 179:32 Purchase of Supplies.

4 I. All licensees shall purchase their supplies of liquor and wine from the commission or [~~as~~
5 ~~provided by law~~] *licensed New Hampshire wine manufacturers.*

6 II. All on-premises or off-premises licensees shall purchase their supplies of beverages from
7 licensed wholesale distributors, manufacturers, brew pubs, or as otherwise specifically provided by
8 law.

9 *III. The commission may, upon request, grant licensees permission to purchase*
10 *product not otherwise available in New Hampshire from direct shipper permittees or other*
11 *sources. The commission shall collect a fee established by the commission no less than*
12 *equal to that paid by direct shippers for all such purchases from other sources.*

13 21 Repeal. The following are repealed:

14 I. RSA 177:2, relative to closing of state stores.

15 II. RSA 177:4, relative to operation of state stores and salespersons.

16 22 Purchase of Supplies; Exemptions; Liquor Commission. RSA 21-I:18, I(b) is repealed and
17 reenacted to read as follows:

18 (b) The liquor commission is completely exempted from the provisions of this chapter,
19 provided that the liquor commission uses competitive bidding when acquiring consumable supplies,
20 materials, goods, and services that are necessary for, incidental to, or related to the operation of the
21 liquor commission.

22 23 New Section; Deputy Commissioner of Legal Counsel and Compliance. Amend RSA 176 by
23 inserting after section 7 the following new section:

24 176:7-a Deputy Commissioner of Legal Counsel and Compliance. The commission shall have a
25 deputy commissioner of legal counsel and compliance. The deputy commissioner shall be responsible
26 for legal matters and ensure compliance with state and federal rules and regulations as directed by
27 the commission. The deputy commissioner, as directed by the commission, shall serve as a hearings
28 officer and ombudsman for ethics complaints. A licensee aggrieved by a decision of the deputy
29 commissioner may appeal to the commission as a whole.

30 24 New Section; Contracts. Amend RSA 176 by inserting after section 17 the following new
31 section:

32 176:18 Contracts. The commission may enter into any contracts, leases, and other instruments
33 or arrangements that are necessary, incidental, or related to the operations of the commission.

34 25 New Section; Shipment for Non-Commercial Purposes. Amend RSA 179 by inserting after
35 section 15 the following new section:

36 179:15-a Shipment for Non-Commercial Purposes. The commission may authorize a
37 New Hampshire resident to ship alcoholic beverages within the state for non-commercial purposes.



1 The commission shall provide a permit to the resident and maintain a policy for such shipments.

2 26 New Section; Prohibited Influence. Amend RSA 179 by inserting after section 56 the
3 following new section:

4 179:56-a Prohibited Influence. It shall be unlawful for any elected official to coerce, intimidate,
5 interfere with, or obstruct any commission member or employee with respect to any licensing or
6 enforcement activities. This section shall not be interpreted to prevent an elected official from
7 contacting the commission regarding matters relating to his or her constituents. Any person
8 violating this section shall be guilty of a class A misdemeanor.

9 27 Filing of Direct Shipper Reports. The liquor commission shall make all reasonable efforts to
10 convert the reporting requirements for direct shippers under RSA 178:27, IV to an electronic
11 reporting system within 6 months of the effective date of this section.

12 28 Effective Date. This act shall take effect July 1, 2009.

Amendment to SB 181-FN-A

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT repealing the transfer of liquor enforcement to the department of safety and
4 establishing a committee to study the administrative structure and adjudicative
5 process at the liquor commission.
6

7 Amend the bill by replacing all after the enacting clause with the following:

8

9 1 Repeal. 2009, 144:163 through 144:175, relative to transferring liquor enforcement to the
10 department of safety, are repealed.

11 2 Committee to Study the Administrative Structure and Adjudicative Process at the Liquor
12 Commission.

13 I. There is established a committee to study the administrative structure and adjudicative
14 process at the liquor commission.

15 II. The members of the committee shall be as follows:

16 (a) Three members of the senate, appointed by the president of the senate.

17 (b) Three members of the house of representatives, appointed by the speaker of the
18 house of representatives.

19 III. Members of the committee shall receive mileage at the legislative rate when attending to
20 the duties of the committee.

21 IV. The committee shall study:

22 (a) Whether the liquor commission should have an executive director rather than a full-
23 time 3-member commission;

24 (b) How best to ensure impartial review of appeals of licensing and enforcement
25 decisions; and

26 (c) How best to ensure that the enforcement division is properly supervised, contains its
27 function to that of a regulatory authority, and guards against overly broad interpretation of its
28 function.

29 V. The members of the study committee shall elect a chairperson from among the members.
30 The first meeting of the committee shall be called by the first-named senate member. The first
31 meeting of the committee shall be held within 45 days of the effective date of this section. Four
32 members of the committee shall constitute a quorum.

33 VI. The committee shall report its findings and any recommendations for proposed

Amendment to SB 181-FN-A

- Page 2 -

- 1 legislation to the president of the senate, the speaker of the house of representatives, the senate
2 clerk, the house clerk, the governor, and the state library on or before November 1, 2010.
3 3 Effective Date. This act shall take effect upon its passage.

Amendment to SB 181-FN-A

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2010-0113s

AMENDED ANALYSIS

This bill repeals the transfer of liquor enforcement to the department of safety scheduled to take effect July 1, 2010. This bill also establishes a committee to study the administrative structure and adjudicative process at the liquor commission.

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Amendment to SB 181-FN-A

- Page 2 -



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- 2 clerk, the house clerk, the governor, and the state library on or before November 1, 2010.
- 3 3 Effective Date. This act shall take effect upon its passage.



2010-0181s

AMENDED ANALYSIS

This bill repeals the transfer of liquor enforcement to the department of safety scheduled to take effect July 1, 2010. This bill also establishes a committee to study the administrative structure and adjudicative process at the liquor commission.

Committee Minutes

Ways and Means Committee

Hearing Report

TO: Members of the Senate

FROM: Samantha Piatt, *Legislative Aide*

RE: **SB 181 relative to the liquor commission and alcoholic beverages.**

Hearing Date: Tuesday, February 10, 2009 *** reconvened on ***
Tuesday, March 3, 2009 *** reconvened on ***
Tuesday, March 16, 2009 *** reconvened on ***
Tuesday, March 31, 2009

Members Present: 02/17/09 *Senator Odell (Chair), Senator D'Allesandro (Vice Chair),
Senator Gilmour, Senator Janeway, Senator Reynolds, Senator Denley,
Senator Downing*

03/03/09 *Senator Odell (Chair), Senator D'Allesandro (Vice Chair),
Senator Gilmour, Senator Janeway, Senator Downing*

Members Absent: 03/03/09 *Senator Reynolds*

***** PLEASE NOTE *****

An amendment was offered on 3/3/09 that changed the introduced legislation.

Sponsor(s): Sen. D'Allesandro, Dist 20; Sen. Barnes, Jr., Dist 17; Sen. Downing, Dist 22; Sen. Kelly, Dist 10; Rep. Campbell, Hills 24; Rep. Hunt, Ches 7; Rep. Lerandeau, Ches 6; Rep. Ramsey, Hills 8

Purpose of the bill: This bill makes various organizational changes to the liquor commission. This bill also modifies various sales and licensing restrictions relating to alcoholic beverages.

(As Introduced) Who supports the bill: Sen. Barnes, Dist 17; Sen. Downing, Dist 22; Rep. David Campbell, Hills 24; Mark Bodi, New Hampshire Liquor Commission; Carol Martel, The Wine Institute

(As Introduced) Who opposes the bill: John Dumais, NH Grocers Association; Frank Reinhold, Flag Hill Distillery; Mike Somers, CEO NHLRA; Stephen Ingorski, Associated Grocers NE; Tim Merrill, Associated Grocers NE; Jay Rainville, Market Basket; Greg Gorski, Bristol Shop and Save

(As Introduced) Neutral position: Peter Oldak, NH Winery Association; Louisa Spencer, Farm Hill Ciders; Bob Dabrowski, Candia Vineyards; Tricia Lucas, New Futures

(As Amended) - Who supports the bill: *(italics represent a change of position from introduced version of SB 181)* Senator Lou D'Allesandro, District 20; Senator Mike Downing, District 22; Senator Molly Kelly, District 10; Rep. Peter Ramsey, Hills 08; Commissioner Mark Bodi, NH Liquor Commission; Chief

Ways and Means Committee

Hearing Report

Eddie Edward, NH Liquor Commission; George Tsiporas, NH Liquor Commission; Clark Corson, NH Beer Distributors; Peter Oldak, NH Winery Association; Mike Somers, NH Lodging and Restaurants Association; Carol Martel, The Wine Institute; Tricia Lucas, New Futures

(As Amended) - Who opposed the bill: Stephen Gorski, Associated Grocers; Kevin Daigle, NH Grocers Association; Greg Gorski, Bristol Shop & Save; Jay Ward, SEA; Gary Smith, SEA.

(As Introduced) Summary of testimony:

Senator Downing - (CO-SPONSOR), Dist 22:

- SB 181 makes organizational to the Liquor Commission (LC).
- Updates licensing restrictions.
- The legislation will be referred to as the Liquor Commission Modernization Act.

Peter Oldack - NH Winery Association/Owner Jewell Towne Vineyards:

- Agrees with the modernization of the liquor commission and several housekeeping measures.
- A few comments:
 - Direct Shippers (page 1, line 5): pertaining to shipping referencing the Grandholm ruling. This will put NH in a favorable position.
 - Donation of products (Page 4, line 33): pertaining to the donation of products for events with a one day license (i.e. charity events). SB 181 requires a 10 day notification on donation of product; this will be cumbersome and unnecessary. It will create a reporting burden and an increased amount of paperwork. It will make it impossible to sample wines not listed with the commission and wine will be subject to the excise tax.
 - Samples (page 7, line 15): pertaining to the sampling of wines. This will affect small community vendors. This is an impediment to growth and is burdensome. It will hinder sales and marketing.

Q: Senator Reynolds: What can the legislature do to make sure that NH products are in the stores? It's difficult to find NH only products.

A: Mr. Oldak: The LC Commission must provide domestic wines in the stores. Shelf space is valuable and the LC has become increasingly receptive to NH product. However more support is always needed.

Mark Bodi - Commissioner NH Liquor Commission:

- The Liquor Commission (LC) is celebrating 75 years & is always profitable.
- New Hampshire is a leader in state controlled liquor.
- The modernization act will achieve the following:

Ways and Means Committee

Hearing Report

- Restructure senior management.
- Establish directors as opposed to bureau chiefs.
- Creates 5 unclassified positions. Currently the LC has none. They are as follows:
 1. Director of finance
 2. Director of marketing, merchandise and warehousing
 3. Director of store operations
 4. Director of administration
 5. Director of enforcement and licensing.
- The new management structure will increase responsibilities and address the major functions of the LC.
- The LC is facing major retirement issues and the new structure will allow the LC to attract senior employees.
- Allows the commission to sell products other than wine: books, corkscrews, wine gift boxes. Currently the LC is prohibited due to purchasing procedures.
- Eliminate purchasing procedures that are a hindrance to business. For example, a broken window takes months to fix.
- Eliminates many of the blue laws. Such as lift restrictions pertaining to happy hour, eliminating the letter size requirement on banners.
- Eases restrictions for charity wine tasting.
- Allows wine auctions without taxation and cumbersome red tape.
- Broadens the capacity of agency licenses.
- No agency stores will be allowed within 5 miles of a school or university.
- Currently there are 3 agency licenses: Greenville, Pittsburgh and Errol.
- Allows the LC the capacity to plan for the future and broaden availability.
- Creates a new position - the Deputy Commissioner, Chief Compliance Officer. This will provide the LC with in-house counsel and the capability to deal with complex issues and attend administrative hearings. This position will have senior status and will interact with the Attorney General's office.
- The Liquor Modernization Act brings the LC into the 21st century.
- Liquor license requirements are burdensome and it requires useless information as part of the process. For example a national chain must submit all their lease agreements and this is unnecessary.
- The LC has a responsibility to issue and renew quickly. Currently, they are unable to do that.
- It's unclear as to whether SB 181 will be the Governor's vehicle for his proposals made in the budget address.

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- The legislation does not address food sale issues.

John Dumas - NH Grocers Association (NHGA):

- Supports the modernization as a concept but is OPPOSED to SB 181 as written. Once amended the NHGA opposition could change.
- The Governor asked the NHGA to work with the LC.
- There were 4 different alternatives offered to the current discounting system. As it stands now retailers are hurting.
- The retailers are hoping the current discounting system will sunset.
- The breakeven point is 20-22% for larger retailers and the mom and pop stores run at a much higher operating cost.
- Commissioner Bodi asked the NHGA to conduct a study regarding agency stores. (See Handout)
- SB 181, as written, makes it difficult to have a level playing field.
- The LC has a concern about too much volume.
- The LC wants to pick and choose who can sell.
- NHGA rationalizes that more stores equals increased revenues.
- SB 181 replaces one agency license with the closing of one store.
- Grocers were allowed to sell beer in 1933 and wine in 1978. The ability was given to everyone and was not selective. SB 181 is selective.
- The fee structure is onerous: \$500 background check, \$1,000 per year, per register fee. Therefore 20 registers calculates to \$20,000 for some stores. NHGA believes this is a barrier to entry.
- The NHGA suggested a cap on the high side to prevent price-gouging.
- The three current agency stores make 8% profit. They are a draw.
- Agency stores could make up for the profits lost by the current LC stores. For example, nights, weekends and holidays. The grocery stores could be used to compliment the liquor stores.
- NHGA believes they have an opportunity to help the fiscal situation.
- NHGA is still in discussion with the LC.
- The LC and NHGA have a cooperative relationship.
- SB 181 creates unbalance playing field.

Lousia Spencer - Farm Hill Ciders:

- Represents the land owning orchards.
- Represents cider farmers.
- The liquor modernization needs to ensure that land based NH products are not forgotten,

Bob Dobrowski - Candia Vineyards:

- Supports the modernization.
- Has issue with the 10 day reporting requirement. It's burdensome.
- LC does not carry many of his wines.

Ways and Means Committee

Hearing Report

- Concerns with paragraph 14 and 20.
- The current tax impact is \$40. Meeting the new compliance would mean a tax impact of \$650.

Tricia Lucas - New Futures:

- Neutral on the legislation.
- New Futures has a cooperative relationship with the LC and is not critical of leadership.
- Concerned with the following aspects of the bill:
 - Advertising: (Sect. 21 - page 7/line 32): allows advertising of pricing. Studies show that increased advertising leads to a rise in underage drinking; (page 8) lifts the repeals on happy hour. Last session HB 1197 would have repealed the happy hour provision; the senate killed it in committee unanimously and it was ITL on a voice vote before the full Senate. HB 1197 was opposed by the LC, law enforcement and youth groups.
 - Regulatory Authority (page 4/line 19): provision of conditional license. As written all laws would be suspended.
 - Agency Stores: will wait for new proposal. However New Futures does not agree with the grocers proposal because that would allow increased access. More exposure means more problems. With tobacco sales an associate must reach the product for you.
 - Alcohol Fund: this money is used for prevention and treatment. SB 146 takes on this issue and the Governor's Commission on Alcohol and Drug Abuse (GCADA) is hopeful to reestablish the relationship with the state. In the Governor's budget the GCADA receives a 30% reduction.

Carol Martel - The Wine Institute:

- Overwhelmingly supports SB 181.
- Has issue with Sect 15 (page 5, line 7). There's an understanding the LC amendment will address this issue.

Mike Somers - CEO, NHLRA:

- Qualified opposition. May change after amendment is offered.
- NHLRA welcomes the modernization but has issue with SB 181.
- Restaurants purchase supplies from liquor stores or Law Warehouse so licensees want to make sure they can purchase from agency stores with no hardship.
- Advertising (page 7, line 35) addresses regulating drink prices this is not the job of the LC.
- Safe Harbor provision (page 7, line 3) requires clarification. The proposed mandates will severely limit what restaurants can offer (i.e. martinis).

Ways and Means Committee

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*** Reconvened on March 3, 2008 ***

(As Amended) Summary of Testimony:

Senator D'Allesandro (PRIME):

- The LC brought in \$112 million in net profits.
- The LC is the only non-tax revenue generator.
- We need to maximize revenues as we move into the future.
- The LC has an opportunity to position itself for the future to operate efficiently and effectively.
- The amended version of SB 181 will make the LC more competitive.
- Limits bureaucrat restraints.
- Reorganizes the management structure; currently it's not consistent with 21st century management practices OR other state agency structures.
- There are five unique operational needs that are outlined with the 5 unclassified positions - this will move from three classified bureau chiefs to five unclassified division directors: 1) Director of Finance, 2) Director of Store Operations, 3) Director of Administration, 4) Director of Enforcement and Licensing, 5) Director of Marketing, Merchandising and Warehouse.
- Additionally the LC will establish a senior staff position of - Deputy Commissioner of Legal Affairs, Compliance, Ethics and Ombudsman.
- Recognizes the LC as an enterprise fund.
- The Lottery Commission operates as an enterprise fund.
- Modernization will increase revenues because it allow for the sale of items other than spirits (i.e. corkscrews).
- Will establish agency liquor stores. This is not a wholesale opening and allows the LC to cautiously supplement business.
- There's currently a plethora of special condition licenses with many categories. SB 181 will consolidate the categories.
- Eases restriction on charity non-profit events.
- Legislation preserves oversight.

Commissioner Mark Bodi - Commissioner NH Liquor Commission:

- SB 181 as amended addresses the future of the LC
- The system is not broken; we see that corrections are necessary to reposition the agency for the future.
- This is a new era and era of responsibility
- RSA 176:3 covers existing agency infrastructure
- New Hampshire is 1 of 18 controlled states and is a leader. Many NH practices are adopted in other states.
- The LC is able to balance sale with control.

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- Wine sales are shared with grocery stores and the LC collects a beer tax at the wholesale level.
- The majority of the profit of the LC (\$112 million) comes from off-premise sales.
- 14% of revenues come from grocery stores and 12% from on-premise sales. Retail revenue (LC stores) accounts for 73%.
- Distribution system consists of 77 stores, 11 owned by the state.
- The 15 top locations bring in 45% of the revenue.
- The three agency stores are located in: Errol, Pittsburgh and Greenville.
- The LC is the only major state agency that has bureau chiefs as opposed to division heads. The LC has no unclassified positions; of the Senior management employees there are none that can be discharged for non-performance of duties. The LC can not act quickly in employee matters. The practice makes it difficult to hire with senior officials now retiring.
- "Span of Control" (meaning supervisor to people) is uneven.
- The LC has grown exponentially. Fiscal controls must remain strong to manage shrinkage and theft among the public and wayward employees.
- A change in management structure will increase accountability, even the span of control, introduce a higher level of supervision and attract better employees.
- The legal counsel position will keep ethics in check at the LC. Currently the LC relies on the AG's office and the issues are such that we need someone well versed in state and federal law. This position will review ethical violations and will be separated from the existing staff structure. The position would handle licensee complaints and strengthen the hearings process.
- A key to modernization is the purchase of goods and services without the burden of existing controls. Current controls are time consuming and inappropriate for an enterprise fund. The legislature has recognized this with the University System. This will allow the LC to sell wine bags, fix a broken window and effectively respond to market changes while keeping the proper functions of state government in check.
- Agency store expansion: currently the LC allows for the spirits of sales in grocery store. SB 181 will not make sweeping changes rather it will realign the LC.
- The LC would like to explore other opportunities that have been successful in other states; for example kiosk in grocery stores.
- Eliminate the provision that a state liquor store can not be opened within 5 miles of agency store.
- The LC will create a special condition license. Currently there are 19 categories and 50 sub-categories. The LC needs to consolidate. The

Ways and Means Committee

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special condition license will allow the LC to look at specific needs; for example, the race track.

- Other benefits of the LC Modernization are: change in direct shipping statute, strengthens ethics and reporting, prohibits influence about issuing license (excludes legislators), eases restrictions on charity wine tasting and simplifies process,
- Addresses the sampling policy and eases the burdens on brokers but maintains the two bottle limit.
- Simplifies the corkage fees which facilitates commerce; good for restaurants and consumers.
- NH public opinion favors operating the LC like a business.
- Consolidation is necessary in the interest of economics.
- Big box stores have had good returns for the LC
- The Liquor Commission Modernization Act was not drafted with the recommendations of the McKenzie study however several of their suggestions happen to be incorporated in this legislation. All suggestions for this legislation were made internally.

Clark Corson - NH Wholesale Beverage (Support):

- Commend the LC on: 1) direct shipping: this addresses the Cosco vs. State of Washington case and 2) The agency store requirements are difficult to work through this will simplify the process.

Mike Somers - CEO, NHLRA:

- The Concept of modernization is good.
- NHLRA made the following suggestions - 1) Agency Stores - - allows licensee to only purchase through warehouse would like to be able to purchase from agency stores, 2) Advertising - allows licensee to advertise prices.
- The LC is aware of the NHLRA suggestion but they have come with mixed reviews.

Kevin Dagele - NH Grocers Associations (NHGA):

- NHGA agrees the LC should operate like a business.
- NHGA believes that (only the 3rd tenant is addressed in the amendment):
 1. Licensing should be completely open for any food store.
 2. Maintain a reasonable wholesale discount (20% suggested)
 3. Establish a reasonable spirits license fee (addressed in amendment)
 4. Spirits to be sold same hours and days that beer and wine are sold.
 5. Alcoholic products sold in state stores to also be sold in food stores.
- If you address the NHGA concerns revenue will expand \$16million.

Tricia Lucas - New Futures:

- Concerns have been addressed in the amendment.

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Steven Wood - Farm Hill Ciders:

- Modernization Act will increase agility
- The direct shipment provision is unclear about NH producers
- Sampling statutes are unclear specifically that samples must be purchased from the LC.

Fiscal impact:

***** PLEASE NOTE *****

There is no revised fiscal note with the amended changes.

All assumptions are made by the LC.

The Liquor Commission states this bill will decrease state general fund revenue and expenditures and increase liquor commission fund revenue and expenditures by an indeterminable amount in FY 2010 and each year thereafter. There is no fiscal impact on county and local revenue or expenditures.

- **Liquor Commission Fund:** Creates a non-lapsing continually appropriated fund for Liquor Commission revenue and expenditures. General fund revenue will decrease and liquor commission fund revenue will increase by approximately \$124 million in FY 2010 and \$129 million in FY 2011 and state general fund expenditures will decrease and liquor commission fund expenditures will increase by \$41,004,259 in FY 2010 and by \$42,996,341 in FY 2011. *The Commission did not estimate expenditures or revenue beyond FY 2011.*
- **New Positions:** The bill establishes five unclassified director positions: Director of Finance (Labor Grade HH), Director of marketing, merchandise and warehousing (GG), Director of Store Operations (GG), Director of Administration (GG) and Director of enforcement and licensing (GG). The Commission will report to the director of personnel classified position numbers to be abolished. The current range for the aforementioned labor grades are as follows: HH \$74,296 - \$98,961, GG \$68,231 - \$96,606. There will be no COLA's in FY 2011.
- **Division Directors:** The current division directors will move into the new positions.
- The Commission states changing the five classified positions to unclassified positions may increase liquor commission fund expenditures by \$18,172 in FY 2010 and by \$22,338 in FY 2011.
- **Contracts:** Any contracts or purchases less than \$200,000 do not need governor and council or fiscal committee approval
- **Store Closing:** Allows the Commission to close any store to improve profitability and efficiency, and provides the Commission the

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discretion where to operate stores. The fiscal impact of these parts of the bill cannot be determined.

- **Fees:** The bill makes changes to existing fees or adds new fees. The Commission assumes 500 probationary licenses will be issued at \$300 per license for an estimated increase in liquor commission fund revenue of \$150,000.
- **Direct ship charges:** The Commission also assumes the direct ship charge will result in \$1,100 licenses being issued at \$120 per license for an estimated increase in liquor commission fund revenue of \$132,000.
- **Background check fees:** The Commission is not able to determine increases in liquor commission fund revenue associated with the one-time background check processing fee of \$500 for new stores or the annual license fee of \$1,000 per cash register for new stores.

Action taken: The committee moved to re-refer SB 181-FN-A. The vote was 5-0. Senator Odell will take the bill to the floor. The committee reconvened on Tuesday, March 17, 2009. The Committee went into executive session and no action was taken. On Tuesday, March 31, 2009 the Ways and Means committee moved to re-refer this bill.

SENATE CALENDAR NOTICE WAYS AND MEANS

Senator Bob Odell Chairman ✓
 Senator Lou D'Allesandro V Chairman ✓
 Senator Harold Janeway ✓
 Senator Deborah Reynolds ✓
 Senator Peggy Gilmour ✓
 Senator Michael Downing ✓
 Senator William Denley ✓

11. 27 a.m.

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/>
	Bill Status

Date: February 11, 2009

HEARINGS

Tuesday

2/17/2009

WAYS AND MEANS

SH 100

11:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

11:00 AM SB182-FN-A

establishing a job creation credit against the business profits tax and the business enterprise tax for businesses manufacturing energy efficient products.

11:15 AM SB181-FN-A

relative to the liquor commission and alcoholic beverages.

Sponsors:

SB182-FN-A

Sen. Molly Kelly

Sen. Martha Fuller Clark

Sen. Bob Odell

SB181-FN-A

Sen. Lou D'Allesandro

Sen. John Barnes, Jr.

Rep. David Campbell

Rep. John Hunt

Sen. Michael Downing

Sen. Molly Kelly

Rep. Alfred Lerandean

Rep. Peter Ramsey

12. 28 p.m.

Date: 02/17/09
Time: 11:27 a.m.
Room: SH100

The Senate Committee on Ways and Means held a hearing on the following:

SB181-FN-A relative to the liquor commission and alcoholic beverages.

Members of Committee present:

- Senator Odell
- Senator D'Allesandro
- Senator Janeway
- Senator Reynolds
- Senator Gilmour
- Senator Downing
- Senator Denley

The Chair, Senator Bob Odell, opened the hearing on SB-181-FN-A and invited a co-sponsor, Senator Mike Downing, to introduce the legislation.

Senator Michael W. Downing, D. 22: Thank you, Mr. Chairman, members of the Committee. For the record, my name is Senator Michael Downing from District 22. I have the pleasure of introducing SB 181-FN-A. This bill makes various changes, organizational changes, to the Liquor Commission and its operation. It also modifies various sales and licensing restrictions relating to alcoholic beverages. I won't go into the details; the Commissioner is here, as well as several other people who will testify, and I won't take up your time, unless you have any questions.

Senator Bob Odell, D. 8: Thank you very much, Senator Downing. Any questions? Seeing none, thank you.

Senator Michael W. Downing, D. 22: Thank you.

Senator Bob Odell, D. 8: I note that Senator Barnes is signed in in favor but does not wish to speak. I see no other Senators, so I'll call upon Representative David Campbell, here to speak in support of the bill. He was

here, is not here. I'll just go down in order of those that are here and are interested in speaking. I will note that it is not the intention of the Committee today to exec on this bill, but to recess this hearing, and allow some additional information to be brought forward to the Committee at a later date. This does have a FN-designation on it, so therefore we will have to action by, in my calendar, by March 5th. So, with that, I'll call on, in order of their signing in, Peter Oldak from the New Hampshire Winery Association. Good morning.

Peter Oldak, Doctor: Good morning. I'm Peter Oldak, President of the New Hampshire Winery Association, but I'm going to speak on behalf of myself as the owner of Jewell Towne Vineyards, the oldest New Hampshire winery. Bill 181 addresses really two major issues. One is the modernization of the Liquor Commission, and the second is a number of housekeeping issues that are being, trying to be straightened out. I'm just going to address three of those housekeeping ones. I think the modernization is really a big issue.

In using the bill that was handed out, on line five, it talks about direct shipper. I very much support this amendment, this change in the amendment. This addresses the issue of direct shipping, and that is, shipping wine from out-of-state into the State. In 2005, there was a Supreme Court ruling, called the Granholtz ruling, which basically leveled the, tried to level the field for direct shipping in-state and out-of-state, and with this amendment, the State Liquor Commission has put New Hampshire in a very favorable position so far as the Supreme Court ruling goes.

The other, second issue I want to address, is on line 31, on page four, and this starts out by saying on line 33, manufacturers, wholesale distributors, or wine and liquor vendors and their salespersons may donate their products to any nonprofit organization with a one-day license issued by the Commission. It goes on to say the Division of Enforcement Licensing shall be notified 10 days prior to any donation under this paragraph. This notification shall include the amount and type of products, licensee, organization, and vendor or salesperson's name. This imposes a significant burden of reporting on the winery, on our winery, if we want to donate to the local Fire Department, or some charitable organization, and it doesn't really make much sense in terms of adding increased paperwork, and just busy work.

Further on in this paragraph, it also says that all liquor or wine donated under this subparagraph shall be purchased from the Commission. We manufacture approximately 30 wines. Six of them are listed and sold by the Commission. This makes it virtually impossible for us to be able to sample wines that are not listed with the Commission. I do have a proposed change to this, and this is my proposal, and I, what this would read is: "All liquor or

wine donated by the wholesalers, distributors, or wine and liquor vendors under this paragraph, shall be purchased from the Commission. All wine donated by domestic manufacturers must be taken from existing stock at the winery and shall be considered retail sales for the purposes of RSA 178:8". That basically means that that wine would also be subject to the excise tax, but the source of it could come from the winery, rather than from the Liquor Commission.

And then the third comment relates to a very similar paragraph, and this is line 15 on page seven. This has a little bit more bearing. It relates both to us as a farm winery and I'm sure to most of the commercial vendors. It says: "Manufacturers, wholesale distributors etc. may distribute samples", and these are samples that you bring to a grocery store or restaurant for the wine buyer to try to see if they want to stock it in their inventory. It says we may distribute samples for the purposes of tasting. No licensee shall add any samples to its inventory for resale. And then it goes on to say, it's the same statement about the Division of Enforcement and Licensing shall be notified 10 days prior to any distribution of samples and donations. The notification shall include the amount, type, license, and vendor's salespersons.

If you think about, this is a tremendous impediment to growth and sales. If my, I'm a very small company, I have one person, one employee who sells and distributes our wine. If he goes up to North Conway, the eastern mountain slopes, to present them with a couple of bottles of wine to sample, to put in their restaurant, and he decides, well, maybe Red Carpet Pub or Red Jacket would also like to carry my wine, he can't drop those samples off. He's got to come back, notify the Liquor Commission, wait 10 days, and he's not going to make another trip back and forth. This is a tremendous impediment to the sale and marketing of wine.

And again, the Commission, all liquor or wine distributed under this paragraph shall be purchased from the Commission, and I make the same recommendation as I did before, that for that, in addition to this paragraph, would be: "All wine donated by domestic manufacturers must be taken from existing stock at the winery and shall be considered retail sales for the purposes of this RSA".

Thank you very much.

Senator Bob Odell, D. 8: Thank you very much. Thank you for being here. Questions? Senator Reynolds?

Senator Deborah R. Reynolds, D. 2: Thank you very much, Mr. Chair. Good morning, Mr. Oldak. What can we do, either through this legislation or

others, to make sure that your products are, you know, in the stores? I've gone into the Plymouth, New Hampshire, Liquor Commission's store, in any occasion, asking for New Hampshire wines, and I'm told that they are not there. What can we do to get your product in our stores?

Dr. Oldak: There is a RSA on the books that says the Commissioner shall place all domestic wines in all stores. We've approached the Commission on this, and I will say that initially, about a year ago, when we went through this, we had a fair amount of resistance. The Commission has become somewhat more receptive to us, and is allowing more products in. It is a two-way street, because shelf space is very valuable to the Commission. And it's the main engine that is a source of revenue for a major portion of the State. And so there is great deal of consideration of making sure products are there that sell. On the other hand, we are small producers. Many times, in my case, I make wine, anywhere from 15 cases of a variety up to 400. I certainly wouldn't be able to put the wine that I make 15 cases of in the state liquor store, because I couldn't support it. And so the Liquor Commission, in some cases, doesn't want to put wine in that it can't continue or maintain the shelf space. We are working with the State Liquor Commission and they are helpful on this. We always can use more support, and I don't, there is a RSA on the books that basically addresses this, and it's being adhered to more as a breach than as a practice.

Senator Deborah R. Reynolds, D. 2: Thank you very much.

Senator Bob Odell, D. 8: Other questions? Seeing none, thank you very much for being here. Can you leave your revised language suggestion with us?

Dr. Oldak: Yes.

Attachment # 1: Proposal submitted by Dr. Peter Oldak, from the New Hampshire Winery Association.

Senator Bob Odell, D. 8: Just leave it with Senate...I am going out of order because I didn't see the Chairman of the Commission had signed in to speak, so I'm going to call on the Chairman of the Commission, Mark Bodi. Good morning, Commissioner.

Mark Bodi, Chairman of the New Hampshire Liquor Commission: Mr. Chairman, members of the Committee. It is a pleasure to be here this morning.

My apology, I apologize. It was our intended hope that we would be able to present some substantial data to the Committee, and I appreciate the opportunity to recess the hearing to a later date so that we may present, not only my testimony in written form, but also supporting data regarding the Liquor Commission Modernization Act; and most importantly, an amendment that will be offered in substitution for the bill in its entirety, that corrects some technical omissions in the original drafting, and adds one substantial provision that I'll talk about in a moment. I do, I know, I spoke with John Dumais, and we had expected that this would be recessed, and I appreciate your consideration regarding that.

The Liquor Commission celebrates...

Senator Bob Odell, D. 8: May I interrupt? Would it be easier for you if we didn't take testimony today? Or, I think I left it with the Chief that we would have the hearing. There are people here who came at a distance to testify, but I don't have any problem if you prefer to wait till another time. Whatever is convenient to you.

Commissioner Bodi: Well, I am sensitive to, what I would like to do, I am sensitive to those who are here who might not have been aware of the fact that we were going to recess; and I would like to allow them to present their comments. And if it's the pleasure of the Committee, I would like to testify in brief, and then expand on my testimony on the third, if that's possible.

Senator Bob Odell, D. 8: Yes. I think that's the way to... and that would be most, the best for us, and in particular to have your perspective on the overall circumstances, including some comments made on Thursday in the Budget Address by the Governor.

Commissioner Bodi: Thank you.

Senator Bob Odell, D. 8: Thank you.

Commissioner Bodi: As I was stating, the Commission is celebrating its 75th anniversary this year. It's been in existence for 75 years, and it's had an unbroken line of profitability throughout that time as it was established following Prohibition. New Hampshire has always been a leader in the controlled state system throughout the country. But in recent times, many of the initiatives that the Commission has undertaken over the years, have not been addressed and looked at, so that they might be changed to more appropriately reflect the changing retail environment, the changing regulatory environment, and the changing circumstances under which the

Commission finds itself, namely the, we're in a much more competitive environment than we ever were in the past.

The Modernization Act would achieve several principle overriding goals.

(a) It would reorganize the senior management structure of the Commission and bring it into more practical alignment with all other state agencies. The Liquor Commission is the only major state agency that has bureau chiefs as opposed to directors. It is also the only major state agency that has no unclassified state employees. When it was originally conceived, there were three principle Bureau Chiefs, Marketing, Administrative and Sales, Enforcement, as well as Administration. We are recommending that this be realigned to five unclassified positions, separating Finance - because it is a 450 million dollar business - and allowing Finance and Inventory Control to operate separately and independently; and retaining a Marketing and Sales Division Chief as well as Administration; and adding a new position of Head of Operations. And as I said, the complete breakdown, the organizational charts and the rationale for this change in orientation, will be presented to the Committee.

We believe that this new management structure will allow the Commission to be more responsive. It will allow the Commission to more appropriately address its major functions as they exist today. And it will also ensure that the Commission will be able to maintain and attract key senior staff employees moving forward. The Commission has had difficulties with its legacy issues, in that it faces major retirement issues of its senior staff. And we've had difficulty recruiting employees given the current management structure. We recently lost our data processing IT person, Howard Roundy, who incidentally started his career here in the Legislature. He designed the voting system in the House. He recently retired and we were fortunate enough to create circumstances where he can continue as a consultant. But we also face the retirement of all the other remaining Bureau Chiefs. And our capacity to replace them and provide for a continuing bench, if you will, of senior management for this very large business, is very much constrained under the current operations.

Additionally, the Modernization Act would allow the Commission to offer associated products in its stores for sale that currently it does not have the capacity to do in an easy and simple way. For example, the addition of reading and books that would support wide education. The offering of wine gift bags, corkscrews and the like, are all items that are now very difficult to offer under the current purchasing procedures in State government. The Modernization Act would allow us to acquire these products, test-market them, and offer them in markets where we believe there is revenue potential and demand, and consumer demand.

Similarly, it would ease the purchasing restrictions for activities within our stores, so that if there was a broken window, we can repair that quickly. Currently, under the existing purchasing requirements of the State of New Hampshire, it is not unusual, believe it or not, for it to take months to have renovations and repairs conducted at our stores; to purchase equipment related to the sale of our products. These are recognized by the Governor, as noted in his Budget Address, as a hindrance to business, and an impediment to providing a contemporary shopping experience.

Additionally, the Modernization Act would streamline many of the, and eliminate many of the old – what I would refer to as blue laws – that have been in existence, some of them for 75 years. It would lift the restriction on advertising of the sale of alcoholic products in certain cases; some would refer to them as happy hour. The Commission currently regulates the size of advertising on banners, and provides what I believe is unnecessary restrictions of advertising by the hospitality industry, thank you, with respect to the marketing of products. Under the Liquor Commission Modernization Act restaurants, hotels, motels - we're a hospitality state - would be able to advertise freely. Yet, we would maintain the capacity to regulate them in the event they did so in a manner that was inappropriate with good taste, or responsibility.

The Modernization Act would also ease restrictions that currently exist regarding charity wine tastings. Wine has grown phenomenally in popularity. The Commission supports it and has supported it for many, many years, and as a result of that we do a very significant, almost, almost half of our business is wine of the \$360 million done at the retail level.

Today, if a nonprofit organization would like to conduct a wine tasting, it is very cumbersome. There are all kinds of rules, regulations and red tape associated with that. The legislation, the Modernization Act, would simplify that process, yet provide reasonable controls. It would also allow for wine auctions, charity wine auctions, without imposing an eight percent fee or tax. And, it would also allow consumers who travel outside of the State to participate in wine auctions, to do so without cumbersome red tape and without taxation.

There is also currently a restriction that makes it very difficult for, if you wanted to send a bottle of wine to a member of your family living in Berlin, currently that is not permitted. The Liquor Commission Modernization Act would ease the burdens to be required to do that, so that you can freely send wine within state boundaries; wine, gifts, and other elements to other parties.

The issue of agency stores is a matter of great discussion, and the Act would broaden the Commission's capacity to issue agency licenses. But I say that very reluctantly, because it is not our intent to offer an enormous amount of agency licenses, at least initially. But the purpose of the regulation, the change in law, is to allow the Commission the latitude, if, after careful consideration, there is a need to issue agency licenses in varying parts of the State.

Currently the State has three agency licenses, licensees, one in Greenville, Erroll, and Pittsburg. They are permitted under certain circumstances, the most important of which is the requirement that an agency license not be issued any closer than five miles from an existing liquor store. The recommended change would ease that, and allow the Commission the latitude to issue a license, provided that the operator is one that is deemed appropriate and that it is in the State's best interest to do so.

As you might imagine, there is an enormous amount of complicating factors regarding the issuing of agency licenses, not the least of which is concerns regarding these potential outlets being operated near schools, and universities, in the inner-city where urban crime is associated with alcohol abuse and any number of other issues, all of which we want to review very, very carefully. But the Act does permit us, as we review the State's distribution system, and the possibility of consolidating some stores, the capacity to ensure that those market areas can continue to be serviced; yet at the same time allows us to look into the future to determine to what extent do we want to broaden the availability of spirits in different channels beyond liquor stores?

The Modernization Act also provides for the creation of a new position, that is a Deputy Commissioner, Chief Legal Counsel, Compliance Officer. This position, I believe, would be enormously helpful in allowing the Commission to ensure that all the rights of licensees are maintained, that there is an appropriate review of all compliance issues, which are significant when you're dealing with wine and spirits as it is regulated by both the federal and state level. It would also provide us with our own in-house capability to more effectively deal with the very complicated issues that come before the Commission on a daily basis. This position would also serve as a, have the ability to listen on in, hear administrative hearings, sit in administrative hearings in a judicated capacity; and it is again not unlike other agencies that have, I wouldn't want to say a similar position, but certainly a Deputy Commissioner's position, and this one would be a very senior status and have the capacity to interact with the Attorney General's Office and federal officials on matters that I had noted.

Finally, and very importantly, the Act would allow the Commission to bring this agency into the 21st century. Kicking and streaming, but it would allow it to do that. Today, the requirements to achieve a liquor license are phenomenally burdensome; and the stack of paper that might be required for the licensee - particularly a national franchise chain, such as Albi's or Grill 99 or whatever the case may be - it is not uncommon for that file to be over a foot tall. We require copies of all their leases. We require information in regard, substantial information, regarding the background, and even the parents of the perspective licensee. We require copies of their organizational structure. I believe that the Commission's role has changed dramatically over 75 years, and that we have a responsibility to be responsive to perspective licensees. We need to issue a license quickly, we need to renew these licenses quickly, and we need to examine, as we have done, all of the unnecessary items that are not necessary for the licensing process; and focus on what is important.

The changes that we are proposing would accomplish that, and it would move us to online licensing, and eliminate hours and hours spent reviewing needless documents and requesting useless information, and allow us to conduct the people's business in the way that is most appropriate for them and the most cost-effective manner.

Those are the highlights of the Modernization Act, and as I indicated, we have appeared in the process of finalizing a very substantial presentation that will allow you to look at this at your convenience, but I'd be happy to answer any questions the Committee might have.

Senator Bob Odell, D. 8: Thank you, Chairman Bodi. My question would be, with this Modernization Act and the amendment that you are going to bring forward that would change this entirely, a total substitute. Would this be the vehicle through which, not only would we be talking handling the modernization elements, but also the points raised by the Governor in his Budget Address? Are we talking about this being the vehicle to do both of those things?

Commissioner Bodi: That is a good question, Senator. And I have not discussed with the Governor his intent with respect to incorporating elements in his Address onto this bill. This bill was initiated prior to the Governor's review of the liquor operations, and the study he alluded to in his message and I viewed them as, to some extent, although they are not mutually exclusive, they do not address many of the issues that he talked about, such as the selling of the warehouse and our retail facility at 50 Storrs Street. So, to answer your question, I do not know, but I will confer with the Governor's

office. But currently, as it is planned, the amendment that we are offering, does not address those issues.

Senator Bob Odell, D. 8: Okay. So we are talking about the modernization being in the purview of this bill, before the Senate Ways and Means Committee?

Commissioner Bodi: Correct. The loosening of agency restrictions is a subject matter that he talked about, but that was something that we had envisioned independently.

Senator Bob Odell, D. 8: I think if you could confer with him, and then when you report back, that would be helpful as a guideline as to how we go forward with the budget on one side, and this bill on the other side.

Commissioner Bodi: I will do so.

Senator Bob Odell, D. 8: Good. Other questions from Committee members? Senator Denley?

Senator William P. Denley, D. 3: Thank you. And thank you, Commissioner. Would any of the modernizations include any changes to the wholesale requirements on some of the licensees?

Commissioner Bodi: That's a good question, Senator. I am going to defer it to; I do not believe it does explicitly. Legislation does not explicitly, but we are examining that issue, that is as I understand there are rules required, Chief, currently, or would that change? Chief Eddie Edwards of our Enforcement Division.

Eddie Edwards, Chief Enforcement Division: No sir, it wouldn't. But there is a provision for the Commission to issue a special commission on licensing, to distribute some of the licenses in categories and those are the things that we are looking at; the food requirements and other requirements in the licensing category. That is in addressing in an indirect way in...

Senator Bob Odell, D. 8: Okay, Chief. Additional questions? Senator Janeway?

Senator Harold Janeway, D. 7: Sure. Thank you, Mr. Chair. I would think, to the extent that the Modernization Act can be the Modernization Act, and not get into the budgetary issues, it would be easier for all of us.

Senator Bob Odell, D. 8: Any other questions or opinions? If not, thank you very much, Commissioner and we will see you next month.

Commissioner Bodi: Thank you, Senators.

Senator Bob Odell, D. 8: I will now call on John Dumais from the New Hampshire Grocers Association. Good morning.

John Dumais: Good morning, Mr. Chairman, members of the Committee. For the record, my name is John Dumais. I am President/CEO of the New Hampshire Grocers Association. It represents the grocery stores in the State of New Hampshire from the large supermarkets to the small Mom and Pop stores, convenience stores and everything in between.

We are here today to support Commissioner Bodi's intent to modernize the Liquor Commission, but are opposed to this bill. One good has come out of this. This discussion has been going with this for some time, and we have been privileged to be part of some of that. Back last summer, when we were working on the wine discounts in grocery stores, Governor asked us that we try and work with the Commission on a collaborative basis to see if there is other ways we can improve the system and generate more revenue for the State. We took that as a sincere effort to go forward. In fact, Governor Lynch and Chairman Bodi had a meeting with us in the Governor's Council Chambers, and we had a round-table discussion with the affected licensees at that time, of what we could do to improve the system.

Our Association offered three/four different alternatives to raising, to reducing the discounts on wine. Unfortunately, in the final analysis, that didn't happen. And unfortunately, we have a lot of retailers today, the larger retailers are suffering from the reduced discounts. And we would hope that it does get sunsetted, and we would get it back to where it should be so that they can make a reasonable mark-up.

Just as a background, grocery stores traditionally, for the last forty years that I know about, have made a net profit - that means that at the end of the year, how much profit they can take home with them - of less than one percent. It's been better in the last couple of years. Now it is 1.25 percent, according to the Food Marketing Institute. So, it's getting a little bit better, but that's a penny on every dollar that we sell. That's not a lot of room. We can only do that if we cover our operating costs.

Operating costs in the food store in the best-run supermarkets like a Hannaford or Shop 'n Save or Stop & Shop, or DeMoulas, or any of the other Shaw's, any of the larger supermarkets; they're operating, break-even point

is somewhere between 20 and 22 percent. Maybe they get down to 18 percent in some cases, but they have to cover their costs by generating enough revenue for 18 to 22 percent. That is not counting the small Mom and Pop stores. I used to run a small Mom and Pop store, and I can tell you, they run much less efficiently. They don't have the equipment, they don't have the resources to modernize and be streamlined. So they run it at a much higher operating cost than that. So that's why we're so concerned about a net profit, a gross profit, operating area of about 25 percent. We think that is appropriate. For the last 20 years, we've been selling the wine at 20 percent, and that's getting us by. We're still in that range of breaking even. However, if it gets reduced from that, then we have a concern. But that's not what we are talking about with this particular Modernization Act. I just wanted to use that as background.

Commissioner Bodi asked us to develop a study of what we thought would be appropriate to do for modernization of agency stores, if you want to call it agency stores. And we did that. We took the effort sincerely. We had a committee of taskforce that we put together of retail wine buyers from five major areas. We took some, the major chains, we took some independent store operators, and we took some small Mom and Pop wine shops, and they were on this taskforce to come up with some answers for it. We did develop that study and I would like to pass these out and have you review these at some point in the future. I won't get into hours and certainly welcome, answer any questions later on that you might have about that, and I appreciate an opportunity to come back, maybe March 3rd, and explore any of your questions more thoroughly on that area.

Attachment # 2: Study "A Responsible New Hampshire Approach To Increasing Spirit Sales, Customer Satisfaction and State Revenues", submitted by John Dumais, New Hampshire Grocers Association.

Our primary concern, I think, that we have with this, evolves around the agency store concept. Under the Modernization Act, it makes it very difficult to have a level playing field. And so we think this is more of a discrimination act than a modernization act, as far as liquor stores go. We see this as the opportunity where the Liquor Commission can close probably 17 to 20 of their stores that are underperforming. That means they're not generating enough revenue in their own course. And that is probably true in some cases. And it is very bold of the Chairman and the Liquor Commission to come forward and say, these are underperforming stores, we should close those, that is very appropriate. But now they want to, maybe, shift that to a grocery store. But they don't want to do it fairly. They want to do it on a pick-and-choose basis. There is concern about maybe having too much volume being sold, so we don't want to give it to a Costco or a large supermarket operation. Why would that

be a problem if it is generating more revenue for the State? Why is that a problem? We don't understand that.

Or, on the other hand, maybe we don't want to give it to a small inner-city ethnic convenience store, because they may not abide by the rules. Well, let me tell you. Chief Edwards does a very good job in enforcement, and we have come into better compliance than we ever have in the past. He tells us that we are one of the best compliances in the country, and some is solely because of his efforts, we are getting there. So, why ditch those individuals that are not doing that as well?

The purpose, as we understand from the modernization study, is to allocate maybe one license to replace one liquor store. Well, how do you do that? Think of your town, you have some supermarkets in your town or in your District, and you have some convenience stores, and you have some Mom and Pops. But only one of them is going to get a license. Who do you decide gets the license? And why is that fair?

Since 1933, every grocery store has been able to sell beer. Since 1978, every store has been able to sell wine. And shortly after that, every store was able to sell table wines. Without restriction, everyone was allowed to have the ability to apply for the license and get a license, unless they were, something really wrong, like they were a federal criminal, as was mentioned, or there were some other reasons why they shouldn't be. But for the most part, if you were a good entrepreneur and you were trying to do the right thing, you were allowed to have a license. And we think it is only fair that every retailer who's been responsible in selling beer and wine, should have the ability to sell spirits as well.

There is another barrier though, that when it comes to this, beyond having the Commission determine what's one store gets a license in one community, if it is in one community, is the entry fee. There is a \$500 background check. Well, I've been in business for 10 years; you already know everything there is about me. You know how I operate with beer and wine, so I don't understand the reason for an assessment fee of \$500. To me, that is just an extra kick to get us started off, that's fine.

The bigger issue is that there is a \$1,000 per year, per register license fee. So, if I'm a Shaw's supermarket, and I have 20 registers, my annual license fee is going to be \$20,000 for that store. That doesn't make sense. Not when the next step comes in where we may not get a good discount, and that hasn't been determined yet, of how much discount we get. That's how much from the regular retail price that the Liquor Commission sells the product for without special in the liquor store; they reduce that down and that becomes our

wholesale price for the grocery store. That hasn't been determined, but if it's like the wine is right now; for the larger stores, that is 15 percent, but it could be 10 percent. Again, our break-even point is 20 percent, average of 20 percent.

And then there is some discussion that I heard, and I haven't this from Chairman Bodi at all, but, my understanding is that there may be some cap on the high side, so there is no price gouging to the consumer. Well, again, I don't see price gouging, this is not a product you have to have, it's not like milk or bread, or something of that nature. I don't understand why there should be some cap on the high side, but if you cap it pretty close to what the retail price is in the liquor store, so that we, you know, we can't go much higher than that, and you don't have a very low wholesale price; you got a very slim margin between. And that doesn't make sense.

Yes, we have three agency stores in the State today, and they make an eight percent margin. Now that is not enough to handle it, and if you ask anyone, they'll tell you that's not enough to handle it, except that they are in very isolated areas, no other liquor stores are nearby. They're on the border, one is in the border to Massachusetts, which is a goldmine where he is; and the other two are at the Canadian border, which is a goldmine where it is, because there is nothing else in that whole area. Is it a draw? Absolutely, it is a draw to that store to buy cigarettes and tobacco, and bread and milk, and everything else they do. But if you start doing that same type of concept in, at other parts around the State, you're not going to have much, many retailers wanting to participate in that. We think that in total that means we could have some promise with it. Now, again, we're still in discussion with the Liquor Commission, and I've got to really say that I really appreciate everything they've done for us, and listening to us. They've had several discussions with us, and Chairman Bodi especially, has been very amiable in working with us, and has given us his word that he wants to work forward with it. If the amendment is coming in, if what we have heard may change a lot of this; then, then, we may change our tune as to what we think about the bill. But right now, this is not a good bill, it is not good for the State, and it is not for retailers. It creates an unbalanced playing field where you are going to have some retailers benefiting at the expense of others if they can. But in any case, it is not going to help the retailers.

I live in Antrim and I have chain stores, I have convenience stores around me. It is a rural area, and there is one liquor store there. We started out promoting having more grocery stores have access to spirits, because most of the rural liquor stores are closed at five or six o'clock at night. They are not open Sundays, and they are not open on holidays. Where I am is a vacation area where we have a lot of out-of-state people come and have second homes

in that area. If they drive up on a Friday night, they can't buy it Friday night. They could buy it during the day on Friday, but they can't buy it after six o'clock on a Saturday night, they can't buy it all day Sunday, and if it's the Fourth of July or a holiday, they can't buy it on a holiday. They're missing some real opportunities there. And so what we wanted to do from the beginning, is not eliminate any liquor stores. That has never been our intent. Our intent was to complement the liquor stores with grocery stores. There is a Rite Aid pharmacy, there is an Irving gas station, now a Circle K, and there is Shaw's supermarket, all within a quarter mile of that liquor store in my community. And all of them are open all weekends, all holidays, 'til 11 o'clock at night. The opportunities would be there to generate a lot more for the State. And so that was one of the premises we had in our program for this.

We would hope that this does get postponed and you do look at our study. We do hope that the Liquor Commission will continue to look at it and look upon our efforts favorably. We think we have some substantial opportunities to help the State out with proper controls. We need the enforcement from Chief Edwards, we need to have restrictions. We understand that, and we've worked with that on the beer and wine, but we also think that it has to be fair and open, that all retailers who want to sell it, can sell it. I'll take any questions you may have.

Senator Bob Odell, D. 8: Any questions for Mr. Dumais? Seeing none, thank you very much and you will be back next month, I assume?

Mr. Dumais: I will.

Senator Bob Odell, D. 8: All right. Thank you very much. I think we've got five additional, Committee members, five additional people who have indicated they would like to speak, just so that you can gauge your time. I don't think we'll go into executive session today, unless there is a demand, but I would like a couple of minutes to talk about scheduling this for the next few weeks if we could at the conclusion. Louisa Spencer has indicated yes and indicated no with a question mark in between. Your choice.

Louisa Spencer, Farnum Hill Ciders: I did. I thought I would say hello, because one of the only things that I...I have very few distinct understandings about this bill, because itself has not taken on a distinct shape; but I would like to represent the landowning orchards, the extensive orchards that are left in the State of which there are few; who have, are going into the cider business.

We are Farnum Hill Ciders, and we have benefited greatly from our current relationship with the Liquor Commission. Before that, we only went to the

independent wine shops, and you know, we've got a sales force of one and a half people on a good day. We cannot perform the tasks that the Liquor Commission... Big stores depend so much on their vendors; to support with the feather dusters and sticking up little signs and everything. All that merchandising generally is done from the outside, and we do a lot of begging and pleading and schmoozing and we're very happy to do it within our powers.

What I'm working around to though, is that the people who are starting land-based; local, fun, pleasurable, elegant New Hampshire products, can't get trampled in this thing. Because I know you're not allowed to incubate in state businesses, but it would be very dangerous to concentrate so narrowly on revenue and on dealing with highly efficient liquor distributors and vendors and so on, that we get burdened even more heavily than we are. And that's, and also, we do have kind of a travel- and tourism value, because a lot of us pull people into the state from out-of-state. I know this is a diffuse set of remarks, but it's intended to sort of provide a little background. There is something happening that is going to be bigger in the future. For those of us who profoundly understand the landscape of New Hampshire and know how to make it produce things that can only be found here, and command a concomitant price. We're still here and we're really hoping that, you know, our little squeaks and groans will be understood as constructive, as this process goes forward.

Senator Bob Odell, D. 8: Thank you very much.

Ms. Spencer: Thank you.

Senator Bob Odell, D. 8: Any questions? Seeing none, thank you. I call on Bob Dabrowski, from Candia Vineyards. I apologize on the name. Good morning.

Bob Dabrowski: Thank you very much. Should I pass out, I've got some... Hi, I'm Bob Dabrowski. I'm the owner and winemaker at Candia Vineyards, a very small operation in Candia.

I want to make my testimony brief. You've already heard some of the comments, specifically on paragraphs 14 and 20, as they relate to notice to the Commission; the 10-day notice, that is very burdensome. As Peter had stated earlier, that would be quite difficult. Sometimes we do get calls from interested restaurants or smaller retailers. If we are driving in an area, we wouldn't have 10-day notice, so that would, in my case, that would put me back out on the road, because I'm the only person on the road from my small

operation. So that would be, since I don't have a staff, for me particularly, that would be very burdensome.

In the testimony that's going around, I really just requested a couple of changes, specifically adding the words "Commissions", "designated warehouse" or "domestic winery inventory".

Attachments #s 3+4: Paragraph 14 and 20, concerns and suggestions, submitted by Bob Dabrowski, owner and winemaker at Candia Vineyards.

And again, it gets back to the issue of, I can't physically go to the Commission to buy my liquor, buy my wines. 70 percent of them, at least, are not carried. So, it's not even physically possible for me to buy the liquor or the wines rather, to bring to a small restaurant or a tasting or a charity event. I really pull paragraphs 14 and 20 together; very substantially the same wording. My change is actually with them being identical, and I ask that we strip out the 10-day notice period.

The other thing I would like to address is the cost. The cost to me, being a small operator, for instance, paragraph 14, you know, my tax impact a year is about \$40. And certainly, I'm not fighting dollars, that's fine. But, as this legislation comes forward, I estimate my cost of meeting it, is about \$650 a year. That's a lot of money to spend to be compliant with the \$40 tax that I'm going to have to pay. Again, I have no issue with paying \$40. If this wording didn't work, I would more than back-entertain, just adding a \$50 fee for me for the year. I'd pay it right up front, and dispense with it, and be done with it, and that would save, obviously a lot of paperwork, hassle and everything else. But again, it's not just the tax, it's really the kind of infrastructure, me chasing wine or attending notice, the filing and all the paper work. It's quite a lot of expense as this is currently written, and those are my concerns.

As far as the rest of the bill, I'm for it, I don't have any major issues on it.

Senator Bob Odell, D. 8: Thank you very much, Mr. Dabrowski. Any questions? Seeing none, thank you for being here today. I'll call on Tricia Lucas, from New Futures. Good afternoon.

Tricia Lucas, Esq.: Yes, it is. Good afternoon. Chairman Odell, members of the Committee, my name is Tricia Lucas. I am Policy Director for New Futures. New Futures is a non-partisan, nonprofit organization, advocacy organization, working to reduce underage alcohol problems and increase access to treatment for substance abuse within the State. And I wasn't as creative as you were in suggesting that I was not in, I was both opposed, not

opposed, uncertain, so I have the opportunity, I am grateful for the opportunity to share the concerns that I have about the bill.

In so doing though, and at the outset of this, of my remarks, I want to make sure that the Committee is aware that New Futures has and is grateful for a very positive working relationship with the Liquor Commission, particularly around issues of underage alcohol. They assist with our trainings, they assist by providing us information as we need it, to work with our policy work, to do our policy work, and I wouldn't want any of my remarks about the bill to be interpreted by the Committee as anything critical of the Commission and its leadership. So I wanted to make sure that you were aware of that as my start.

I'm going to put my remarks into four different categories related to the bill, and I'll refer you to specific lines when I do that.

Advertising, regulatory authority: the agency store issue and then any potential impact that this bill might have on the funding of the alcohol abuse, prevention, and treatment fund.

Advertising to start with: in this bill there are - and Commissioner Bodi alluded to this in his remarks - this bill does several things with regard to advertising. In section 21 of the bill, which is on page seven. The first thing that it does, on page seven, line 32, is to expressly allow advertising by on-premise and off-premise's licensees to advertise their prices. I'm not aware of any limitations on that, beyond public health and safety. To the extent that, for the underage perspective, increased exposure to advertising is clearly documented as a risk to underage youth. It is involved in early onset of alcohol use and kids who are more exposed to alcohol advertising, tend to drink more and drink more heavily. So that blanket authorization is of some concern to us.

Of greater concern to New Futures, is the material at the very top of page eight, which repeals all advertising restrictions on happy hour. Happy hours are those periods of time for on-premise licensees where they offer alcohol at reduced prices. I will remind the Senate that last session, the Senate heard and killed HB 1197, which did exactly what this does. That bill was heard in Commerce. The vote to ITL that bill was 6-0, and it was killed on the floor of the Senate by a voice vote. The people who testified in opposition to that bill were local law enforcement, the Liquor Commission itself, Public Health, and a number of youth groups. I was remembering, Senator Reynolds, that I think you sat on Commerce then, and the testimony from Dover Youth to Youth was quite impressive. So I flag that as an issue that's important to us.

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With regard to regulatory authority, having not heard the Commission present on this bill, I am not clear about the consequences of the language to which I am going to refer. But I would point you to section 12 of the bill, which is on page four, which is the section that adds a provision with regard to conditional licensure. And again, having spoken to the Commission about this material, but I flag as authority, in line 19, language that talks about, I'm quoting now: "The Commission may suspend or modify any licensing requirement established under title XIII". As I read that, even as a recovering attorney, I would tell you that that language, even inserted where it is, is so incredibly broad, that it would allow, if you were asking me as a lawyer, what you could do with that. You could drive a truck through that. And so, to the extent that New Futures' concern is that the Liquor Commission appropriately balance its responsibilities to maximize the profits from the sale of alcohol, while at the same time maintaining proper control, language like that, that would allow them to suspend any type of regulation, would mean that all of your regulatory statutes and rules are subject to suspension, and that's a concern.

With regard to expansion of agency stores, again, we're waiting for whatever the plan is; and we've heard Commissioner Bodi talk about his desire not to dramatically expand the number of agency stores, but we're also aware, and Mr. Dumais was very clear about the desire of the Grocers Association, and to the extent that, one possible solution is the Grocers Association's proposal, which would issue a thousand licenses for the expansion of access to spirits. As an entity that advocates for reduction of underage alcohol problems, I have to make sure you understand that these are high-risk products for underage youth. They are significantly exposed to advertising, advertising for spirits has dramatically increased on the internet and on cable television, and these products are increasingly becoming products of choice for underage youth, because you can camouflage their high alcohol content. You can camouflage their taste with sodas, fruit juices. To the extent that those products are sold in state stores, they are subject to fairly significant control. To the extent that they could be sold in a thousand different Mom and Pop and grocery stores without that level of control, is of significant concern to us. And the analogy that I would use, that when tobacco products became sold in stores, they, you can't pick them off the shelves; you have to have the sales associate reach them for you, because of the risk that they present.

And then my final set of remarks relate to the Alcohol Fund. The Alcohol Abuse, Prevention and Treatment Fund was created in 2000 when it was decided that a portion of the profits from the sale of liquor would be placed in a, deposited into a dedicated fund, to be used to support local community-based alcohol prevention and treatment. Were the funding manner of the Liquor Commission, whether by way of an enterprise fund or some version of

that, to change, it could have an impact on the way the Alcohol Fund is funded. As so I would like to pay attention to that, as you look at a subsequent amendment. I would also like to point out, because this is the Committee that heard last week's SB 146. The interesting inconsistency, from my perspective anyway, of a desire to modernize the operations of the Liquor Commission, so that it can more effectively market and sell alcohol and increase its profits; and at the same time, and that was very clear, not only in Commissioner Bodi's remarks, but in Governor Lynch's budget message, while at the same time, reducing the funding for the Alcohol Fund by 30 percent in the Governor's budget. That remains an issue for us. It was part of my discussion with the Committee last week on SB 146.

So, those are, those are the points that I would like to make with you today. So thank you very much for your time.

Attachment # 5: Testimony submitted by Attorney Tricia Lucas from New Futures.

Senator Bob Odell, D. 8: Thank you, Ms. Lucas. Questions? Seeing none, thank you very much. I call on Carol Martel from the Wine Institute, who is here to speak in favor of the bill.

Carol Martel: Good afternoon, Senator.

Senator Bob Odell, D. 8: Good afternoon.

Ms. Martel: Members of the Committee, my name is Carol Martel. I'm from the Northeastern Council of the Wine Institute. Wine Institute is here today to offer overwhelming support for the idea of modernizing the Liquor Commission.

I'm here specifically to address, very briefly, section 15 of the bill, which begins on page five, line seven. We have been working with the Liquor Commission and Chief Edwards for several months to come up with the language that you see, most of the language that you see before you. It is my understanding that the Commission is coming in with an amendment that will address the last of our concerns regarding reporting, and so I expect I'll see that at the next hearing. With that, I'll leave you with our qualified support for section 15, and be happy to answer any questions you might have.

Senator Bob Odell, D. 8: Thank you very much. Any questions from the Committee members?

Ms. Martel: Thank you.

Senator Bob Odell, D. 8: Seeing none, thank you. Frank Reinhold has signed in opposed to the bill, but does not wish to speak. Mike Somers is here to speak in opposition.

Mike Somers: Thank you, Mr. Chairman, members of the Committee. I signed in in opposition, but I would like to kind of quantify that. I think that the Chairman Bodi's overall concept of modernizing the Liquor Commission we welcome, and support it in concept, but we have some concerns with a couple of minor points. I'll cover those points briefly and be happy to answer any questions.

Currently, in law, the way it's written, if a restaurant or...

Senator Bob Odell, D. 8: We need you to identify yourself.

Mr. Somers: I'm sorry. Mike Somers, President/CEO of the New Hampshire Lodging and Restaurant Association.

Senator Bob Odell, D. 8: Thank you. I'm sorry to interrupt.

Mr. Somers: No problem. Currently, the way the law is written, licences need to purchase their supplies from either a state liquor store, or from a warehouse. With Chairman Bodi's general plan to close potentially some liquor stores, and potentially institute some agency licences in those areas, the concern is that making sure that there is a change in the law that addresses that, so that licensees would then be able to purchase from agency stores. We ought to procure supplies, without adding any hardship to those operators.

For advertising, the advertising piece that is in this bill, we have a concern in some of the language, and again, I should also say that if there is a large and sweeping amendment to this, perhaps a lot of these concerns are already addressed, but I figure I'd go on the record. The language is actually on page seven, and I'll read it. It says that the Commission, line 35, at its discretion: "Any violation of title XIII by a licensee shall authorize the commission at its discretion to suspend the advertising and promotion of happy hours or regulate drink prices charged by the licensee". The concern is to what degree can the Commission now dictate what licensees can charge for their products, and I hope that in the amendment there will be some clarification of that statement.

If I could then also speak to the safe harbor clause which is on page seven also, starting on line three: "Sales to Intoxicated Person". Our concern here is

really the clarification, the standard size serving of a drink. As it's written currently in this bill, it says an ounce and a half of distilled spirits or liquor, which for most people, eliminates pretty much all martinis, manhattans, etc. which would be served in a licensed establishment; and it also mentions four ounces of wine, which most restaurant operators, it's a five or six ounce pour. The concern here is that, if this is a safe harbor clause, and if by meeting these requirements, there is a certain defense before/after violation, that the standard is set so high, that most operators wouldn't be able to, necessarily meet it, just based on their standard operating procedures.

And I would say that is the extent of my remarks.

Senator Bob Odell, D. 8: Thank you very much. Any questions from the Committee members? Seeing none, thank you very much.

Mr. Somers: Thank you.

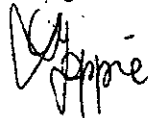
Senator Bob Odell, D. 8: Stephen Gorski, signed in in opposition, but does not wish to speak. He represents the AGWE, I'm not sure what that...

Stephen Gorski: AGWE, Associated Grocers.

Senator Bob Odell, D. 8: Oh okay. Tim Merrill, from the Associated Grocers, has signed in in opposition, but does not wish to speak. Jay Rainville from Market Basket, signed in in opposition, but does not wish to speak. Greg Gorski from Bristol Shop 'n Save, signed in in opposition, but does not wish to speak. With that, we concluded the individuals who signed in to speak, and I'll go ahead and recess the Senate hearing on SB 181.

Hearing recessed at 12:28 p.m.

Respectfully submitted,



Laurette Joppie
Senate Secretary
02/27/09

5 Attachments

Comments on ¶14-

The 10 day reporting requirement places an unreasonable administrative burden on both the winery and the SLC, and is a deterrent to supporting charitable events and should be deleted. The pertinent information would be included in the monthly excise report required by RSA 178:8 IV.

Since many of the wines to be donated by the domestic manufactures are not listed or stocked by the SLC, a more reasonable and workable solution is suggested.

RSA 178:26 referenced at the end of this amendment does not seem relevant.

¶14 New Subparagraph; One Day Licenses; Donations to Nonprofit Organizations. Amend RSA 178:22, V(1) by inserting after subparagraph (4) the following new subparagraph:

[deletions]

Additions in Bold

(5) Manufacturers, wholesale distributors, or wine and liquor vendors or their salespersons may donate their products to any nonprofit organization with a one-day license issued by the commission. [The division of enforcement and licensing shall be notified 10 days prior to any donation under this subparagraph. The notification shall include the amount and type of products, licensee or organization, and vendor's or salesperson's name.] All liquor or wine donated **by wholesale distributors, or wine and liquor vendors** under this subparagraph shall be purchased from the commission. **All wine donated by domestic manufacturers must be taken from existing stock at the winery and shall be considered retail sales for the purposes of RSA 178:8 IV.** The commission may in its discretion fix either generally or specially the discount percentage for this purpose. If the commission determines that revenues are being diverted, the commission may take such action it deems necessary, including sanctions against any manufacturers, wholesale distributors, or wine and liquor vendors or their salespersons. All beverage furnished as donations shall be considered sales for purposes of RSA 178:26.



A Responsible New Hampshire Approach To Increasing Spirit Sales, Customer Satisfaction and State Revenues

Presented by



Executive Summary

New Hampshire Grocers Association (NHGA) has long held the belief that alcoholic beverages are best presented to the consumers as an accompaniment to food rather than being focused solely on the product. It is one of the factors in encouraging responsible consumption. This concept has been NHGA's focus since grocers were first allowed to sell table wines and later fortified wines. It is our belief that selling spirits in a similar manner would be a natural extension to responsible consumption. The State of New Hampshire is facing some substantial deficits in the coming year and for the Biennium. Through discussions with the Governor, the Chairman of the New Hampshire Liquor Commission and several elected officials, expanding the sale of Spirits to grocers, currently holding a 'Combination License' for alcoholic beverages, could be beneficial to the State. As requested, NHGA established a six-member task force, which was representative of all off-premise licensees. The following information was assembled over several months and today represents the opinion of NHGA and its collective membership.

Title XIII, Chapter 176, Section 176:3 states the primary duties of the Liquor Commission shall be to:

I. Optimize the profitability of the commission

It is our belief that substantial additional revenue could be realized by the addition of more hours, and more outlets. The estimated increases would come from four segments and could generate over \$16.3M in additional net State revenue (based on 1,000 licenses).

- a. Licensing fees for Spirit sales.....\$ 290,000.
- b. Initial stocking of inventory\$ 3,700,000.
- c. Increase in annual sales.....\$ 11,310,000.
- d. Increased revenue from added volume of warehouse fees.....\$ 1,000,000.

An additional \$7.5M to \$12.5M could be realized by closing under performing State Stores

II. Maintain proper controls

An underlying concern for the sale of any age-restricted product is to minimize the access to products by minors. While enforcement and compliance efforts have been effective on other products, NHGA believes increased efforts should include:

- a. Mandatory Training for all Persons-in-charge (Store Manager).
- b. Clerks, cashiers and other employees should remain at current age levels.
- c. More focus on education and enforcement of adults giving age-restricted products to minors.

III. Assume responsibility for the effective and efficient operation of the commission

The most effective and efficient action by the commission would be accomplished by the following procedures:

- a. Focus on wholesaling which is the most profitable division of the Commission
- b. Enhance better performing State Stores with case promotions
- c. Encourage Food Stores to promote any alcoholic beverage as an accompaniment to food
- d. Coordinate theme promotions with restaurants, food stores and State stores

IV. Provide service to the customers of the commission, pursuant to this title

For Grocers:

- a. Reverse wine discounts to larger retailers back to the 20% level
- b. Offer incentives for tie-in food promotions (pallet displays).
- c. Minimize out-of stock products

For Consumers:

- a. Provide more locations, greater hours and increased selection of products
- b. Maintain competitive advantage in pricing compared to surrounding states

It is our belief that the proposed program will meet those objectives, only if the following basic premises are fully implemented.

1. **Completely open licensing for any food store, currently allowed selling beer and wine products.**
2. **Maintain a reasonable wholesale discount. Trends show 20% narrowly covers operating costs.**
3. **Have a reasonable license fee, similar to the current structure for beer and wine licenses.**
4. **Allow spirit sales to be sold during the same hours (and days) that beer and wine are sold.**
5. **Allow all products the SLC currently sells in their stores to be sold in food stores.**
6. **Food stores seek to work in conjunction with Liquor Stores. It is our belief that private enterprise can supplement liquor stores in locations and hours not available in State stores, thus assisting adult consumers within the state and in particular cross-border tourist.**

Historical Information

In 1933, when National Prohibition was repealed by the Twenty-First Amendment, grocers in New Hampshire organized into an association to insure that the selling of malt beverages would be uniformly available to all retailers. Since that time, New Hampshire Grocers Association (NHGA) has come to represent all store formats from the smallest independent operators to the largest chain operations. On numerous commodity issues, NHGA has always sought a 'level playing field' which all members subscribe to. It was for this very reason, that in 1978, when table wines were allowed to be sold in food stores, all off-premise licensees were allowed to participate in the program. The same was true in 2003 when fortified wines were also allowed to be sold in food stores. In both incidences, these wine sales were in addition to existing state-run Liquor store sales. Together these outlets increased state revenues without the loss of any state-run stores closing. NHGA believes that the same should hold true for Spirit sales.

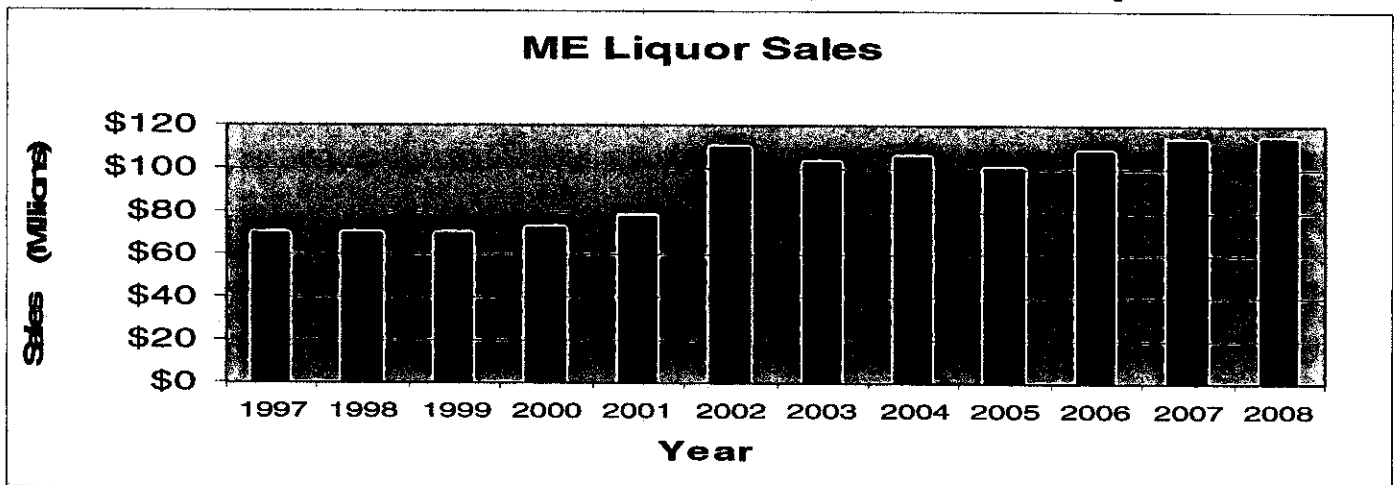
Today, New Hampshire is one of 18 alcohol controlled states. New Hampshire has demonstrated, along with five other controlled states, the benefits of expanding the number of outlets beyond state-controlled stores.

Six states have expanded wine sales through deregulation with an average increase of 49 percent:

- Iowa (1985) +92%
- Montana (1979) +75%
- W. Virginia (1981) +48%
- Alabama (1980) +42%
- Washington (1969) +26%
- New Hampshire (1978) +13%

While NHGA does not advocate eliminating state-controlled liquor stores, the recent example of neighboring state of Maine points out the dynamics of increasing the number of locations where controlled products are sold. Although still heavily regulated, **Maine's total Wine and Spirit sales have increased 37% in the 6 years since deregulation in 2002.** Unfortunately, Sales would have been substantially higher if open licensing and higher profit margins were allowed. In addition, there may be some benefits associated with closing several under-performing New Hampshire stores, which this study does not address fully.

Impact on the State of Maine Closing State-Run Liquor Stores



Marketing Objectives

Maximize Gains –Win/Win It is our belief that based on food and beverage industry trends, adding 1,000 additional food stores selling Spirits, will complement current State retail operations. The State's highest-traffic and highest-volume State Stores will continue marketing and selling aggressively at existing levels, while some of the marginal and far-less-profitable stores will have the option of being replaced by many grocery stores. The State could shed the overhead and gain 1,000 new locations without any new overhead for them

An inherent portion of this proposed program is to ensure that any change in the marketing Spirits sold in New Hampshire will not substantially affect the existing State-run Liquor and Wine Outlet Stores. Out-of-State and tourist consumers will still gravitate primarily to the conveniently located highway and border stores during travel. The largest market shares of retail Spirit sales will still be controlled by the State Stores' "Outlet" bargains and selections for which they are famous. The State Stores will retain even their existing in-state clientele through their state-wide selections and focused promotions. The primary in-state change in State Store sales is believed to be (1) the "transfer" of sales to grocers if the State opts to close any location; (2) the "transfer" of sales to grocers in rural areas where the existing presence of grocers exists in multiples over the nearest location of a State Store; and (3) new sales to both out-of-state and in-state grocery customers as a matter of integration into their normal grocery purchasing habits at stores

As noted below, we estimate a possible transfer of \$15M to \$25M in retail Spirit sales from State Stores to food stores; at its highest level, this amounts to less than \$7.9M in actual gross revenue; but even less in net state revenue after operating costs are subtracted. **The offset is an estimated \$16.3M in new net revenue to the State from licensing, warehousing revenues and sale of spirits to grocers.** With the addition of these 1,000 more food stores selling Spirits, the New Hampshire's Liquor Commission would be perceived as controlling an aggressive business that includes the private sector.

Cross-border Sales New Hampshire is uniquely qualified to take advantage of non-resident consumer buying trends. Its heritage of no sales tax and low commodity taxes or fees signifies lower retail prices. The Liquor Commission in particular has done an outstanding job of promoting sales out of state. Likewise, New Hampshire food stores have historically generated more sales per capita in all store categories due to this low price perception. **Historical studies suggest over 40% of all food and related sales are sold to out-of-state customers.** It is also a well-known fact that when an out of state traveler arrives in New Hampshire, they purchase more than just one commodity. This is especially true in the food store where the marketing is focused on impulse purchases. In many cases, these added purchases are taxed by the State, such as meals, gasoline, beer, wine, and tobacco and lottery tickets. The state may also benefit from these same consumers for overnight rooms or restaurant type meals. **In all cases, success in cross-border sales is more dependent on accessibility and convenience, than it is for in-state consumers.**

Spirit sales in New Hampshire are affected by two factors. First, is the limited number of outlets (**77 state-run stores** and three private agency stores); and the limited hours they are open (**estimated to be open only 4,646.5 store-hours per week**). In contrast, the original estimate of **1,000 stores selling spirits would equal 115,500 store-hours per week.** (1,000 stores x average of 16.5 hours per day x 7 days equals = 115,500 per week) This difference in hours is particularly notable in the State-run stores during the evening hours, Sundays and holidays when a majority of them are closed.

Formats It might seem easy to believe that the larger number of food store units and their extended hours of operations would highly affect existing State-run stores sales. Under normal circumstance that could be true. In New Hampshire, however, State-run stores remain unlike food stores and they serve a specific and separate clientele. State-run stores have traditionally focused on the consumer who is looking for a one-stop location to purchase high volumes of products. This was most notable during the success of the recent 2008 "Case Load Sale" promotion. In addition, the Liquor Commission has focused on heavily supported supplier discounts, gift packs and high end specialty packages. Food stores, on the other hand, have traditionally encouraged the consumption of alcoholic beverages as part of a planned meal. To that end, most of these beverages purchased in food stores are impulse items usually sold as single bottles.

Profitability This study recommends food stores receive a 20% reduction in the retail price of Spirits to determine the grocers wholesale purchase price. Similar to wine wholesale costs, this is a reasonable expectation. This would allow food stores, with a 25% mark-up to remain in line with State-run store pricing, which is a reasonable expectation. Historically, according to the Food Marketing Institute, the most efficiently run food stores generate slightly more than 1.5% net profit. A majority of New Hampshire stores realize even less profit. Today the average gross margin, break-even point is 18% to 22%.

Therefore a 25% mark-up on the sale of wine or spirits is not unreasonable. Additionally, a reasonable profit will lead to increased shelf allocation and greater food tie-in promotions, thus achieving the revenues listed above.

Variety Throughout this study, it has been assumed that all Spirit products currently sold in state-run stores would be available for wholesale purchase by food stores; as is the case currently with table and fortified wines which are sold jointly in both formats. Convenience for the consumer dictates that all products should be available in all locations.

Number of stores It has been indicated that the success of this venture can only be achieved with all current food stores holding Combination Licenses being allowed to the same privilege of selling spirits. Since the implementation of food stores selling wine on August 6, 1978, licensing has been available to all size stores equally. **Segmenting the industry by allowing some to sell Spirits while others cannot is discriminatory which creates an unfair competitive advantage.** NHGA and its membership strongly believe the only way this program will work is by allowing all food stores the same opportunity to compete.

Franchising Several individuals have equated this proposal of dual retailing to franchising. A recent article by Jim Cohen, Executive Director of the New England Franchise Association (NEFA) explains the drawbacks and benefits:

The issue really comes down to how much protection a franchisee needs to ensure that their business is not being encroached on unfairly by another unit using the same brand and operating system.

What makes this issue so difficult is that there are two schools of thought coming into play. One argument is based on the idea of trying to maximize the performance of the individual unit. The counter argument is based on the concept of maximizing total market share for the brand in order to maximize the performance of all the units in the franchise system.

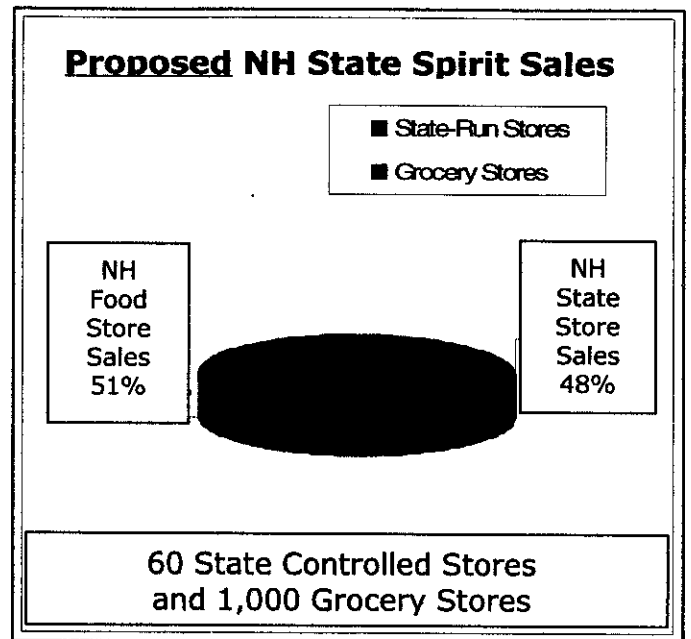
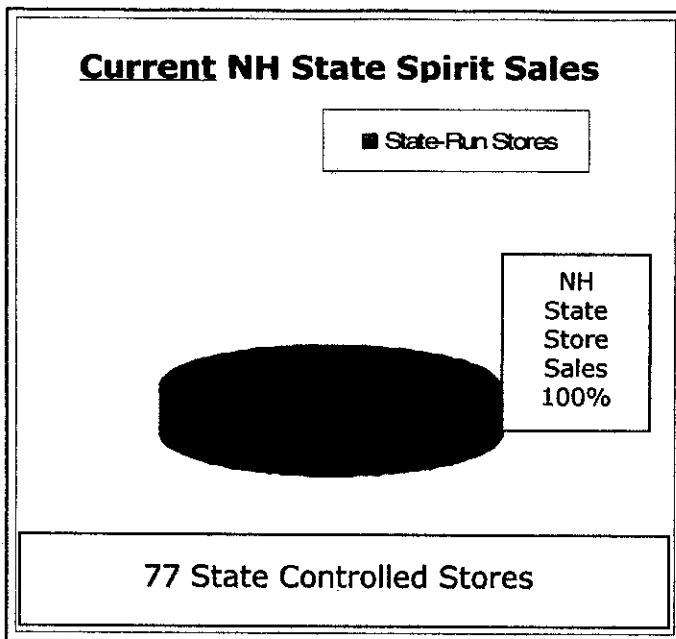
Most new or prospective franchisees intuitively believe that the first argument makes the most sense and that they should try to get the biggest protected territory possible. What's interesting is that virtually all of the most successful franchise systems follow the second line of logic in building their chain. Their reasoning follows the following points:

- Since convenience is a large determinant of shopping choices for consumers, the greater the number of points of distribution (units) a franchise chain has, the greater the convenience to the consumer, and therefore the more total sales volume that will be done by all units in the aggregate.
- Since the available marketing dollars for promoting the system to consumers are based on a percentage of total system sales, the greater the aggregate volume, the greater the marketing dollars available to promote the brand.
- Since advertising expenditures (for most franchises) are the largest determinant of sales growth, the larger the advertising expenditure, the higher the growth rate of aggregate sales volume.
- Maximizing total aggregate sales volume creates a rising tide that lifts all boats—in this case, individual franchise units are the boats.

It's sometimes hard to buy this argument in theory, but the facts are most convincing. In almost all the successful franchise chains in the United States, there is a direct correlation between the markets with the highest density of units and the markets with the highest average unit volumes. In other words, the greater the number of units in a market, the more successful each individual unit is.

There is no question that when a new unit opens close to an existing unit, there will almost certainly be some cannibalization of customers from the existing unit to the new one. Customers go to where the shopping is most convenient. The dynamic that causes average unit volumes to increase is that the inflation of the marketing budgets causes the overall demand for the brand to increase faster than the transfer of customers due to proximity issues.

Wholesaling In its capacity, the New Hampshire State Liquor Commission (SLC) regulates the manufacture, possession, sale, consumption, importation, use, storage, transportation, and delivery of wine, spirits, and malt or brewed beverages in New Hampshire. One of the greatest assets of the SLC is its wholesaling activity. It arguably is the most profitable (net return) divisions of the agency. Expanding the wholesaling of Spirits to the existing base of beer and wine retailers, will maximize its revenue potential.



Financial Objectives

NHGA believes it would be reasonable to assume the State-run stores would lose some of their current volume due to the numerous food stores. In addition, The Commission has indicated the possibility of closing under performing State stores. Under these scenarios, the following assumptions can be made:

1. The State currently operates 77 Liquor and Wine Outlets. If some of these were closed, it would reduce total operating costs, which is not calculated in this study, but would be realized as an additional savings to the State. As a rough estimate, by eliminating the lowest traffic State-run stores, the State might transfer between \$15M and \$25M in Spirit sales to neighboring grocery stores and probably produce sales gains as well as savings. Another part of this "transfer" estimate is allocated to grocers in populated areas. Grocers located near large State-run stores, who offer "grocer convenience", will naturally attract numerous single bottle purchases as well.
2. Approximately 1,100 food stores currently hold "Combination" (Beer and Wine) licenses. It would be reasonable to assume that not all food stores would apply for an additional 'Spirits' License, understanding that the additional License cost (proposed to be between \$200 to \$500 per store), plus the total cost of Spirit inventory, would be substantially higher than that for beer and wine. Given this scenario, we have estimate that 10% of the eligible food stores would not participate.
3. Expected revenues generated from food store sales of Spirits can be based on a range of revenue gained from a) license fees; b) initial stocking of inventory; c) annual sales and d) warehouse fee. This can be further broken down into large and small store formats as follows:

a) Licensing fees for Spirit Sales

300 Large Stores @ \$500 each = \$.15M

700 Small Stores @ \$200 each = \$.14M

Average Total Sales = **\$.29M**

b) Initial stocking of inventory*

300 Large Stores @ (\$50K inventory) each = \$15M

700 Small Stores @ (\$20K inventory) each = \$14M

Average Total Sales = **\$29M**

*Initial immediate stocking profit to the State **\$3.7M.**

c) Annual Sales

Since we have no actual information on Spirit Sales, it can be assumed, over time, that the ratio of wine sales to spirit sales by grocers will approximate the percentages shown by the State-run stores histories. In State-run stores wine and Spirits sales each are responsible for half of the total store volume. If grocery stores who currently have beer and wine licenses are permitted to upgrade to Spirit sales as well, and are given the same State pricing policies as they had in wine (prior to October 2008), we estimate that our purchase potential from the State is \$87M per year. At the level, the State would realize an extra **\$11.3M annually.**

(The initial inventory stock, in (b) above, would have to have a turn-over rate of 3 per year annually in order to achieve \$87M).

d) Increased revenue from added volume of warehouse fees

The State runs a profitable warehouse for Spirits only in Concord. As a natural benefit of the expansion of shelf space for Spirits into 1,000 stores, we anticipate overall growth in sales and warehouse inventory turn-over. Most popular brands will probably see significant increases. Conservatively, we estimate warehousing revenue to increase between \$.5M to \$1M per year.

It should be noted that these computations are based on industry trends and conservative assumptions. It is plausible, however, to assume **the state could realize over \$16.3M in additional revenue in the first year and \$12.6M each subsequent year.**

a)	\$290,000	Annual Licensing
b)	\$3,700,000	One-Time Initial Inventory Stocking
c)	\$11,310,000	Annual Profit Revenue –Grocer Spirit Sales
d)	<u>\$1,000,000</u>	Annual Warehousing Revenue from Grocer Spirits Demand

\$16,300,000 in additional State revenue without closing any State-run stores

Maintaining Responsible Sales

NHGA has for years worked closely with the Enforcement Division of the State Liquor Commission and the Legislature to strengthen the retailer's responsibility when selling age-restricted products. It has supported greater training, compliance, and fines when administered in an equitable manner. Food store operators today are committed to not selling any age-restricted products to minors. Evidence of this is the annual increase in compliance levels as monitored by the Liquor Commission. In addition, it has been noted that the most common access of these products by minors is through the action of adults providing it to them, rather than deceptive purchases at the store.

Even with this being said, NHGA believes that further safeguards must be in place when Spirit sales are allowed to be sold by the private sector. Currently NHGA is working with various groups and the Enforcement Division on establishing mitigating and aggravating circumstances for age-restricted sales. In addition, we encourage annual voluntary training and quarterly or even monthly cashier reinforcement of responsibilities. NHGA will continue a dialog with the Commission or any group on improving compliance.

As with any of the age-restricted product, NHGA believes the education of the youth must begin at home and in the schools. Several communities have achieved great success as evidence in recent surveys. Unfortunately, the achievement is not uniformly available in all communities. Many retailers and store managers have become involved and supported this educational process in their communities.

Conclusions

Allowing food stores to retail Spirits in conjunction with state-run liquor stores holds great potential for the state. First and foremost is the net revenue it would generate. The first year would have the added benefit of building up inventory in 1,000 stores. On going would be the substantial increase in net revenues to the State. Not to be overlooked is the added benefit of increase tourism and other state revenues derived from taxed commodities as well increase employment and commerce. While the revenue projections appear reasonable, underlying concerns remain. The full success of this program can only be achieved by:

- 1- Allowing completely open Spirits licensing for any food store, similar to the current way sell beer and wine has been sold for the last twenty years.
- 2- Maintain a reasonable wholesale cost which is a percentage reduction from the prevailing retail price. We believe a 20% reduction is the minimum acceptable level.
- 3- Have a reasonable license fee, similar to the current beer and wine fee schedule.
- 4- Allow spirit sales to be sold during the same hours (and days) that beer and wine are sold.
- 5- Allow all products the SLC currently sells in their stores to be sold in food stores.

Food stores can work with Liquor Stores and not in competition with them. Food stores can be a compliment, with locations and hours of service not available to state-run stores. Simultaneously, both entities are addressing the needs of their current customer base, be it case sales or individual purchases.

Summary

During the 2008 Legislative Session, Governor John Lynch requested that the New Hampshire Grocers Association (NHGA) work collaboratively with the Liquor Commission on ways to improve State revenues. Upon the request of SLC Chairman Mark Bodi, a committee of six food industry leaders was assembled to represent the interest of the retail grocery trade in New Hampshire. These representatives included large chain operations, medium size independent supermarkets, and single store owners. Additional input was provided by the New Hampshire Grocers Association Board of Directors, which consist of 20 owners and operators of supermarkets, neighborhood and country stores, specialty shops, convenience stores; wholesale operations and individual members. Together all of these diverse business individuals uniformly endorse this proposal on behalf of the association's membership. If implemented as outlined in this document, it would be a reasonable and responsible New Hampshire approach to increasing Spirit Sales, customer satisfaction, and state revenues.

Under NHGA, the grocers of this State have had a unified voice since 1933. Over the years, this organization has expressed the concerns of its members at the state, regional and national levels. Today NHGA represents all segments of the food industry distribution system in New Hampshire. The membership is comprised of both chain and independent operators of convenience stores, neighborhood markets, pharmacies, supermarkets, box stores, suppliers, and manufacturers of consumable products.

The retail grocers are comprised of over 1,200 businesses, many of whom have multiple locations, and over 20,000 employees, ready to implement this expanded sales program. It makes sound business sense to leverage these available assets to increase the efficiency of the Liquor Commission and maximize state revenue. The grocery industry expends about 10% of the gross selling price on people, thus this change will result in hundreds of new jobs. In the long run we are looking at more efficiency, more jobs, and more revenue for the state, a triple win.

Cost structure, ease of administration, and regulatory structure complete an enterprise that would allow the State to maximize revenue without losing our competitive advantage to other jurisdictions. The current wholesale warehousing combination could easily be adapted to form a simple and efficient distribution system. The association has many members with great expertise in this area and we stand ready to assist in its development. The Liquor Commission already enforces its laws within the grocery industry. Because we are adding new products, not new businesses, this expanded sales program should easily be integrated into the existing enforcement program.

The development of this study represents a realistic starting point that can be used to assist the State in this time of fiscal crisis, but paramount is the fact that this plan makes sense in both good and bad economic times. The grocery industry is directly involved in generating more than \$200M in tobacco and business taxes for the state. The grocers understand that in time of fiscal crisis we must work together, this is a concept that we can all cooperate on.

Mission Statement

- ✓ The New Hampshire Grocers Association is a non-profit Association dedicated to excellence in serving its membership through communication, education, and legislation.
- ✓ We pledge to foster ethical business standards of quality in the food industry.
- ✓ We pledge to be responsive to the present and future needs of the entire membership and the general public.



110 Stark Street
Manchester, NH 03101
(603) 669-9333

Paragraph 14

Concerns:

As written in SB 0181, I couldn't donate 70% of the wine varieties that I make because they are not sold through the SLC, and is therefore impossible to purchase from the SLC as proposed.

The 10 day reporting requirement would lower the amount of wine donated to charities (which is already very low) by most wine purveyors and harm the effectiveness of the charities.

Under current law, the tax liability by both SB 0181 and current law is under \$40 per year for my winery. Given that the administrative, transportation, and logistical costs of meeting the 10 day & purchase requirements is over \$650 per year.

I respectfully submit the text below to address these concerns.

Bob Dabrowski, Winemaker
Candia Vineyards

Suggested text to address issues above

14 New Subparagraph; One Day Licenses; Donations to Nonprofit Organizations. Amend RSA 178:22, V(l) by inserting after subparagraph (4) the following new subparagraph:

(5) Manufacturers, wholesale distributors, or wine and liquor vendors or their salespersons may donate their products to any nonprofit organization with a one-day license issued by the commission. ~~The division of enforcement and licensing shall be notified 10 days prior to any donation under this subparagraph. The notification shall include the amount and type of products, licensee or organization, and vendor's or salesperson's name.~~ All liquor or wine donated under this subparagraph shall be purchased from the commissions **designated warehouse(s) or domestic wineries inventory**. The commission may in its discretion fix either generally or specially the discount percentage for this purpose. If the commission determines that revenues are being diverted, the commission may take such action it deems necessary, including sanctions against any manufacturers, wholesale distributors, or wine and liquor vendors or their salespersons. All beverage furnished as donations shall be considered sales for purposes of RSA 178:26.

as written in SB 0181

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Paragraph 20

Concerns:

The notification requirements as proposed by SB 1081 would create an undue hardship for a small winery operator like myself, in addition to purchase requirements that are physically impossible (see also par. 14).

The concerns on the language of paragraph 20 is substantially the same as paragraph 14, where the costs of complying with this proposed legislation would cost in excess of 20 times the tax that is due to the SLC.

I respectfully submit the text below to address these concerns.

Bob Dabrowski, Winemaker
Candia Vineyards

Suggested text to address issues above

II. Manufacturers, wholesale distributors, or wine and liquor vendors or their salespersons may distribute samples of their products to any licensee for purposes of tasting. No licensee shall add any samples to its inventory for resale. ~~The division of enforcement and licensing shall be notified 10 days prior to any distribution of samples or donations. The notification shall include the amount and type of products, licensee or organization, and vendor's or salesperson's name.~~ All liquor or wine distributed under this paragraph shall be purchased from the **commissions designated warehouse(s) or domestic wineries inventory**. The commission may in its discretion fix either generally or specially the discount percentage for this purpose. If the commission determines that revenues are being diverted, the commission may take such action it deems necessary, including sanctions against any manufacturers, wholesale distributors, or wine and liquor vendors or their salespersons. All beverage furnished as samples shall be considered sales for the requirements of RSA 178:26.

as written in SB 0181

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New Futures' Testimony
to the
Senate Ways and Means Committee
on
SB 181 (relative to the liquor commission and alcoholic beverages)
February 17, 2009

Chairman Odell and Honorable Members of the Ways and Means Committee, I am Tricia Lucas, Policy Director at New Futures. New Futures is a nonpartisan, nonprofit advocacy organization working to reduce underage alcohol problems and to increase access to alcohol and other drug treatment in New Hampshire. I come before you today to share our comments about SB 181 – referred to colloquially as the “Liquor Commission Modernization Bill.” This testimony relates to the bill as introduced and does not address any changes contained in the amendment presented to the Committee by the Liquor Commission (“Commission”) today. If necessary, New Futures will submit revised testimony in response to the Commission amendment. At the outset of my testimony, I note that several timing issues, notably the late release of the bill text and the scheduling of the hearing the day after a holiday, have made it difficult for community members and organizations working on underage alcohol problems to address the Committee today. We look forward to working with the Committee to identify ways that these community voices can be heard.

At the outset of this testimony, it is important for the Committee to know that New Futures works closely and cooperatively with the Commission on issues related to underage alcohol problems: We collaborate on policy and legislative issues; the Commission recently provided enormous assistance in the development and conduct of a training for a group of New Futures’ advocates on how to work effectively with the Commission; and Commission staff is responsive to our requests for information and data to assist us in our policy work. From this work together, we know that the Commission takes very seriously its statutory obligation to balance its responsibilities to maximize profits from the state sale of alcohol and to protect public health and safety by maintaining proper controls on the sale and distribution of alcohol. I provide this background on this positive working relationship at the outset of my testimony so that my comments about specific provisions of SB 181 as introduced are not interpreted by the Committee as criticisms of the Commission and its leadership.

I will separate my comments on SB 181 as introduced into four (4) categories: Advertising; Regulatory Authority; Expansion of Agency Stores; and the Impact of SB 181 on funding for the Alcohol Abuse Prevention and Treatment Fund.

1. Advertising

- Section 21 of SB 181 makes several changes to current law governing the advertising of liquor and beverages:

- SB 181 expresses permits on-premises and off-premises licensees to advertise their prices without suggesting any limitation on such adverting.
- SB 181 repeals all existing restrictions on the advertising of “Happy Hours” (those times when an on-premises licensee sells beverages and liquor at reduced prices).
- New Futures strongly opposes both of these proposed changes because they will increase the exposure of underage youth to alcohol advertising and increase the risk of underage alcohol problems.
 - Recent research demonstrates that exposures to alcohol advertising affects the age at which underage youth begin to drink.
 - Numerous long – term studies have found that youth who see, hear, and read more alcohol ads are more likely to drink and drink more heavily than their peers.
 - Underage drinking has profound consequences for youth, including interference with normal brain development, increased likelihood of developing alcohol dependency, injuries from motor vehicle or other accidents, risky sexual behavior, and violence.
 - In New Hampshire, where numerous community groups work every day to prevent and reduce both underage drinking and over consumption by legal drinkers, why would we want to enact provisions that convey a message so obviously contrary to the goal of legal, responsible alcohol use.
- We note that last session the Senate considered and killed HB 1197, which proposed the elimination of all restrictions on Happy Hour advertising. The bill was opposed by Dover Youth to Youth, the Liquor Commission, law enforcement, DHHS, representatives of the university community, New Futures and the New Hampshire Public Health Association. The vote of the Commerce Committee to kill the bill was 6 – 0.

2. Regulatory Authority

- Section 12 of SB 181 creates a new section RSA 178: 17-a related to “conditional” or “combination” licenses which appears to grant very broad and unrestricted authority to the Commission:
 - “The commission at its discretion may combine any license types or issue with conditions a combination conditional license.”
 - “The commission may suspend or modify any licensing requirement established under title XIII.”
- While New Futures looks forward to the Commission’s explanation of its need for and any proposed limitations on the broad authority quoted above, we are compelled to point out that authority to **“suspend or modify any licensing requirement established under title XII”** would effectively permit the commission to disregard any licensing standards in statute or administrative rule.

3. Expansion of Agency Stores

- Sections 8 – 11 of SB 181 grant the Commission broad authority to close exiting state stores and license new agency stores. In his budget address, the Governor indicate that the Commission would likely close as many as 16 state stores. While we have not seen the Commission’s strategic plan for the modernization of its distribution system through the closure of exiting state stores, the opening of new state stores and the licensing of additional agency stores, we wish to raise a number of concerns for the Committee’s consideration.
- New Futures’ concerns about expansion of agency stores.
 - SB 181 does not include criteria to guide the Commission in the determination of the number and location of any new agency stores.
 - It is critical that local communities be involved in Commission decisions about expansion of the alcohol distribution system.
 - Because we are aware that the NH Grocers Association has proposed expanding the distribution of spirits to all grocery and convenience stores, New Futures wishes to make very clear its strong opposition to any significant expansion of the distribution of spirits.
 - Research shows that youth are increasingly exposed to advertisement for spirits.
 - Because of their alcohol content, spirits are high risk products for youth and are increasingly a product of choice.
 - To increase the distribution of these products without the controls provided in state stores is irresponsible.

4. Impact of SB 181 on funding for the Alcohol Abuse Prevention and Treatment Fund (the “Alcohol Fund”).

- The Alcohol Fund (RSA 176:16,II) was created in 2000 as a nonlapsing fund to support alcohol education and abuse prevention and treatment programs and requires that a portion of the gross profits from the sale of alcohol and other revenues be annually deposited into the fund. The creation of the Alcohol Fund reflects the strongly held belief that if the State is going to sell and directly profit from the sale of alcohol, it has a responsibility to dedicate a portion of the profits from sale to address the well-documented harm that results from substance abuse and addiction.
- We are concerned that any changes in the way Liquor Commission operations are funded and accounted for as the result of SB 181 not adversely affect the ongoing funding of the Alcohol Fund.
- Given that the Governor’s budget cut funding for the Alcohol Fund by 30% in SFY 2010/2011 while at the same time calling for increased revenues from the sale of alcohol, we call on the Committee to:

- Pass SB 146 (relative to liquor profits deposited into the alcohol abuse prevention and treatment fund) which is now before the Committee and/or
- Include the text of SB 146 in SB 181 so that the process of Liquor Commission modernization may include improvements and funding to address alcohol abuse prevention and treatment.

Thank you for the opportunity to present this testimony.



Tricia H. Lucas, Esq.
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Exeter, NH 03833
225 - 9540; tlucas@new-futures.org

**AMENDED
SENATE CALENDAR NOTICE
WAYS AND MEANS**

Printed: 02/26/2009 at 10:27 am

Senator Bob Odell Chairman ✓
 Senator Lou D'Allesandro V Chairman ✓
 Senator Harold Janeway ✓
 Senator Deborah Reynolds
 Senator Peggy Gilmour ✓
 Senator Michael Downing ✓
 Senator William Denley

10:32 a.m.

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: February 26, 2009

HEARINGS

Tuesday

3/3/2009

WAYS AND MEANS

SH 100

10:15 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

Comments: SB146-FN-A recessed from 02/10/2009.
 SB181-FN-A recessed from 02/17/2009.

THIS CONCERNS ONLY A TIME CHANGE.

10:15 AM	SB146-FN-A	relative to liquor profits deposited into the alcohol abuse prevention and treatment fund.
10:30 AM	SB181-FN-A	relative to the liquor commission and alcoholic beverages.
11:00 AM	SB169-FN	relative to games of chance and establishing a gaming oversight authority and video lottery gaming.
11:01 AM	SB179-FN-A-L	providing for the recovery of horse racing, and expanding gaming operations in the north country and at pari-mutuel locations.

Sponsors:

SB146-FN-A

Sen. Bob Odell
 Rep. Suzanne Harvey

Rep. Laurie Harding
 Rep. Kathleen Taylor

Rep. William Butynski

Rep. Patricia McMahon

SB181-FN-A

Sen. Lou D'Allesandro
 Sen. Michael Downing

Sen. John Barnes, Jr.
 Sen. Molly Kelly

Rep. David Campbell
 Rep. Alfred Lerandean

Rep. John Hunt
 Rep. Peter Ramsey

SB169-FN

Sen. Theodore Gatsas

SB179-FN-A-L

Sen. Lou D'Allesandro
 Rep. Edmond Gionet
 Rep. Yvonne Thomas

Sen. John Gallus
 Rep. Paul Ingersoll

Sen. Michael Downing
 Rep. Russell Ingram

Sen. Bette Lasky
 Rep. Roger Wells

11:39 a.m.

Laurette Joppie 271-3067

Sen. Bob Odell

Chairman

Date: 03/03/2009
Time: 10:32 a.m.
Room: SH 100

The Senate Committee on Ways and Means held a hearing on the following:

SB181-FN-A relative to the liquor commission and alcoholic beverages.

Members of Committee present: Senator Odell
 Senator D'Allesandro
 Senator Janeway
 Senator Gilmour
 Senator Downing

The Chair, Senator Bob Odell, reconvened the hearing on SB181-FN-A.

Senator Bob Odell, D. 8: Senator Downing is signed in in support, but does not wish to speak. I see no other legislators that have indicated an interest in speaking. I'll ask Senator D'Allesandro, the prime sponsor of SB 181, to speak. You will speak today, Senator D'Allesandro, to the bill as well as to the amendment?

Senator Lou D'Allesandro, D. 20: Yes, Mr. Chairman. Thank you, Mr. Chairman.

Senator Bob Odell, D. 8: Good morning, Senator D'Allesandro.

Senator Lou D'Allesandro, D. 20: Mr. Chairman, and distinguished members of the Committee. For the record, I am Senator D'Allesandro. I represent District 20, Manchester Wards 3, 4, 10, 11, and the Town of Goffstown. I bring before you amendment 2009-0441s, which we talked about at the last meeting and I offer this amendment.

I am pleased to appear before you today in support of SB 181 and to offer today an amendment to the bill that clarifies some technical provisions, as well as several other changes. Although relatively minor, these changes do address some of the issues that were expressed at the original public hearing of this bill last month.

In the interest of time, I will defer to Chairman Bodi and his colleagues from the Liquor Commission to outline in more specific terms the principal components of the amendment. But I do want to outline some of the key objectives of the bill, as well as the amendment, and what the sponsors of this legislation seek to accomplish with these changes.

Let me begin by noting that, as you are no doubt aware, the Liquor Commission is the largest non-tax revenue producer in our State. Last year alone, it generated approximately \$112 million in net profits. At a time when virtually all other state revenue sources were down, the Liquor Commission is generating record sales and profits. SB 181 will ensure that the State's control of alcoholic beverages remains vigilant, but that we also maximize our revenue opportunities as we move into the future.

Many of the proposed changes in SB 181 have been talked about for years. Others have been recommended by previous blue ribbon commissions, study groups, trade associations, as well as the Commission itself. For one reason or another, the legislative imperative to act fell short. Today we have an opportunity, in the year of the Commission's 75th anniversary, to position this agency to ensure that it operates efficiently and responsibly for decades to come. These changes will make the Commission's management more accountable and allow the Legislature to raise the standard of performance for this very important businesslike agency. To accomplish this objective, the Liquor Modernization Act will eliminate unnecessary bureaucratic constraints that inhibit the Commission's ability to maximize its full revenue potential and enhance services to its customers.

A summary of the intent of the statutory changes are as follows: first, SB 181, as amended, provides for a more important management structure reorganization. The organization structure of the Commission is not consistent with its ability to manage in the 21st Century, and it is not consistent with the management of other state agencies. Additionally, its management structure does not reflect its current business needs and legislative mandate. The proposal reorganizes the five unique operational needs of the Commission: the Division of Finance, the Division of Marketing, Merchandising and Warehousing, the Division of Administration, the Division of Enforcement and Licensing, and the Division of Store Operations.

Secondly, the LCMA would establish a senior staff position, of Deputy Commissioner of Legal Counsel, Ethics and Compliance. Among other duties, this individual would be responsible for serving, investigating, and reporting on ethical complaints regarding operations and enforcement, as well as the many state and federal statutes and rule requirements.

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Third, the Modernization Act properly recognizes the Liquor Commission as an enterprise fund, and appropriately reflects its source for funding as liquor funds, not general funds, similar to the other enterprise fund agencies, including the New Hampshire Lottery, the New Hampshire Turnpikes, and the New Hampshire Unemployment Trust Fund. Proper recognition of the Liquor Fund is vital for the Commission to operate in a more businesslike fashion and to better be, and to be better suited to respond to the rapidly changing retail environment that it operates in. And similar to other revenue producing businesses, types of that, and business types of activities in this State that more than cover their expenses from fees and charges. In addition, the Modernization Act would permit the Commission to increase revenues by offering non-alcoholic beverage items, related to wine and spirits, such as wine in gift bags, recycling bags, gift boxes, corkscrews, etc.

A fourth component of this legislation adjusts existing statutes to expand the issuing of agency liquor store licenses as may be needed to replace existing commission stores that are not operating optimally, or to better serve a specific geographical area or region of the State that may currently be underserved. This is not a wholesale opening of liquor stores and grocery convenience stores, but a modest adjustment that will allow the Commission the ability to cautiously supplement sales outlets, while carefully reviewing its impact. As you know, we currently have two agency stores in operation; one in the western part of the State, and one in the northern part of the State.

A provision of this new law would authorize the Commission to issue a special condition license in cases in which a perspective licensee's operations do not fit into one of the State's existing license categories. There are too many license categories now, and having a special condition license would put an end to adding new license types in the future. It will also set in motion the process to hopefully consolidate the many licensee categories.

Finally, the Modernization Act includes a provision that eases restrictions on charity, not-for-profit wine-tasting events, permits no-fee wine auction sales and simplifies corkage fee statutes.

In conclusion, the Liquor Commission Modernization Act brings positive, constructive change to an important state agency. It is a responsible and constructive set of legislative changes that when taken together, will create an opportunity for our State to continue its leadership as a control state, but doing so in a responsible and constructive manner. Most importantly, while the Liquor Commission Modernization Act gives the agency the flexibility it needs to operate more like a business, this legislation fully preserves the

legislative oversight and prerogatives that have long governed and provided needed oversight on this state agency.

Thank you very much for your attention and I'd be happy to answer any questions you might have.

Senator Bob Odell, D. 8: Thank you, Senator D'Allesandro. Any questions for Senator D'Allesandro? Seeing none, thank you very much. Senator, I see that the Commissioner is here...

Senator Lou D'Allesandro, D. 20: Yes.

Senator Bob Odell, D. 8:...the Chairman of the Board of the Commission. But no one signed up to speak on behalf of the Commission.

Commissioner Bodi: I would like to speak.

Senator Bob Odell, D. 8: Okay. Thank you, Senator D'Allesandro.

Senator Lou D'Allesandro, D. 20: Thank you, Mr. Chairman.

Senator Bob Odell, D. 8: Good morning, Commissioner.

Commissioner Bodi: Mr. Chairman, members of the Committee. Good morning, and thank you.

Senator Bob Odell, D. 8: Would you make sure you identify the others that are with you, so that we would have it for the record?

Commissioner Bodi: I would be pleased to. My name is Mark Bodi, and I am Chairman of the New Hampshire Liquor Commission. And, to my right, is George Tsiopras, who is our Chief Financial Officer. To my left, is Chief Eddie Edwards, and immediately in front of me is Craig Bulkley, our Bureau Chief of Administration who has passed out to you a copy of our presentation.

Attachment #1: Presentation submitted by Commissioner Bodi of the New Hampshire Liquor Commission.

I come here before you today, together with members of our staff, who have worked quite tirelessly in cooperation with our sponsors. And our thanks to Senator D'Allesandro for his leadership, as well as the other co-sponsors of this very important legislation. As we contemplate the future of the New Hampshire Liquor Commission, as Senator D'Allesandro pointed out, we

celebrate our 75th anniversary this year. Seventy-five years of unbroken profits to the State of New Hampshire, now in excess of \$2 billion.

Why are we proposing such sweeping changes for the New Hampshire Liquor Commission? Is the system broke? The answer to that is no. And the old adage that we've heard in the past - if it's not broke, don't fix it. But as we see and as you know in government, it's probably best to make course corrections before a business or an agency of government becomes broke. This legislation is a corrective measure to improve the process, to reposition the Commission for the future. And most importantly, to ensure that we maximize revenue opportunities at a time when the State, like all states, are in dire financial need. My predecessor, Anthony Maiola, who was Chairman of the Commission, did an outstanding job in positioning the agency for new leadership, represented by myself and my colleagues, to bring the Commission to its next level. And also in the room, I want to note and thank former Commissioner Roger Boisvert, who contributed greatly in the past to many of the innovations that were undertaken during his era.

We now enter a new era. And it is responsibility, as I noted, of myself, of Commissioner Dick Simard who could not be here today, as well as Commissioner Russell who, due to prior commitments, are not here. But I think Commissioner Simard might be joining us; there he is. Commissioner, if you want to join us, come on. Bring your chair on George.

As I said, it is our responsibility to recommend and come forth with recommendations that will ensure that the Liquor Commission itself, a remarkably profitable enterprise by any standard or measure, receives the support, the changes and supplements that are needed to bring it into the next 75 years. I want to begin by quickly covering, just briefly, some of our existing agency infrastructure; go over the major proposed changes; talk about the amendment and certainly leave time to answer questions.

Attachment #2: Liquor Commission Modernization Act 2009, submitted by Commissioner Bodi of the New Hampshire Liquor Commission.

Very briefly - our duties are outlined in RSA 176:3 - to optimize profitability, maintain controls, responsibilities; an important component on what we do, and provide effective service. We are one of 18 controller states and we're very different from most of them, but New Hampshire has been a leader in the United States as an innovator, evidenced not only by our stores in the high rating which we receive a lot of notoriety for, but also for the very well-known operational systems and best practices that have been adopted in other states. The control state philosophy is to maintain that delicate balance

between the sale of alcoholic beverages on one hand; and on the other hand, ensuring that alcoholic beverages remain controlled in a manner that prevents their abuse.

The components of the alcohol distribution system in New Hampshire are outlined on page six. The State controls all of the spirits, both at the retail and the wholesale level. We share wine with our grocery store partners, business partners, and beer. We collect a beer tax on beverages sold through wholesale, sales distributions. Our revenues our expressed on page seven, and again, exemplify the enormous revenue generating capacity of this agency. Total revenues amount to \$146 million in fiscal year 2008; operating expenses were 34 million, leaving a net of approximately \$112 million, after everything is paid for. \$112 million is returned to the general fund.

Where that revenue comes from is expressed on page eight. You will note that the beer tax revenue is the very smallest component. The vast majority of our revenue is through the sales, either on- or off-premise from liquor and wine and approximately \$5.5 million is generated through TEs and broker licenses, etc. Most specifically, and I don't want to go too quickly, but I understand that you have a very busy schedule today, and everybody wants to get to gambling.

Senator Bob Odell, D. 8: Not until we've had a drink!

Senator Lou D'Allesandro, D. 20: He means water.

Commissioner Bodi: You will note that revenue from grocery stores in the off-premise channel accounts for about 14% of our total revenues. Income from the on-premise or restaurant lounges and the like is near 12%. Our total retail revenue, retail from our 77 liquor stores, accounts for 73, almost 73,5% of our total breakdown. Beer gallonage is again expressed on the following page; breakdown by type is there. You'll note that our distribution system, which is the subject of some discussion we'll touch upon later, consists of 77 stores - 11 of which are owned by the State of New Hampshire - are expressed on this map. The top 15 locations are noted page 13. And importantly, the top 15 stores contribute 45% of the total revenue. 50% of the revenue, as I mentioned at our hearing one month ago, 50%, fully 50% of our sales and perhaps even 60% of our total revenue, is from outside residents that live outside of New Hampshire, which is a very unique phenomenon in control states. We have three existing agency stores, Errol, Pittsburg and Greenville, and you will note again on page 15, we summarize the tale of the tape as they say, specifically where these sales fall by channel.

Our existing organizational chart is represented on page 16. And you will note that the Liquor Commission is the, we're the only major agency that has Bureau Chiefs as opposed to Division Heads. And, it is the only organization that wasn't reorganized when the new executive organization was enacted, I believe, Craig, help me, I think it was in, my recollection was in the '80s. But nevertheless, you'll note that the Commission only operates with three senior division positions. Most importantly, from my perspective, is that the Liquor Commission, surprisingly, has no unclassified positions at all. So, what that means is, that we have and certainly with all due credit to career civil service employees; in the senior management team, we have no individuals currently operating who can be immediately discharged for failure to exercise their responsibilities. So, in my view, as a business person, the Commission's senior management staff lacks accountability and the Commission lacks the ability to react quickly. On the more positive side, the absence of unclassified employees creates a recruitment challenge; and that the overall levels of the existing senior staff positions make it very difficult to replace individuals who are now retiring.

You will see further on how we propose to change that, and what the important consequences of that are. But in looking at the existing chart on page 16, you will note that what is referred to in business, used to be a military term, the span of control, and the span of control in business used to be, you want to have a supervisor for one in ten people, and then in the '80s or '90s, they moved it from about one to a hundred. One supervisor would manage 100 employees, as technology advanced. We have a very uneven span of control.

The Chief has about 40 some odd people under his command. The Division Chief of Marketing and Merchandising, John Bunell, who is not here today (his wife is regrettably ill); that Division is comprised of almost 800 people. Where the Chief of Administrative Services, Craig Bulkley's area, is 19. So we have a great imbalance in the span of control. We have one area, which is most important in terms of generating revenue, our stores, supervising our stores, we have 214 full-time employees, 460 part-time employees within store operations. We have one individual who manages that, manages that effectively, that entire agency, that entire group reporting up to the Marketing Chief. Insufficient. We need greater accountability. And to achieve that, you have to inspect your expectations. You need people knowing what is happening in these stores, and monitoring, sure that what is expected from them is being accomplished.

We have great employees. They do a terrific job. But the Commission has grown exponentially over the years, and it is unrealistic to expect that our current supervisory capacity is appropriate to serve not only our customers,

but to ensure that the fiscal controls remain strong, not the least of which is the management of what is commonly referred to as shrinkage in the industry; and to ensure that there is not loss either through accounting mistakes, or theft either from members of the public or wayward employees.

You will have, you will note, and we characterize for your review, and you can look at this I think when you have more time. But on pages 18 and 19 we outline the various Bureau Chiefs, as well as Enforcement, and how they are currently organized, bringing us to the principal subject of our hearing today, and that is the changes contained within the Modernization Act.

First, to more effectively manage the business, we propose changing the management structure from the three Bureau Chiefs that are unclassified, to five unclassified Division Directors. Greater accountability. We will change the span of control, higher level of supervision, the capacity to retain and attract better employees.

Secondly, we will strengthen our legal, ethics and compliance by adding the position of Deputy Commission of Legal Affairs, Compliance, Ethics, and Ombudsman. The Liquor Commission is regulated, not only by laws that are created by this esteemed body, but also by a large number of federal laws and regulations that are very important and work in harmony with state regulations. While we rely greatly on the Attorney General's Office, the issues presented before the Commission are much too complicated not to have a senior staff person who is well versed in the law, and has an understanding of not only state law, but federal law. This position would also be responsible for reviewing issues regarding ethical violations, which are very important and need, in my opinion, to be separated from the existing staff structure; as well as serving as an ombudsman for complaints that arise from licensees. So, for example, a licensee has a complaint regarding Chief Edwards' area and the conduct of perhaps one of his employees, and through our discussions with your esteemed colleagues in the House, and members of the Hospitality Association, we felt that we needed to strengthen them, the method by which we provide for a balanced and fair hearing of issues of ethic, potential ethical violations, or complaints regarding the conduct of an employee. All of these would be housed within that position.

Finance and span of control I touched on briefly. George Tsiopras, under our new reorganization, would be separated; and certainly an agency of this size and scope, with nearly \$500 million in total revenue, should have an individual who is held accountable and is individually responsible for the entire finance area. Something that you have in virtually every major business of this type.

Very central to the pinnings of the modernization is the capacity to purchase goods and services without the burden of the existing controls that were designed to serve 99.9% of all other operations in state government.

It is enormously time-consuming and difficult to undertake purchasing and perhaps rightfully so, to undertake purchasing initiatives through the state system. They were designed really for the rest of the system, certainly not for retail organization, not for an enterprise fund. The State has recognized that in the past, where it has differentiated how goods and services are purchased through the University System, through the technical colleges. It recognized that with the Liquor Commission, when it authorized the Commission to purchase wine and spirits without going through the traditional purchasing procedures that is a requirement because it is the nature of the beast.

We are asking for authority to extend our ability to purchase goods and services in a similar fashion to how we purchase wine and spirits today. If we want to sell wine bags in our stores, we have the ability to go and do that. If we have a broken window in our store, we do not have to have competitive bids. We can act quickly, we can respond to market changes in a careful and deliberate fashion, yet at the same time maintain the proper controls that are needed for state government.

We are recommending and have touched upon how the Modernization Act would allow us to, as I said, gift bags and like on page 27.

Moving to page 28 and agency stores expansion, and there has been a considerable amount of discussion and I want to clarify how the existing policy would be changed under this legislation. Currently, the State does permit the Liquor Commission to allow for the sale of spirits in grocery stores, and has done so on a limited basis, and only through locations. It is not our intent, and I want to emphasize it, to unilaterally make dramatic changes in our distribution system. New Hampshire has operated quite well as a control state, and we want to preserve that system. At the same time, it is necessary to make consolidations, store closures, realignments in our distribution system where necessary. And to do that effectively, other states, as New Hampshire has done with its three stores, should have the capacity to, in a very limited way, issue an agency license store in areas where a) there has been a store closure of an existing store; b) there is a demonstrated need in a geographical area that is currently not appropriately served; c) where there are increased revenue opportunities to locate an agency store in an area of high traffic, but could not be served by an existing liquor store; 4) there are opportunities which we would like to explore on a pilot basis, how we can change our distribution system that may occur through the opening of, potentially a kiosk and grocery store, which is done in some other states,

maybe potentially have a RFP to consider other alternative partnerships with other merchants. Those would be, it would be permissible for the Commission to consider those, but most importantly - as noted in the amendment which I will get to in a minute - none of those changes could be undertaken, unless it would be in the best interest of the State. And that we consider not only revenue, but the social impact of expanding.

Our intent then is to eliminate the restriction that prevents us from issuing an agency license within five miles of an existing liquor store. So, if you go to the chart with the existing liquor stores on it, you can see that they, the map of the State of New Hampshire, it is very difficult for us to situate an agency store, under the current constraints. By eliminating that restriction, changing the language and inserting that it must be in the best interest of the State, we believe that that provides sufficient safeguards about flexibility and issuing agency licenses moving forward.

The Modernization Act would also create a special condition license. Right now we have 19 license categories, 50 subcategories, all of which were a creature of the Legislature, I might add, with all due respect, and I probably voted on them when I was a member of Legislature 30 years ago. We want to consolidate some of those, for example, do you have a restaurant cocktail license, you can have the subcategory of a bowling alley license, a motel license, an alpine ski license, a railroad license, so forth and so on. A special condition license would allow us to look at special needs that now occur.

Most recently, in last legislative session, there was a change of ownership in the Loudon race track. The existing law did not have the capacity for us to issue a license that would suit their needs. That example, as well as many others; we have many, many opportunities that the State could capitalize with entrepreneurs who want to. For example, there, we were approached by a restaurant owner who wanted to sell wines in his restaurant premises, so that someone would have dinner, sample a wine, say, I like that wine, and then they keep going to the next room and you can go in, and you know, you could buy a (inaudible) maybe, like (inaudible) as you go through a big room, but you couldn't buy any of the wine.

This would allow us to create a special license, so we could accommodate that, and monitor it. And also allow the process by which we'd begin consolidating these licenses over time, so that we don't have 50 various categories, and we can make recommendations to the Legislature on how we can simplify this process, so that one of our principal goals - eliminating red tape, and ensuring greater efficiency in the process - is achieved through the Modernization Act.

Other benefits that are included in the Liquor Commission Modernization Act are, in brief: we make some changes in the direct shipping statute, which I'll talk about through the amendment. They're really relatively minor. As I noted, it strengthens ethics and reporting. It also includes a provision that prohibits, prohibited influence of the licensing process; the Commission cannot be influenced in issuing licenses. There were problems in a number of other states, and we think that's an important control to have. But it specifically excludes elected representatives contacting the Commission so that in the normal course of their constituent service. But it ensures that any issuing of agency licenses will not be done on the basis of who you know, but based on what's best for the State of New Hampshire.

The Modernization Act eases the restrictions and charity wine tastings which I noted at our previous hearing. We make it very simple. If there is a wine broker that wants to donate to a charity, they can do so. We shouldn't be, but grasping bureaucratic hand in the way of those non-profits who are trying to raise funds for noble causes. This simplifies that process. And, as an important by-product, allows the State to further educate people about wine, and stimulate sales. It establishes a sampling wine and spirit sampling policy.

Today, the Commission is totally unregulated as to how many samples come into the Commission itself, who are they going to and what is being done with them. I believe that that needs to be regulated. This sets a limit on it, a specific limit on the amount of samples that may be accepted, and also requires the Commission to maintain a sampling policy, so that the Commission will outline who is authorized to receive samples and under what conditions. It also removes the previous restrictions that were imposed on brokers that limited their samples to just two bottles. So, what we are proposing is, let's put greater control on the Commission itself, limit that amount, but let's ease the burden on the brokers who now can only receive two samples when they might represent a 1,000 restaurants. And they should be allowed to receive as many samples as they need. However, there is a provision in the law that is unchanged, that prevents them from giving more than two bottles per licensee; makes it very simple from a business point of view and a regulatory point of view.

The Modernization Act permits wine auction sales, which previously were very different, difficult and cumbersome to undertake. You bought a bottle of wine at a charity wine auction, or you happened to be wine collector. Again the reaching hand of the Liquor Commission would be involved, not only in the sale, but in the transportation and the reporting. This makes it much more simplified and a much more wine-friendly state, as we are already, but it creates a much, a more favorable regulatory environment for the growth of

wine; and it simplifies the corkage fee statute which would allow for individuals who have a bottled wine today, and want to bring it in into their restaurant and charge a corking fee. A lot of restaurants now are, in New York for example, in the summertime, many steak houses would have a special on a Monday night, bring your own bottle of wine and we'll charge you a \$20 corking fee. It helps stimulate sales, individuals could take a finer bottle out of their cellar, out of their collection or what have you, enjoy a night out, and facilitate commerce. We want to encourage that same process here in New Hampshire. It's good for the restaurants. They can determine themselves if they want to do it. It's good for consumers. If they have a bottle of wine, and they want to celebrate with a special bottle of wine for an anniversary, they can do that as well.

Under our reorganized configuration, noted on page 31, you will note that the additional two individuals who would be added as Director of Store Operations, Director of Finance, as well as the Deputy Commissioner of Legal Affairs. I have included, for your review, moving forward information, further information explaining these changes as well as a question and answer. I do want to note that on page 40, we have made an adjustment to the third question, a happy hour which is eliminated, and I'll go over that in a minute.

But, let me summarize by noting a couple of other important points. New Hampshire public opinion favors operating the Liquor Commission like a business. In a recent poll, conducted by the University of New Hampshire, 40% of the public indicated that they believe that the Liquor Commission should operate like a retail business, as opposed to 30% who said a state agency. Of the individuals who consume alcoholic beverages, the vast majority of those individuals believe that it should be operated more freely as a business, and not surprisingly, they want to be able to shop in a retail environment that reflects other retail environments that they shop in, that is responsive, that is clean, that is efficient, and offers the shopping experience that they're used to. To do that, we need to have greater flexibility so that we can clean the windows, as well as manage the inventory, to do the little things to make sure the job gets done right.

Public opinion, I am pleased to say, thanks to the great work of our team, our management team, and our employees, is very favorable in the Commission. We worked hard and in this statute, these statutory changes will advance that greatly.

With respect to the consolidation of stores, we do, and I know that's a question on everybody's mind, very surprisingly, the New Hampshire public recognizes that some store consolidation is necessary in the interest of economics, and in the overall public good; with 45% strongly favoring and

25% somewhat favoring the consolidation of stores that are now economically viable. Very surprisingly, and I think it is tribute to New Hampshire's, the New Hampshire people's spirit of thrift, 77% of those who responded to the survey indicated that they would still support closing or consolidations of stores, even if it meant the one closest to them. People are in favor of the control state system. They support the control state system. They believe change is necessary. We believe that these changes reflect the views of those people and the current regulatory environment.

And finally, we have included for your review, in a preliminary outline, some of the statistical analysis we have done on the State's existing distribution system, which outlines the performance of our liquor stores by county, and how the breakdown of our legal drinking age population, of which there is approximately a million people. So you can see, if you look at page 50, Hillsborough County has 30% of individuals of legal drinking age, yet only has 22% of the total liquor stores. Rockingham County has 22% of the individuals of legal drinking age, yet only has 17% of the overall liquor stores. We follow this analysis, dig a little deeper, as we look at all liquor access that we've analyzed on page 51. We compare the geographical region and individuals of legal drinking age to all the points where they could receive some form of alcoholic beverage. So, within that context, Coos County for example, has 3% of the legal drinking age population, but 5% of the all liquor access. So, it is not difficult to get a drink in Coos County, is what this says.

Conversely, it indicates that in Rockingham County, there are 22% of the drinking age population, but only 20% of the all liquor access. So these tools that were developed by the Commission in collaboration with the Long Group, provide the statistical basis and groundwork for which we will make decisions regarding the location of new stores, the expansion of existing stores, the potential location of an agency store, as we move forward.

We also have done an analysis by sales. And, interestingly to note, if you look on page 53, you will see that the State's 77 liquor stores produce an average of \$4.6 million in gross sales per store. Rockingham County is disproportionately represented due to the location of our big box stores there. Clearly, these large stores that were located in New Hampshire, again, with the forethought of my predecessors, have produced enormously, returns for the State of New Hampshire, and is a model well worth replicating moving forward. And you can see, naturally, some of the smaller counties; their capacity to generate revenue is diminished in those areas.

Senator Bob Odell, D. 8: Mr. Chairman, we are kind of running out of time, and so...

Commissioner Bodi: Thank you, Mr. Chairman. With that...

Senator Bob Odell, D. 8: Highlights. If there is anything else you would like to highlight...

Commissioner Bodi: With that, I will just briefly note that the amendment changes in their totality, correct technical issues associated with the liquor fund, address the agency store issues, speak to the combination license, charity wine tastings, the direct shipping. As I mentioned, we made some changes in the happy hour, but none of the changes represented in the amendment are significant in and of themselves. I believe that we have very strong support among our business partners and individuals that will testify later on this morning, and I'd be happy to answer any questions that you might have.

Senator Bob Odell, D. 8: Thank you, Mr. Chairman. We hope to take executive action on this bill Thursday at one o'clock. Would someone be available at that time to be with us to answer any questions that may arise?

Commissioner Bodi: We will be sure that we have representation.

Senator Bob Odell, D. 8: Okay. If I, thank you. If I take this side by side, which Chief Edwards has been familiar with, and maybe others have. I take the amendment, and I take this book, I will then have, in your opinion I would assume, the information I basically need to make a decision.

Commissioner Bodi: Together with my notes that I will have typed up following this hearing.

Senator Bob Odell, D. 8: Okay. And, if you were in our seats, do you feel comfortable that the drafting aspects of the amendment, are in such a state that they are ready to be, have action taken on them?

Commissioner Bodi: Yes, I do.

Senator Bob Odell, D. 8: Any other questions for the Chairman? Senator Janeway?

Senator Harold Janeway, D. 7: Thank you, Mr. Chairman. Somewhere in my mind, I have the new idea that MacKenzie or someone had done a study for the Liquor Commission. Was that done by and for the Commission? Or done away, or am I imagining this?

Commissioner Bodi: No, you're not imagining anything, Senator. The study conducted, on behalf of the Governor's Office, of the Liquor Commission. That study was conducted independently of our own review for the Liquor Commission Modernization Act, and is not a related component of it. I can tell you that the consultant did indicate their support for the recommendations of our senior team, but I don't want you to be influenced by the consultants. We're very confident in our own recommendations, but they were not in any way and informant on the Modernization Act or do they represent anything that, not considered by the Commission itself.

Senator Bob Odell, D. 8: So just to follow. So this Modernization Act was internally, organically developed?

Commissioner Bodi: Absolutely. Just to eliminate the mystery: the consultant did provide insight and guidance with respect to revenue opportunities. They commented on the potential sale of the Stors Street facility; where that might have higher and better use for a different use, and we're further analyzing the cost structure associated with that. They made recommendations regarding SKUs, management and inventory, those types of things; pointed out opportunities for, I didn't want to say expense reductions, but revenue enhancements. That was the focus of their review.

Senator Bob Odell, D. 8: Any other questions? Senator Downing?

Senator Michael W. Downing, D. 22: Thank you, Mr. Chairman. Commissioner, are you working closely with departments, like the Department of Transportation, to identify locations that our available to develop additional state-owned facilities?

Commissioner Bodi: Yes, Senator, and that's a good question. Commissioner Campbell has been enormously helpful. We have a couple of locations that we're interested in, state-owned land. We're pursuing one right here in Concord, and we hope to more fully maximize those opportunities. And we have assigned an individual who's in this room, as we speak, who will be working directly with the Department of Transportation on those issues.

Senator Michael W. Downing, D. 22: Thank you.

Senator Bob Odell, D. 8: Other questions? Seeing none, thank you very much for being here. Thank you for the comprehensive presentation.

Commissioner Bodi: Thank you, Mr. Chairman, members of the Committee. I appreciate it.

Senator Bob Odell, D. 8: I appreciate it very much. Before I call the next individuals to testify, I just want to tell those who are here for the gambling bills, that we are obviously running behind. We apologize for that. This is a process that takes a lot of patience, both on our part as well as those who have come here with an interest in these bills. We move this as expeditiously as we can. I do have a list of some people that have to leave this afternoon. If there are others who want to be on the list of those that we want to try to get in early, we will try to do that, and try to accommodate you. But, this is an important piece of legislation and we have a number of people who want to testify on it, so we will continue on with the liquor bill and I'll start by calling on Clark Corson who wishes to speak in support of the bill, from the New Hampshire Beer Distributors. Mr. Corson, good morning.

Clark Corson: Good morning, Mr. Chairman, members of the Committee. For the record, my name is Clark Corson. I appear this morning on behalf of the New Hampshire Wholesale Beverage Association, which is a consortium of beer distributors, importers and brewers presently doing business in the State of New Hampshire.

There are three components of this bill that I would like to briefly commend the Liquor Commission on, and tell you that the reason I support this, as a private citizen as well as a lobbyist for 38 years in this august body, building I should say, is, because three years ago, on behalf of one of my clients, which was a small importer, Sam Adams as a matter of fact, they had a Santa Claus, and the Santa Claus was going to be holding open cans of beer at Christmas. It was a promotion. We applied for that promotion in September. We received acceptance for it in April. At that time, I said to myself, and I brought it to the attention of then-Chairman Tony Maiola, something has to change in this Department, in this agency rather. And so, I totally support the thrust, the spirit, and I commend the Liquor Commission under its new leadership, and I commend you, Senator D'Allesandro and the other sponsors as well, for bringing, for attempting to bring this huge money-making agency into the 21st Century.

First, as in regards to direct shipping, which is the first portion of the bill, direct shipping is a very sensitive issue. The Costco v. the State of Washington, State of Washington is also one of the 18 control states in our country, went through a multi-, multi-million dollar suit which started four years ago, and was finally appealed to the Seventh District Court or the Ninth District Court, beg your pardon, and was rectified. I am very interested in any changes that are made to direct shipping in terms of who receives the product, UPS, FedEx; how internet sales are conducted with respect to this very sensitive issue, i.e. alcohol.

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Secondly, and in order, the agency store aspect is very difficult to work through. The beer distributors also are celebrating their 75th anniversary, which happens to be co-terminus with the date that Prohibition was repealed. So, the Liquor Commission, in all due respect, can't take exclusive rights to that. With respect to agency stores, how the Liquor Commission wrestles through this process, I am not sure, states, there are control states that allow the distribution of spirits in grocery stores, literally speaking. Beer has an unlimited potential, beer, in grocery stores as it stands now. As it also stands for wine, both dessert, fortified, and dessert wines. I don't know why spirits can't be included in that, in this day and age. I do not think, or let me reword that, I think it is a specious argument at best that the enforcement aspect of who can sell to a person coming in. I think it is a ludicrous argument. You're going to hear it from some today, that that is a great major concern, and that this is a gateway to further incidents of alcoholism in our State. I don't believe that for a second.

And thirdly, I would like to say that, if you go to the original bill, and go to page six of eight, under 179:7-a which is a new section, "Sales to Intoxicated Person". I didn't write that. It is written clumsily, but I believe in the spirit of the authorship of it. The press has done a disservice to the people in our State by saying that this bill means that only one drink can be served to a patron in a given hour. If they had taken the time to read that section, it actually gives standing and protection to a bartender, because it says, if Clark Corson drinks at Makris' on 106, and then goes over to the Red Blazer, comes down to the a Green Martini and then ends up at Forefathers of the Barley House or whatever it is across the street, that it in fact is prima facie evidence, protecting the barroom, that he is allowed to serve me one drink. In the event I go out and hurt someone, am arrested for being overserved or whatever, that I, that that bartender, in fact, is not held culpable for knowing whether or not I was intoxicated at the time.

So, I, in the spirit of brevity, I leave it at that. I totally support the thrust of the bill and hope the wisdom in this Committee prevails in its favor.

Senator Bob Odell, D. 8: Any questions for Mr. Corson? Seeing none, thank you very much, and I'll call on Peter Oldag. Peter, Peter...

Dr. Peter Oldag: Just present...

Senator Bob Odell, D. 8: What's that?

Dr. Oldag: Just present, not speaking.

Senator Bob Odell, D. 8: Okay. Say that again. I don't have it support or opposed, and I will mark it "not speaking". Support?

Dr. Oldag: Support.

Senator Bob Odell, D. 8: Thank you very much. I'll call on Gary Smith and Jay Ward, both here. Do you both want to speak together?

Jay Ward, State Employees Association: I don't need to speak at this point.

Senator Bob Odell, D. 8: All right. So you're in, here in opposition.

Jay Ward, State Employees Association: Yes.

Senator Bob Odell, D. 8: Thank you. Mark Somers from the New Hampshire Lodging and Restaurant Association? Mike, sorry.

Mike Somers: Thank you, Mr. Chairman, members of the Committee.

Senator Bob Odell, D. 8: Good morning.

Mr. Somers: Good morning. For the record, my name is Mike Somers, President/CEO of the New Hampshire Lodging and Restaurant Association. I'm here to testify in support of this piece of legislation. Again, in concept, we think that the modernizing of the Liquor Commission is a good and wonderful thing. We welcome the Chairman's initiative. We do have a couple of concerns and I have a couple of amended changes that I would like to present for you to consider going forward. If I could just hand those...

Attachment #3: changes submitted by Mike Somers, President/CEO of the New Hampshire Lodging and Restaurant Association.

Senator Bob Odell, D. 8: So these are amendments that you are proposing or changes you're proposing?

Mr. Somers: That I would for you to consider, yes. And I just would like to speak to both of those points, briefly. The first is dealing with agent stores. If in the course of closing liquor stores and opening agency stores, the concern is that the current statute only allows for licensees, restaurateurs to purchase directly from the Commission, either through state stores or through the warehouse, and we're asking for an accommodation where they could then purchase from agent stores that may replace liquor stores in certain outlying areas, so as to not to blow up, provide a hardship on those smaller operators.

Second piece I would like to speak to, is the piece that was dropped in the amendment but we would like for you to consider at the end, regarding the advertising for restauranteurs to advertise alcohol, and again, I have a little bit of a revision in the language that I hope you would consider.

And with that, I'll end my remarks, and take any questions.

Senator Bob Odell, D. 8: Thank you very much. The first amendment seems pretty clear.

Mr. Somers: Yes.

Senator Bob Odell, D. 8: When you go to, let's say, a small restaurant, goes to the liquor store to buy a product to be sold at the restaurant.

Mr. Somers: Sure.

Senator Bob Odell, D. 8: Is there a discount?

Mr. Somers: Currently, no. I do think that the Liquor Commission is running a little bit of a pilot program right now experimenting with certain areas where that is going to be considered, consider possibility. But currently, I think, the standard operating procedure, there is not; they would pay full retail.

Senator Bob Odell, D. 8: Same price I pay?

Mr. Somers: Yes.

Senator Bob Odell, D. 8: Okay. Any other questions? A question: have you talked to the Department about this, to the Commission, about these amendments?

Mr. Somers: We have briefly, yes.

Senator Bob Odell, D. 8: Okay. And the reaction?

Mr. Somers: Mixed.

Senator Bob Odell, D. 8: Thank you very much.

Mr. Somers: I think I should clarify that. I think Chairman Bodi is very open to the agency store piece. We're trying to work through that. He does

understand our point on that. I'm not sure on their take on the advertising piece.

Senator Bob Odell, D. 8: Okay. Any other questions? Seeing none, thank you very much for being here.

Mr. Somers: Thank you very much for your time.

Senator Bob Odell, D. 8: Thank you for your patience. And I'll call on Carol Martel, representing the Wine Institute. If not, I should say, Carol Martel is signed in in support, but does not wish to speak. Thank you. Greg Gorski from the Bristol Shop 'n Save, is here in opposition, but does not wish to speak. Kevin Daigle from the New Hampshire Grocers Association. With that also the, Stephen Gorski. Are both of, here from the New Hampshire Grocers, Associated Grocers?

Kevin Daigle: Separate companies.

Senator Bob Odell, D. 8: Okay. Very good.

Mr. Daigle: Good morning, Mr. Chairman, members of the Committee.

Senator Bob Odell, D. 8: Good morning.

Mr. Daigle: For the record, my name is Kevin Daigle, and I am with the New Hampshire Grocers Association. Unfortunately, due to a scheduling conflict, our President, John Dumais, cannot be here to return to this session.

SB 181 is an extremely complex bill. It deserves a lot of thoughtful deliberation before it becomes law. It should be known that the sponsors and the Liquor Commission should be commended for bringing this issue forward. A portion of this bill we wholly agree with: the Liquor Commission acting like a business, operating like a business. But there are other sections we don't agree with at all, such as restrictions on the agency stores.

Mindful of your time restraints, I'll not discuss all of the specific issues at this time. However, I have submitted a complete list for your review.

Our study which Mr. Dumais presented at the last hearing makes it clear that the State could generate an additional \$16 million annually net revenue by expanding spirit sales. It only requires five basic principles which were recommended in that study. These are: completely open licensing for any food store which is currently allowed to sell beer and wine products now; maintain a reasonable wholesale discount. New Hampshire Grocers suggest 20% is

reasonable for the retailer to market properly; to establish a reasonable spirits license fee; allow spirits to be sold during the same hours and days that beer and wine are sold now; and then allow all alcoholic products currently sold in state stores, to be additionally be sold in food stores. SB 181 in its original form did not address any of these concerns. In a subsequent meeting with the Liquor Commission, only the issue of license fees was addressed, corrected, and then added today's amendment.

We now remain concerned with the amended version of SB 181. Without the inclusion of the four remaining principles, we do not see this generating substantial additional revenue, and will create an unfair competitive advantage for only a few stores. New Hampshire Grocers Association has all along believed in a level playing field for all-size stores and formats. For this reason, our membership, which comprises of the majority of the off-premise licensees, urges you to amend this bill with the remaining four principles we brought forward: completely open licensing for all food stores currently allowed to sell beer and wine; maintain that reasonable wholesale discount, 20%; allow spirits to be sold during the same hours and days that beer and wine are sold now; and then allow all alcoholic products currently sold in state stores to be sold in food stores.

Finally the handout, which you have in front of you, outlines our comments for areas of concern with the modernization bill and its current amendment. We've also included our own amendments for your consideration. That would be the yellow insert, as well.

Attachment #s 4+5: Testimony "John M. Dumais Before Senate Ways and Means Committee March 3, 2009", and "NH Grocers Association Amendment to SB 181-FN-A", submitted by Kevin Daigle.

Today, the New Hampshire Grocers Association fully supports a portion of this bill with these recommended changes. The grocers of this State enthusiastically support your modernization effort.

We would like to thank you for your consideration.

Senator Bob Odell, D. 8: Thank you for your testimony. Thank you for being here. So I am to, from your testimony, I am to understand that you've been to the Liquor Commission on all five issues, and the only one that you came to an agreement on is number three, which establishes a reasonable spirits license fee?

Mr. Daigle: It is my understanding there is still open discussion between the Liquor Commission and our office on the other principles.

Senator Bob Odell, D. 8: This is post drafting of the amendment?

Mr. Daigle: Correct.

Senator Bob Odell, D. 8: Okay. Any other questions?

Commissioner Bodi: Mr. Chairman, I would like to take issue with that.

Senator Bob Odell, D. 8: No, we do it in order.

Commissioner Bodi: I never met with him so his representation of dialogue with the Commission, I think is incorrect.

Mr. Daigle: I'm representing Mr. Dumais.

Senator Bob Odell, D. 8: This is not a debating society, and we don't do that. We have a procedure, a process here, and we'll abide by that. Go ahead. Did you have something else? Are there questions from the Committee? Seeing none, thank you very much for your testimony.

Mr. Daigle: Thank you.

Senator Bob Odell, D. 8: I'll call upon Jim Greene. Did you want to speak on this bill or are you here to speak on the game, gaming bill?

Jim Greene, Horsemen's Protective Association: Just the gaming bill.

Senator Bob Odell, D. 8: All right, so we're going to put Mr. Greene down to speak in support of the gaming bills later on. I'm going to cross you off here. I'll call in Stephen Gorski from the Associated Grocers.

Stephen Gorski: I don't want to...

Senator Bob Odell, D. 8: Okay, not to speak, all right. You're in opposition of the bill as it stands right now?

Stephen Gorski: Yes.

Senator Bob Odell, D. 8: And that includes the amendment? Yes? Okay. Tricia Lucas from New Futures?

Tricia Lucas, Esquire: Good morning, Chairman Odell, and members of the Committee. My name is Tricia Lucas. I am the Policy Director at New

Futures. New Futures is an advocacy organization that focuses on reducing underage alcohol problems and increasing access to substance abuse treatment.

This is going to be very brief. I spoke with you at the original hearing on this bill and shared with you some concerns that I had with the number of provisions of the bill. I'm here today because the concerns that we had about those provisions have been addressed in the amendment that was presented to you today. The issues that concerned us at the time were expanded advertising, particularly repeal of provisions on happy hour advertising. Those were removed from the bill. So, we're fine with the advertising, leaving the existing law as it is, which, as you heard from Mike Somers from the Lodging and Restaurant Association, that's an issue that is still real for them, but the amendment addresses that issue for us.

The second issue that we had raised just dealt with the issue of agency stores and our strong and continuing opposition to any broad distribution of spirits. We don't have any difficulty with the current language around the agency stores and we too have had conversations with the Commission about their vision for how to do improvements and distribution that doesn't constitute a wide expansion of that, and based on my conversation with Commissioner Bodi, we're comfortable with the language that is in the amendment with regard to agency stores.

And then, finally, we had raised an issue about the conditional combination license because there was some very broad language there. And that language has been amended here, and we're comfortable with that as well.

In closing, from the perspective of an agency or an entity that works on underage issues, it is clear from the research, that the most significant benefit to the State on that issue is to maintain the State's control status, where you can balance revenue maximization with effective controls. And so to the extent that this amendment assists the Commission in moving, retaining its control status, and moving itself into greater efficiency, we're comfortable with that. And so I wanted to, having spoken with concern before, I wanted to make sure you knew that we had seen the amendment.

Senator Bob Odell, D. 8: Thank you, Ms. Lucas.

Attorney Lucas: Thank you.

Senator Bob Odell, D. 8: Thank you for your testimony. Any questions from Committee members? Seeing none, thank you very much. I have one additional speaker on this bill, and then I think we'll take a five-minute

break for Committee members as well as staff, and then we'll convene the two remaining bills on our agenda for today. So with that, I'll call the final speaker, Stephen Wood, who is here to speak on behalf of himself in support of the bill. Good morning, Mr. Wood.

Stephen Wood: Thank you, Sir. I'll be as brief as I possibly can. I apologize, I left a leaky furnace, and I have only one copy of my comment. Shall I give it to you now, or shall I have them and bring them back copied?

Senator Bob Odell, D. 8: No, no, we'll take care of it.

Attachment #6: comments submitted by Stephen Wood of Farnum Hill Ciders.

Mr. Wood: I own and manage Poverty Lane Orchards and Farnum Hill Ciders in Lebanon; a fairly sizeable retail and wholesale apple operation. We are also the largest planter in North America of English and French cider varieties, by which I mean alcoholic cider varieties. When we are ciders, Farnum Hill Ciders, have over the last decade, gained a national and international reputation. The Commission is one of our very best accounts. And I am here in support of this bill with the hope that there might be a couple further amendments that will attend to the interests of the growing, very small, we've grown from infinitesimal to tiny, the New Hampshire wine/cider mead industry.

My comments treat a couple of other things, but I will let you read those, that have to do with, I think, slight errors in language. But, there is a provision in this bill, and again, I'm here in support of the bill. I think it will increase the agility of the Department and the ability to bring more revenue into its own coffers, and thereby the State's coffers. One of the elements that's in the bill that I think will do this, is the provision for direct shipment to consumers. My only slight trouble with this provision in the bill is it is not clear from the draft of the language, whether it is intended to include New Hampshire producers. There is language that says any person currently licensed in its state of domicile may apply for such a license. But, nowhere in the bill, nor anywhere in current law that I can find, is this permission allowed to New Hampshire producers. I assume that it's intended to be allowed to New Hampshire producers. I have offered a suggestion which is a slight modification to the licensing portion of the law, not treated in the bill. But my hope is that this language could be clarified, to do what I hope it intends to do, which is to include this capability, rather include New Hampshire producers in this capability.

The one other, one other thing I would like to address if I may, is paragraph 19 in the bill, which treats the sampling, of which Commissioner Bodi spoke of. For domestic producers, again per in-state producers, it seems to me that the bill as drafted will create a, both an inventory and logistical headache for both the Commission and the producers.

There are two things: one is that the Commission does not sell all of the wines that are produced in the State. So the language of the bill would prohibit someone who makes any product that isn't sold by the Commission, from sampling at all, because the language of the bill requires that all samples be bought from the Commission.

Second of all, well, this language has been fixed, as Commissioner Bodi said in the section on the charitable donations. If the same language were adopted here, in-state producers were obliged to treat the samples as retail sales, pay taxes on them, but take them from their own inventory, the Commission would be spared the headache of keeping, I mean, and report them. The Commission would be spared the headache of inventory problems represented by this, and producers would be able to sample and thereby perhaps grow our market a bit.

All the rest of my comments I'll let you read. Thank you very much.

Senator Bob Odell, D. 8: Thank you. Did you have a chance to review the amendment?

Mr. Wood: Yes, I have read, reviewed the amendment, and the amendment...

Senator Bob Odell, D. 8: The last point that you addressed here, that you don't feel that that's addressed.

Mr. Wood: I'm afraid it is addressed in the amendment; it is addressed on paragraph 14 on the one-day license which is non-profit organizations, but the paragraph 19, let's see, is it 19, yes, 19, which was formerly 20 in the other bill, still says all liquor, wine distributed as samples shall be purchased from the Commission. So if that, if the language that was changed in paragraph 14 were adopted in paragraph 19, my comments would be answering...

Senator Bob Odell, D. 8: And have you expressed that to the Liquor Commission?

Mr. Wood: I'm afraid I haven't, sir. I have been sitting up on my farm pruning apple trees, and making cider. I have followed; I have followed the bill fairly closely.

Senator Bob Odell, D. 8: Thank you very much. Any questions from the Committee members? Seeing none, thank you.

Mr. Wood: Thank you, sir.

Senator Bob Odell, D. 8: With that, we have no other speakers, and I will then close the public hearing on SB 181 and we'll take a five-minute recess and, by five minutes, I mean five minutes.

Hearing concluded at 11:39 a.m.

Respectfully submitted,



Laurette Joppie
Senate Secretary
03/11/09

6 Attachments



STATE LIQUOR & WINE OUTLET STORES NH LIQUOR COMMISSION



March 3, 2009

Mark M. Bodi, Chairman | Patricia T. Russell, Commissioner | Richard E. Simard Commissioner

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THE NEW HAMPSHIRE STATE LIQUOR COMMISSION UNVEILS LIQUOR COMMISSION MODERNIZATION ACT

Major Changes Recommended at State Senate Hearing of SB 181 to Maximize Revenues-Modernize Operations and Better Serve Customers

Concord, NH – The New Hampshire Liquor Commission today announced broad proposed changes in state statute and regulatory rules that it says will align its operation to operate more effectively and like the \$450 million business it has become. Termed the “Liquor Commission Modernization Act” (LCMA), the plan would, among other items, reorganize and streamline decision making among its senior management ranks, increase the overall efficiency of its retail and wholesale operation, streamline the process for restaurants and other hospitality establishments to obtain and renew their licenses, bring new products to market more quickly and eliminate so-called “blue laws,” which unnecessarily constrain charity wine tasting and alcoholic beverage marketing. The recommended changes were presented before the Senate Ways and Means Committee at a hearing on SB181 sponsored by State Sen. Lou D’Allesandro, Sen. Jack Barnes, Jr., Sen. Mike Downing, Sen. Molly Kelly, Rep. David Campbell, Rep. John Hunt, Rep. Alfred Lerandeau, and Rep. Peter Ramsey.

“The fundamental premise is to simply operate the Commission more like a business. To do that we will be proposing changes in state laws, as well as agency rules that will cut much of the mounds of red tape and unnecessary bureaucracy to help us respond to the changing needs of our customers,” explains NH State Liquor Commission Chairman Mark Bodi. “The New Hampshire State Liquor Commission celebrates its 75th anniversary this year, and as we look back on our past with pride we also have to look to the present and future and change with the times to become more responsive to our customers’ needs and ensure a sustained growing revenue source for our state.”

In addition to proposing revised laws, the Commission will also submit changes to its operating rules that will be presented at a public hearing and reviewed by a special legislative rules committee. These changes would simplify the “licensing paper work” and allow for the processing of Commission licensing and forms on-line. “We currently require establishments seeking a liquor license to complete a myriad of forms and provide information and documents that have no meaningful regulatory value, said Bodi. This process is especially burdensome for small restaurant operators who often require the assistance and cost of lawyers and accountants to unravel, understand and apply for a liquor license. The grocery, hospitality and restaurant industries are our business partners and our customers and we need to be as responsive to them as we are to the customer who comes through the door of our retail stores.”

Highlights of Liquor Commission Modernization Act:

- **MANAGEMENT REORGANIZATION** – The LCMA reorganizes the senior management structure of the Commission to create five more accountable operating divisions including Finance, Marketing, Administration, Store Operations and Enforcement. These changes will improve operations and allow for greater efficiency.
- **CREATES A STREAMLINED ENTERPRISE OPERATION** – The LCMA permits the Commission to operate more like a business, providing more financial flexibility to respond to fast-changing conditions in the marketplace. The current government structure prevents the Commission from making quick decisions to streamline and improve operations and maximize revenues. The new reforms would provide real-world and real-time purchasing and maintenance options to improve the state’s competitive edge. This does not require more operating funds, only more flexibility in when those funds are spent. The LCMA would also allow the sale of new products, such as gift baskets, cork screws and other items that will draw more business to the state’s stores.
- **REDUCE LICENSING “RED TAPE”** — The LCMA would simplify and streamline the existing process to obtain licenses, using technology to replace antiquated paper applications. This new, on-line application system maintains the full scrutiny of potential licensees, guarantees local input and cuts down on long waits . The current process can require mountains of paperwork and take as long as 180 days to complete. A new, electronic approach can be just as effective and save time and effort, reducing the wait from months to a few weeks.
- **AGENCY STORES EXPANSION** – Permits the limited sale of spirits in grocery stores. It is the Commission’s intent to begin a limited pilot program of distribution expansion to assess its effectiveness and to allow for community input.
- **ETHICS AND ENFORCEMENT** – Strengthens agency ethics and fairness in licensing and enforcement by establishing the position of Deputy Commissioner of Legal Affairs,

Compliance, Ethics and Ombudsman. This individual would also investigate and report on ethical complaints regarding operations and enforcement, as well as overseeing all state and federal compliance requirements for the agency.

- **IMPROVE SERVICE TO HOSPITALITY INDUSTRY** – The LCMA would take numerous steps to improve revenue flow and foster new relationships in the hospitality community among businesses who have or may seek a liquor license in the future. It eliminates so called “Blue Laws”, outdated laws and rules which restrict and add unnecessary bureaucracy to liquor license operators.
- **WINE TASTINGS** - The LCMA eases the regulatory process of conducting charity wine tastings and the purchase of wine at auction. And it simplifies so-called “corkage fees” in the industry to let licensees allow privately owned wines to be consumed on restaurant premises with the purchase of a full meal. These steps will expand business opportunities while maintaining a controlled regulatory environment.

The LCMA also would broaden authority of the Commission to permit the sales of spirits in grocery stores. Once approved by the Legislature, the Commission would begin the process of offering a small number of agency licensees, under a pilot program, to carefully review its impact both financially as well as considering community interests and concerns. Bodi said that the Commission’s proposed expansion of spirit sales in grocery stores would likely be limited to no more than six to ten new licenses over the next year.

Since its creation 75 years ago, the Commission has contributed 2.2 billion dollars in net profits to the State’s General Fund. “The Commission is, by far, the largest producer of non-tax or fee revenue in the state and has been since its inception”, said Bodi. “But much has changed in the wine and spirits market over those years. It is critical the Commission changes with it.”

In addition, the Commission also announced that it is reviewing all of its current locations and considering where opportunities exist to expand, consolidate and open new retail stores. “Like any retail operation, we need to regularly review the effectiveness and efficiency of our store locations.”

Commission officials stated that it has already begun a store “Modernization Plan” to upgrade its existing facilities and improve the shopping environment. The Commission recently opened an expanded and renovated store in West Lebanon, which reflects a dramatic upgrade in overall appearance and store shop-ability. “Over 70% of our store facilities are substandard in one form or another,” said Bodi. “If the state

is to operate a contemporary retail system, it must upgrade and invest in new store environments, systems and its employees to support its overall operations.”

“I am confident that with these changes to the oversight and operation of the New Hampshire State Liquor Commission, we will increase our revenues by millions of dollars in the future,” says Chairman Bodi. “We simply need more control over day-to-day business decisions than we currently have right now. And it is important that the Commission has the ability to read the changing sales market and respond with changes to the geographic location of our stores. We are in the business to improve sales and provide as much revenue to the state of New Hampshire as possible. With the changes outlined in the Liquor Commission Modernization Act, I am certain we can improve our competitive edge and boost sales throughout New Hampshire.”

About the NH Liquor Commission

Founded in 1934 the NH Liquor Commission is celebrating its 75th anniversary. New Hampshire is one of 18 Control States in the nation, where the government controls the distribution of alcoholic beverages as well as being responsible for the regulation of alcoholic beverages. The New Hampshire State Liquor Commission operates 77 retail locations throughout the Granite State and serves more than 500,000 New Hampshire residents and tourists each year.

Senate Ways and Means Committee

SB 181

Liquor Commission Modernization Act 2009

March 3, 2009



**NEW HAMPSHIRE
LIQUOR COMMISSION**



New Hampshire Liquor Commission

**Liquor Commission
Modernization Act 2009**



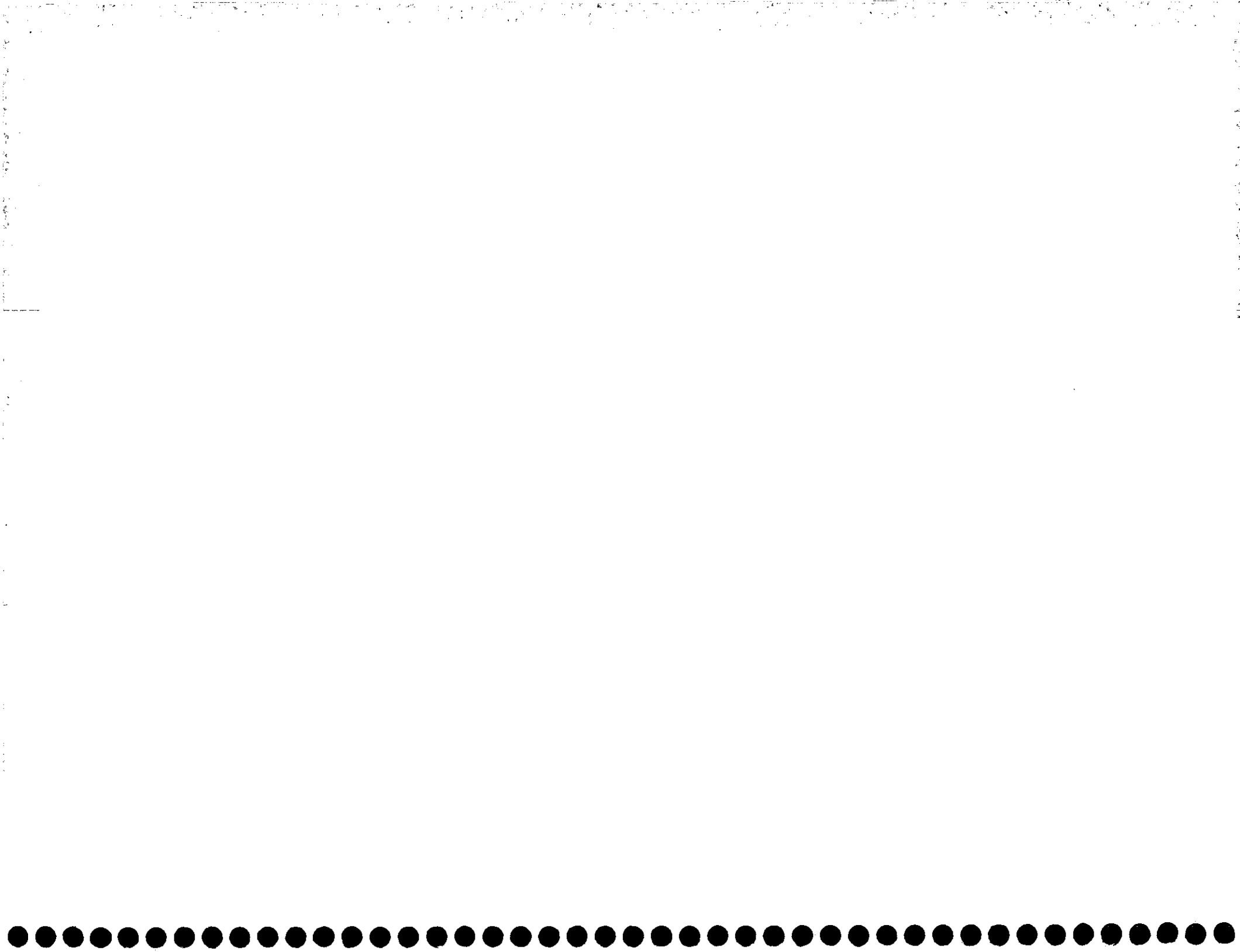
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New Hampshire Liquor Commission

Existing Agency Structure Overview





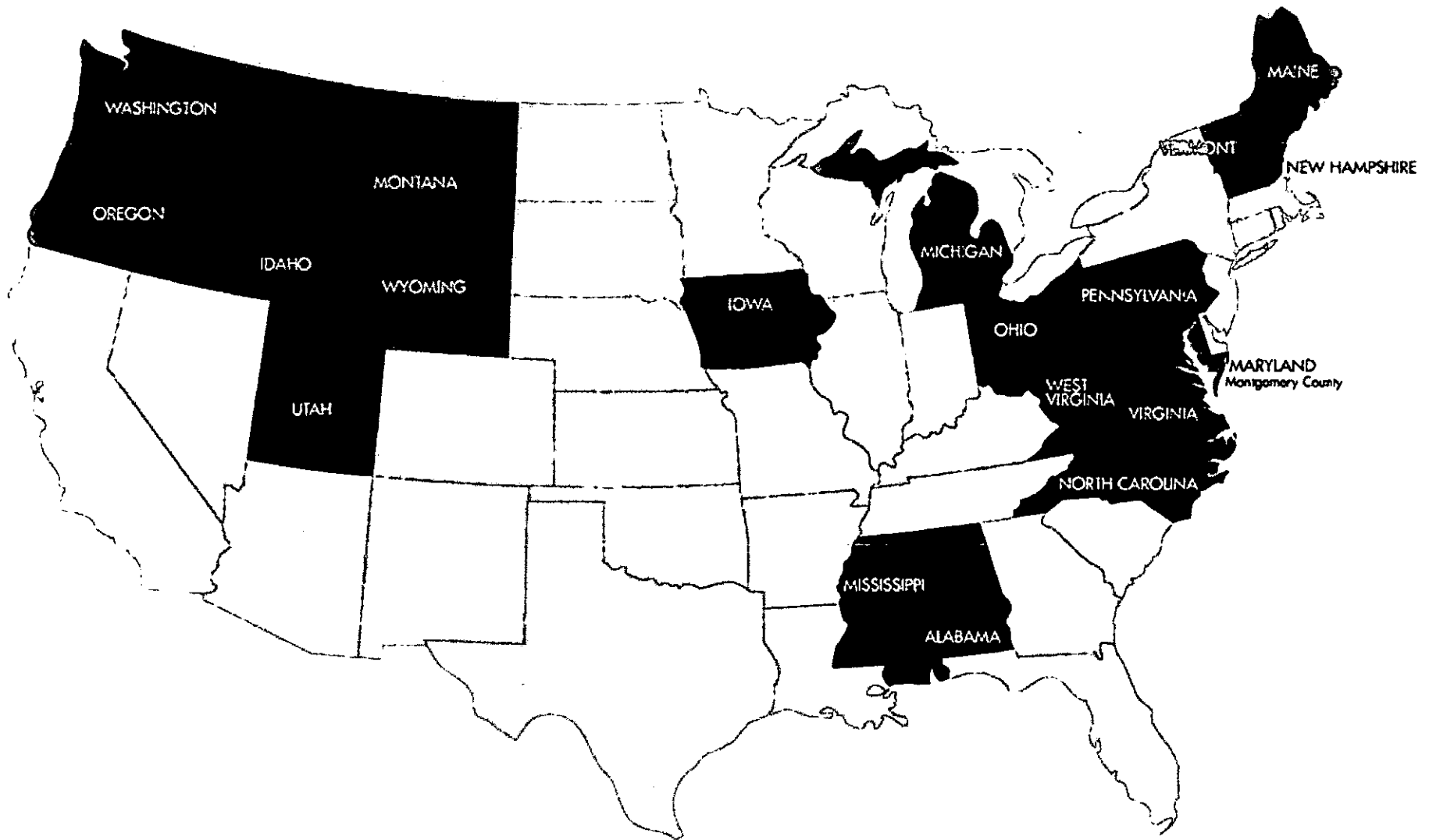
The Commission's Statutory Duties (RSA 176:3)

By law, the NH Liquor Commission is directed to:

- I. Optimize the profitability of the Commission.
- II. Maintain proper controls.
- III. Assume responsibility for the effective and efficient operation of the Commission.
- IV. Provide service to the customers of the Commission, pursuant to this title.



Control Jurisdictions (Represent 25% of US Spirits Market)



NH ranks 7th among these jurisdictions in gross sales



The Control State Philosophy

The Control State Systems have focused on achieving the delicate balance of responding to customer concerns; generating revenue for valuable and necessary state programs; improving the overall safety of communities through education, regulation and enforcement; and providing quality service to their customers.



Components of the NH Alcohol Distribution System

Spirits

- State controls wholesale sales & distribution
- State controls retail off-premise sales
- State licenses on-premise by-the-drink sales

Wine

- State controls wholesale sales & distribution
- State shares retail sales with off-premise licensees
- State licenses on-premise by-the-drink sales

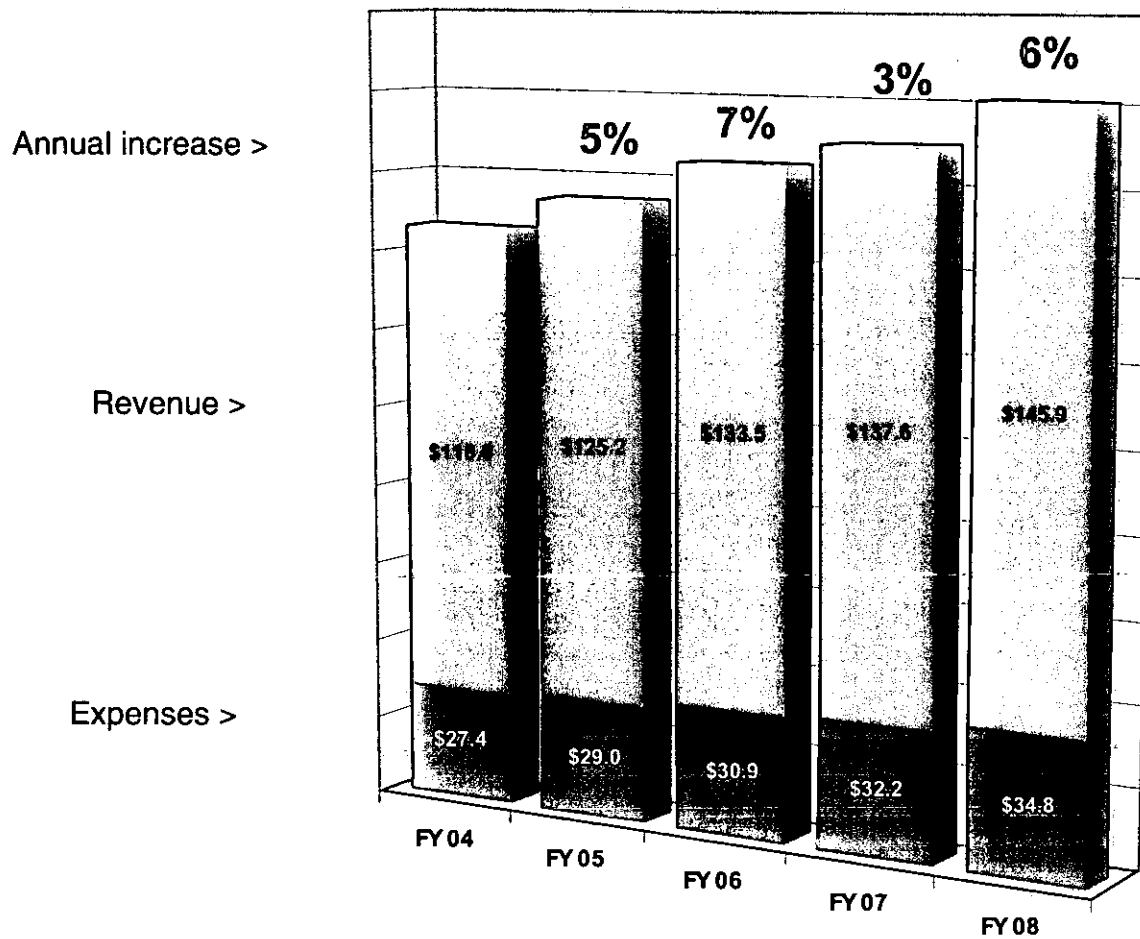
Beer & Beverages

- Private sector controls wholesale sales & distribution
- State licenses off-premise and on-premise sales
- State regulates licensing and trade practices for wholesale & retail licensees and collects excise tax



NHLC Revenues Generated Compared to Expenses

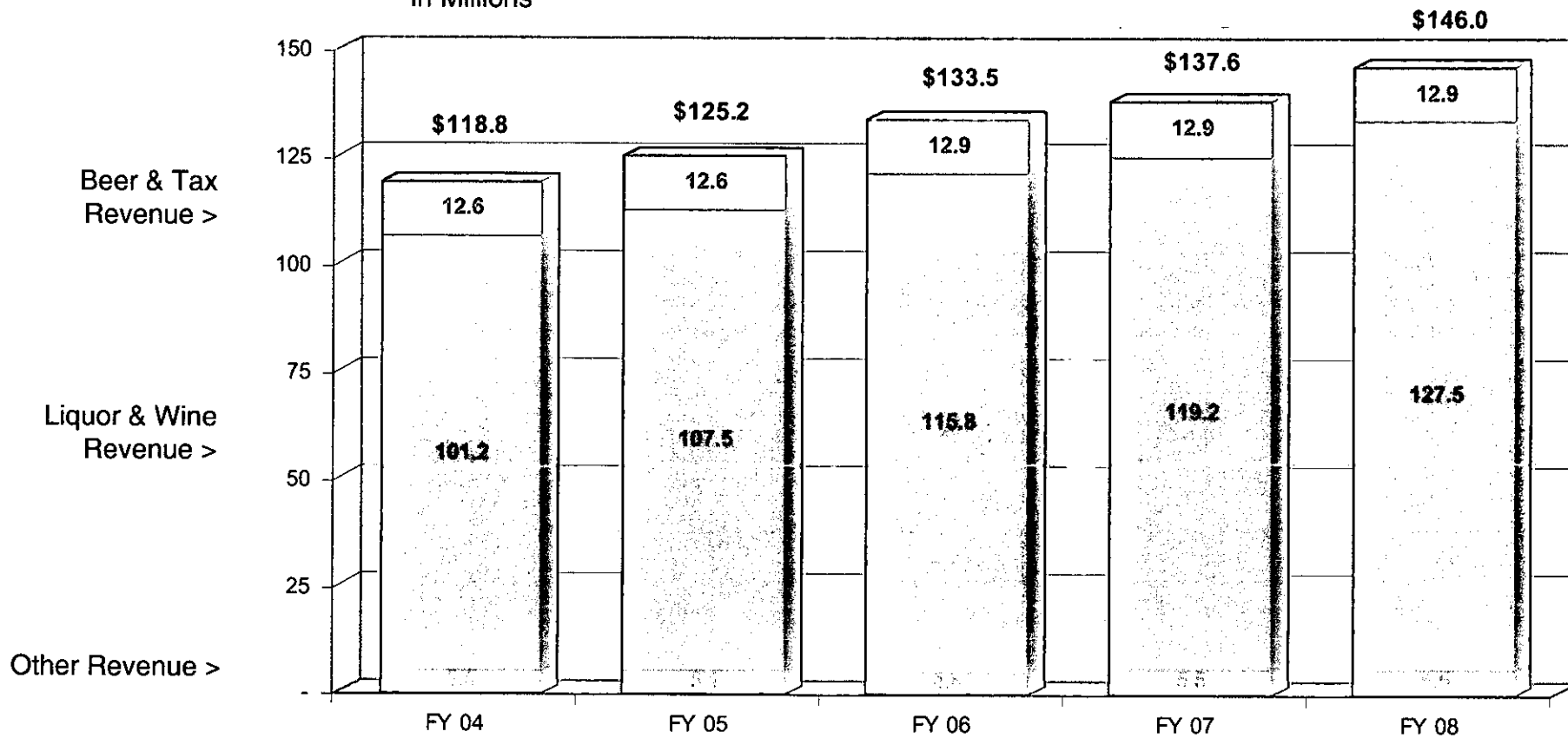
In Millions





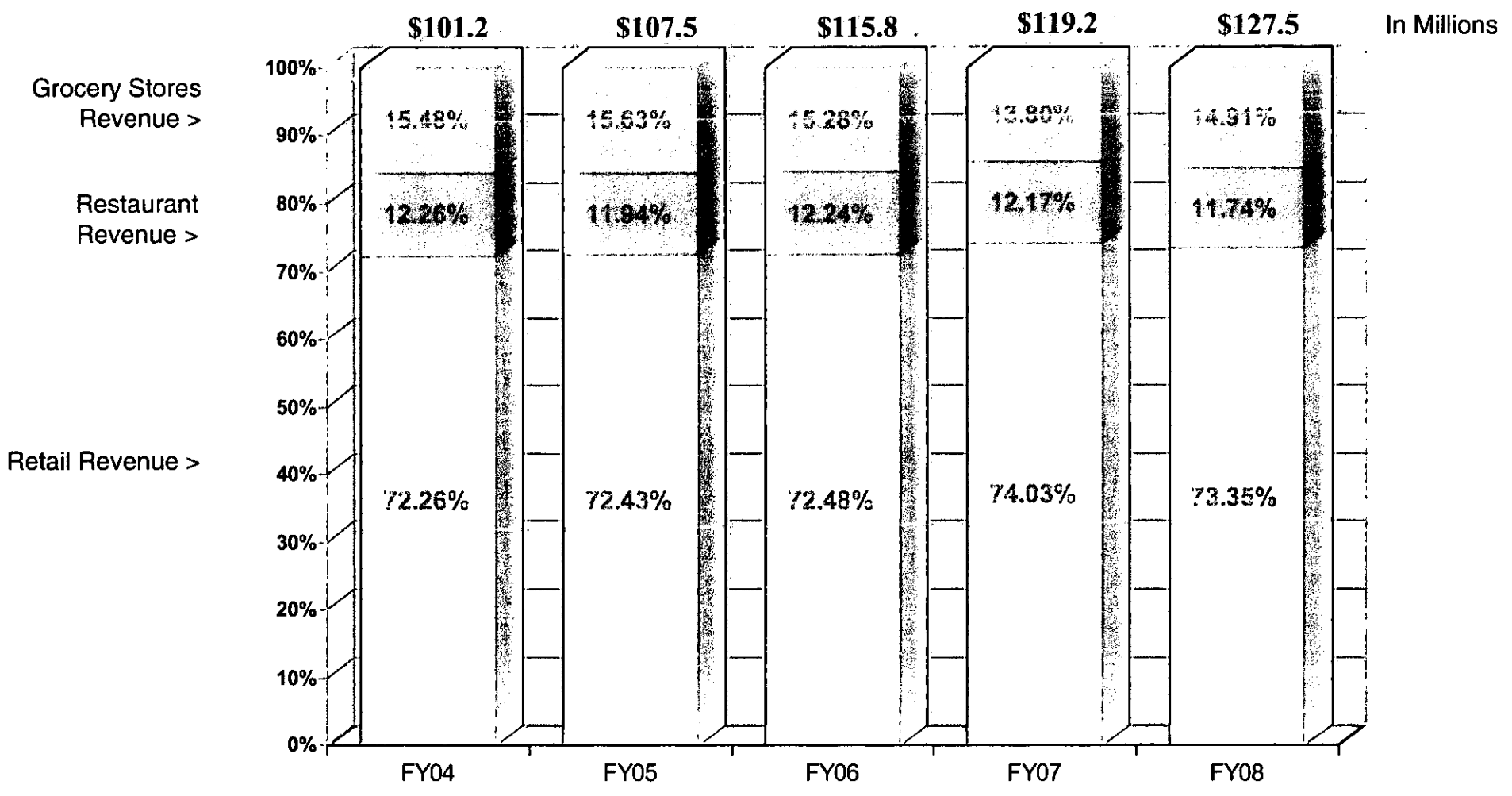
NHLC Revenue

In Millions





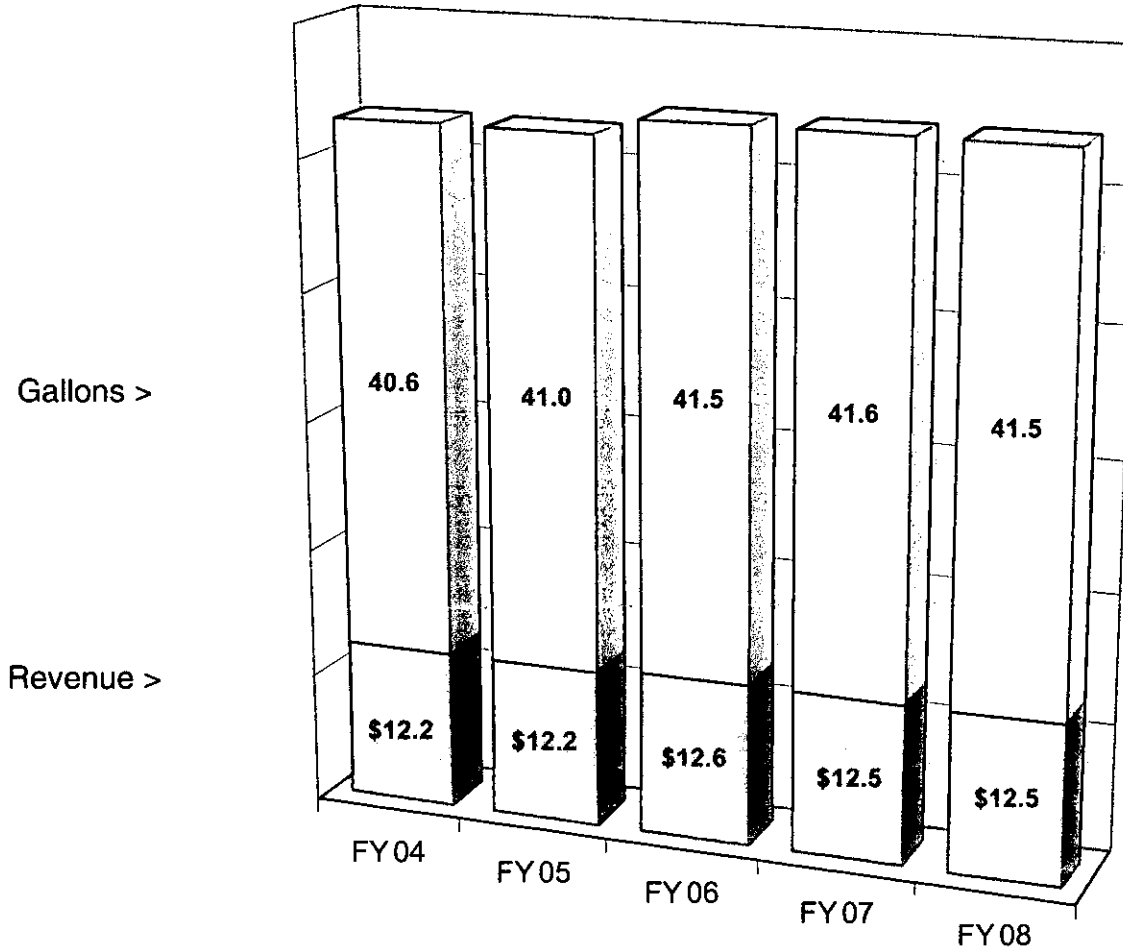
Liquor and Wine Revenue Breakdown





NHLC Beer Revenue & Gallonage

In Millions



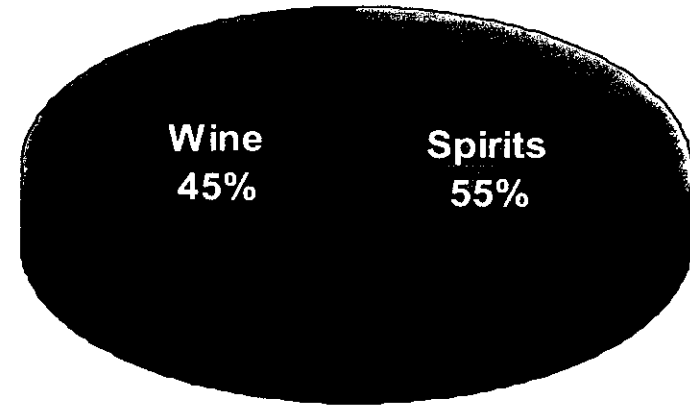


Total Sales Breakdown by Type



Total Sales \$466.1

(Gross Sales from all sources in Millions)

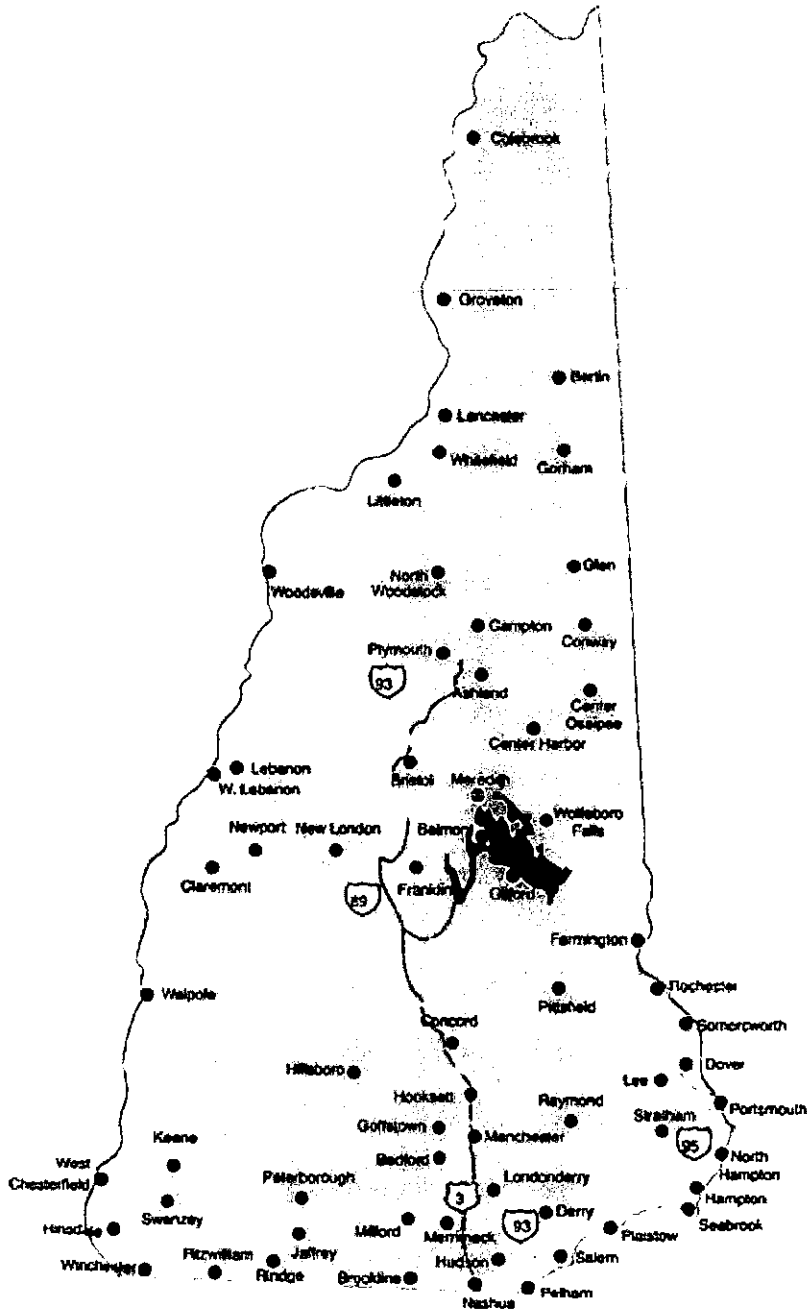


Total Gross Profit \$135.2

(Gross Profit from all sources in Millions)



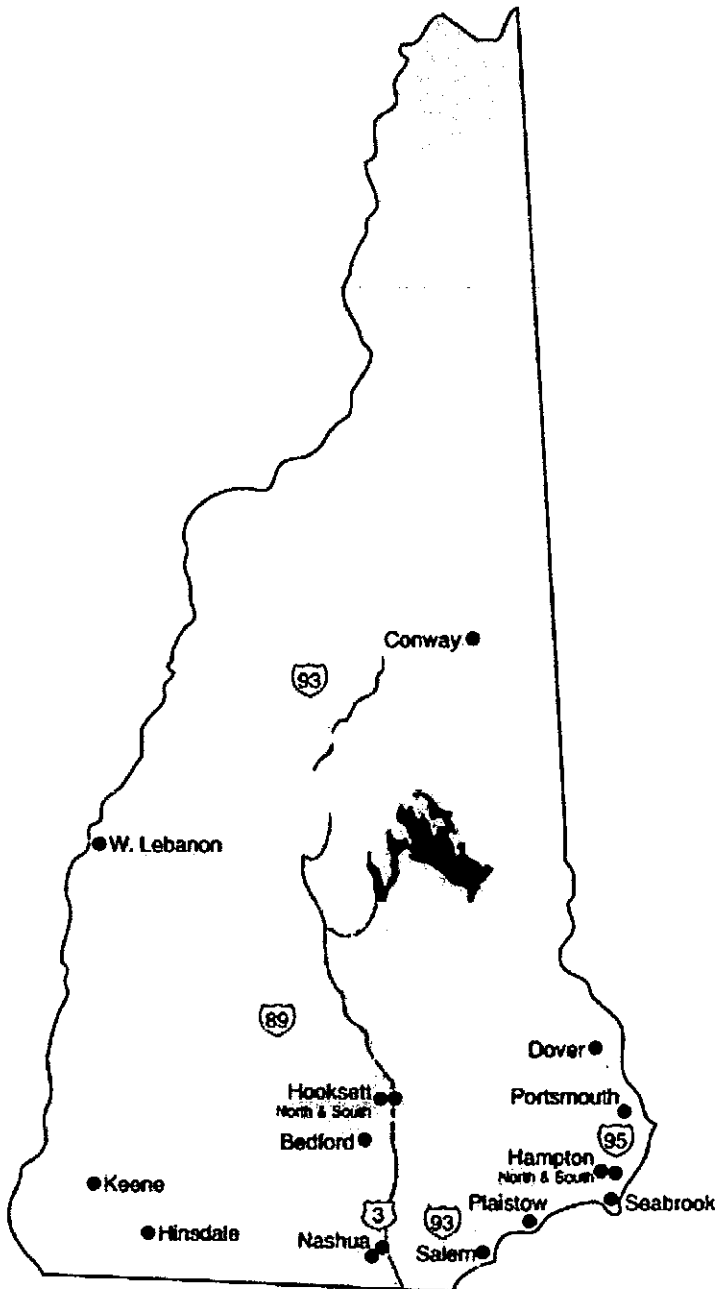
Retail Store Distribution System



- 11 state-owned stores
 - Hampton 95 North
 - Hampton 95 South
 - Hooksett 93 North
 - Hooksett 93 South
 - Portsmouth Traffic Circle
 - Salem
 - Nashua – Coliseum Ave
 - Keene
 - Concord
 - Raymond
 - Ashland
- 66 leased stores
- Leased space - 340,000 sq. ft.



NHLC Top 15 Store Locations

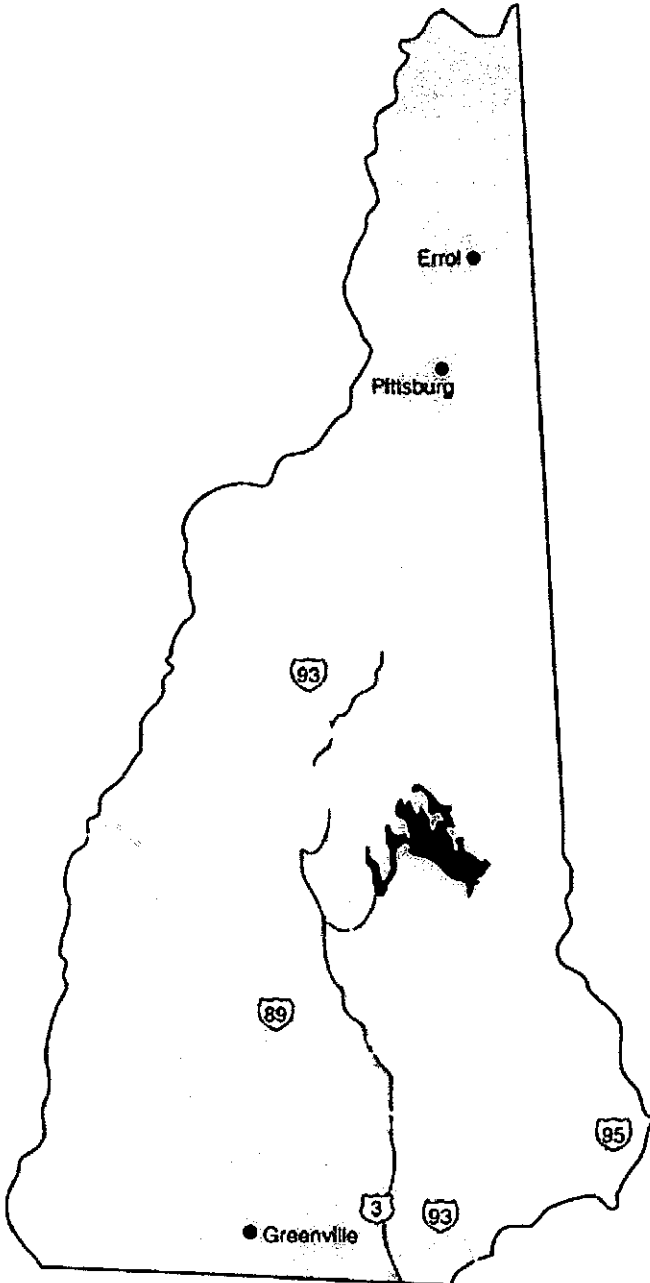


		Sales in Millions	Cumulative
1	HAMPTON-North*	\$26.6	\$26.6
2	HAMPTON-South*	\$23.4	\$50.0
3	PORTSMOUTH*	\$21.2	\$71.2
4	SALEM*	\$18.6	\$89.8
5	HOOKSETT-North*	\$15.5	\$105.3
6	NASHUA	\$13.1	\$118.4
7	NASHUA*	\$13.0	\$131.4
8	HOOKSETT-South	\$12.2	\$143.6
9	W. LEBANON	\$10.0	\$153.6
10	KEENE*	\$9.6	\$163.2
11	HINSDALE	\$8.0	\$171.2
12	PLAISTOW	\$7.8	\$179.0
13	CONWAY	\$7.6	\$186.6
14	SEABROOK	\$6.5	\$193.1
15	BEDFORD	\$6.0	\$199.1



* State-owned locations

Agency Stores Locations & Gross Sales



Only three agency stores
 operate in NH currently:

Errol	\$61,594
Pittsburg	\$82,060
Greenville	<u>\$1,376,109</u>
Total:	\$1,519,763

Agency Stores account for only 0.33% of total sales



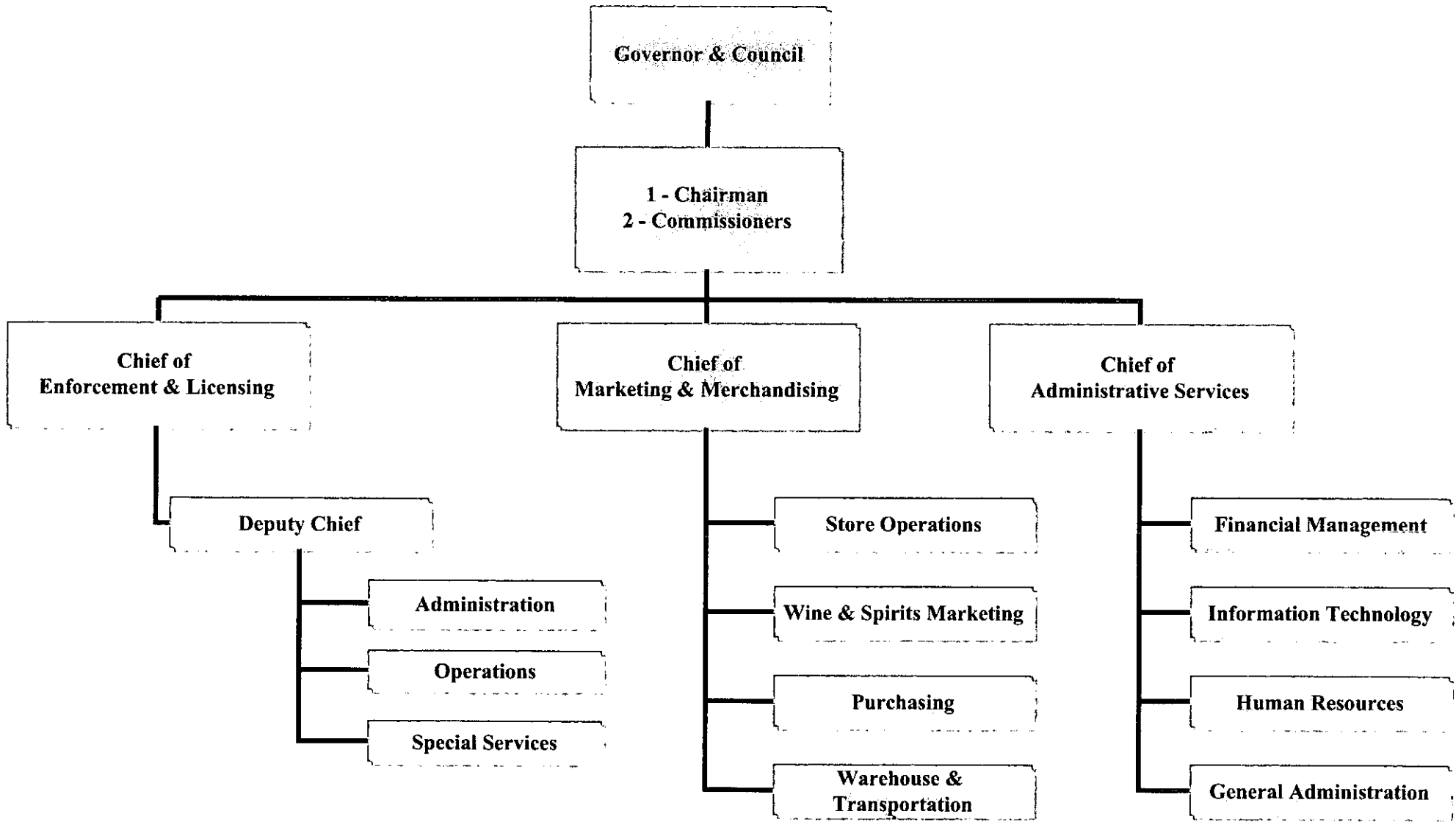
FY 2008 Sales - Wine & Spirits by Channel

	SPIRITS*	%	WINE	%	TOTAL	%
SLC Retail	\$215,404,123	66%	\$110,648,191	34%	\$326,052,314	69.96%
Restaurants	\$32,290,022	60%	\$21,377,065	40%	\$53,667,086	11.51%
Grocery Stores*	\$1,519,763	2%	\$84,835,547	98%	\$86,355,310	18.53%
Totals	\$249.2 million		\$216.9 million		\$466.1 million	100.00%

* Spirit Sales in Grocery Store Category are from Agency Stores.



Current NHLC Organization Chart





Existing Bureau Chief Area Overviews

**Administrative
Services**

**Marketing
and
Merchandising**

**Enforcement
and
Licensing**

Currently the Commission operates with only three senior division positions.

Areas of Responsibility

Finance

- A/R, A/P, G/L, fixed assets, payroll, inventory control, grants management
- \$181.3 million in credit card, \$55.3 million in debit card, and \$5.2 million in gift cards transactions in FY08

Human Resources

- Employee relations, personnel actions, union issues, discipline, training (800+/- employees)

Information Technology

- Help desk & tech support for 77 stores, HQ, and Enforcement
- Operate frame-relay network connecting all stores
- Application support staff on site



Areas of Responsibility

- Store Operations
- Warehouse & Distribution (50,000 sq. ft.)
- Merchandising Administration
- Purchasing (Spirits & Wine)
- Advertising & Communications



Areas of Responsibility

- Licensing – 4,500 total
- Enforcement
(licenses, permits & tax fee collections)
- Education



New Hampshire Liquor Commission

Principal Changes Proposed in the Modernization Act SB 181





Management Structure Reorganization

Changes

To more effectively manage a \$500 million business, change the management structure:

From three Classified Bureau Chiefs

to

Five Unclassified Division Directors



Changes

To ensure compliance, add legal capacity and strengthen ethics
create the position of:

Deputy Commissioner of Legal Affairs,
Compliance, Ethics and Ombudsman



Changes

To permit more flexibility in day to day operations (such as eliminating special waivers to hire needed staff and equipment, and transferring approved legislative funds when needed):

Recognizes the Commission as an Enterprise entity as opposed to its current “general fund” agency status.



Changes

To act more like a business and react to changing market requirements, the Liquor Commission Modernization Act (LCMA) provides:

The authority to purchase goods and services with controls and oversight but without the current administrative constraints that add time and sometimes cost to the procurement process.



Additional Products and Purchasing Authority

Changes

To respond to consumer demand and maintain stores:

Permits the sale of some non-alcoholic beverage items, such as wine and gift bags, recycling bags, gift boxes, cork screws, etc.

The LCMA would also permit the Commission to purchase retail store supplies and promotional items used for store operations under the same authority currently used to purchase and resell wine and spirits.



Agency Stores Expansion

Changes

To open new agency stores:

The LCMA adjusts existing statutes to expand the issuing of Agency Liquor Store Licensees as may be needed to replace existing Commission stores that are not operating optimally or to better serve a specific geographical area or region of the state that may currently be under serviced.



Creates Special Condition License

Changes

To consolidate and create special licenses:

Allows the consolidation of licenses into one category to eliminate the need for an establishment to require as many as five different licenses.

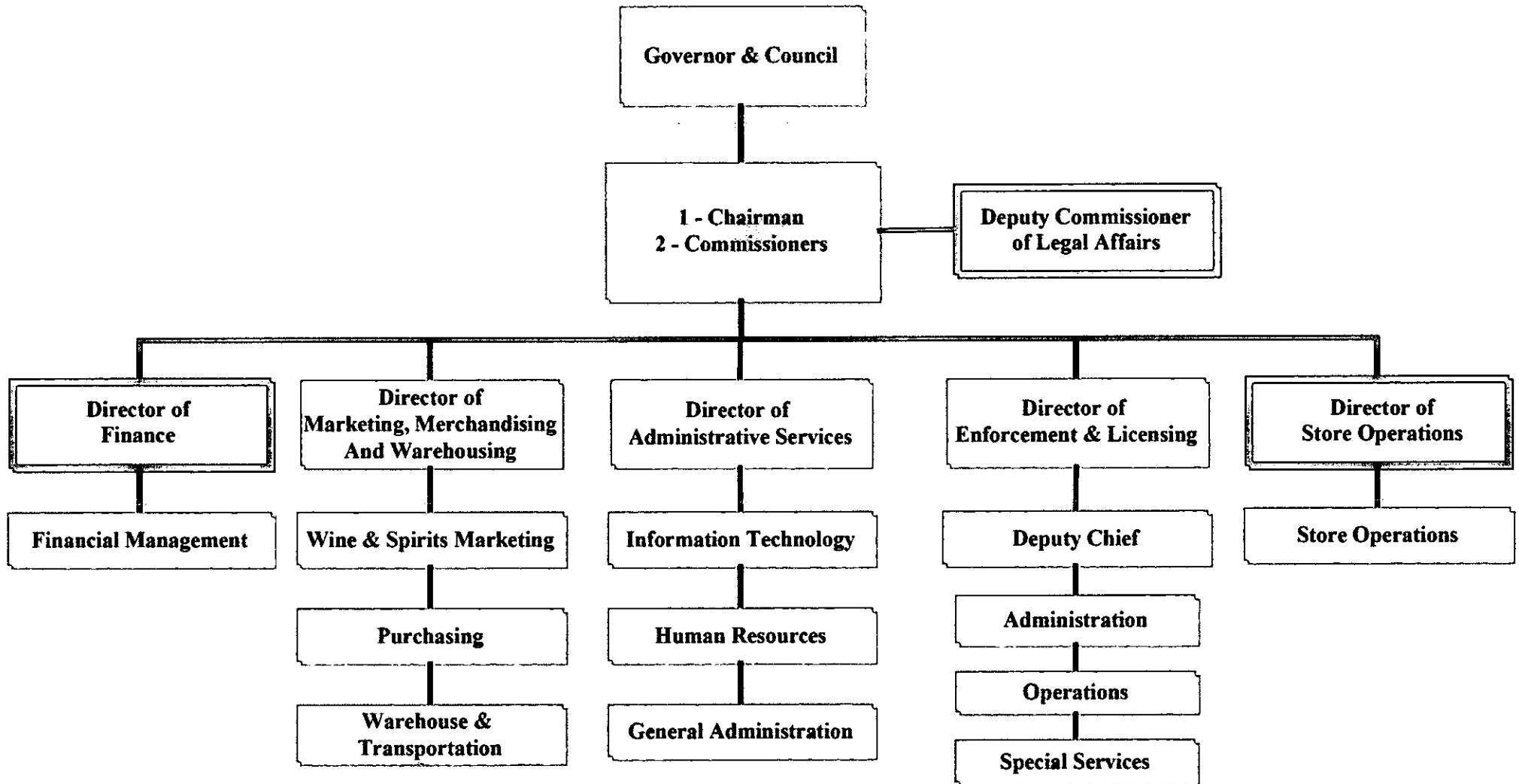
Streamlines the regulatory process and facilitates commerce by permitting a license to be issued to a unique operator or for special events or special conditions.



- Slightly Modifies Direct Shipping Statute
- Strengthens Ethics and Reporting
- Eases Restrictions on Charity Wine Tasting
- Establishes a Sampling Policy
- Permits Wine Auction Sales
- Simplifies “Corkage Fee” Statute



Proposed NHLC Management Reorganization Chart



Green: Newly created management structure





New Hampshire Liquor Commission

Modernization Act

Proposed Statutory Changes and Questions and Answers





Liquor Commission Modernization Act

Proposed Statutory Changes

The Liquor Commission Modernization Act (LCMA) will provide necessary statutory changes to assure the Commission can continue to meet its legislative mandate to maximize revenues in the most efficient and effective manner possible.

LCMA will eliminate unnecessary bureaucratic constraints that inhibit the Commission's ability to maximize its full revenue potential and enhance service to our customers.

A summary of the intent of the statutory changes is highlighted below:

Management Structure Reorganization

The organization structure of the Liquor Commission is not consistent with most state agencies and with RSA 21-G (Organization of Executive Branch). Additionally, its management structure does not reflect its current business needs and legislative mandate.

As such, the Commission asked an experienced public sector human resource (HR) professional to perform a thorough review of the Commission as it is organized today. In addition to an internal review, the human resource professional compared the Commission's structure with other state departments. The HR professional has provided us with a written recommendation to reorganize the department into five divisions rather than three bureaus.

The proposal recognizes the five unique operational needs of the Commission. These five new divisions are the **Division of Finance, Division of Marketing, Merchandising and Warehousing, Division of Administration, Division of Enforcement & Licensing, and the Division of Store Operations.**

For example, the financial functions of the department are essential to the maximization of revenues and proper budget control. By creating a distinct division with a division director, this position will have direct reporting responsibilities to the Liquor Commission. This is consistent with financial operations in other state agencies. Further, merchandising, marketing, warehousing, and store operations need to be separated into two distinct divisions. This will afford the division directors with an acceptable span of control over the operational needs of the Commission as well as the employees within those divisions.

The management reorganization proposed in the LCMA would provide for a more responsive and realistic operating structure, as well as make the Liquor Commission consistent with RSA 21-G, Organization of the Executive Branch.

Deputy Commissioner of Legal Affairs, Compliance, Ethics and Ombudsman

The LCMA would establish a senior staff position of Deputy Commissioner of legal counsel, ethics and compliance. Among other duties, this individual would be responsible for serving as the administrative hearing officer for licensees and would investigate and report on ethical complaints regarding operations and enforcement. An aggrieved decision made by the Deputy Commissioner may be appealed to the Commission as a whole.



Liquor Commission Modernization Act

Proposed Statutory Changes

Enterprise Fund Recognition

The LCMA properly recognizes the Liquor Commission as an Enterprise Fund and appropriately reflects its source of funding as Liquor Funds, not General Funds, similar to the other Enterprise Fund agencies including NH Lottery, NH Turnpikes and the NH Unemployment Trust Fund.

The Liquor Commission already has a Liquor Fund, which is properly reported as an Enterprise Fund in the State's Comprehensive Annual Financial Report, but its operating appropriations are labeled General Funds throughout the biennium. As a result, unexpected General Fund reductions are often made to accounts directly linked to the Commission's ability to generate revenue. In addition, vital revenue generating positions are prohibited from being filled in a timely manner pending a lengthy and cumbersome written waiver approval process. General Fund reductions and waivers have no impact on any of the other revenue generating Enterprise Fund agencies in the State, as their funding sources are properly reflected as non-general funds. This change would allow the Commission to more effectively manage its budget as approved by the Governor and Legislature, and allow it to operate more efficiently while also providing for better access to capital for business opportunities which will produce incremental revenues to the State of New Hampshire.

Proper recognition of the Liquor Fund is vital for the Commission to operate in a more business-like fashion and to be better suited to respond to the rapidly changing retail environment that it operates in, similar to other revenue generating business type activities in the state that more than cover their expenses from fees and charges.

Creates Special Condition License

Currently there are over 19 licensee categories and 20 license sub-categories. The LCMA would authorize the Commission to issue a special condition license in cases where a prospective licensee's operations do not fit into the state's existing license categories. This will accomplish three major objectives: first, it will eliminate the need to further expand the number of new license categories, which the Commission believes is already too large and much too confusing. Secondly, the special condition license will also ease the regulatory burden of those operators who, in some cases, now need multiple liquor licenses due to the scope of their operations (such as the Balsams Resort which currently needs five different licenses to adequately serve its facilities). Thirdly, with the availability of a special condition license, it is the expectation of the Commission that the process of consolidating licensing categories can begin and that ultimately the overall number can be reduced (this would require further legislative action).

Additional Products and Purchasing Authority

The LCMA would permit the Commission to increase revenues by offering non-alcoholic beverage items related to wine and spirits, such as wine and gift bags, recycling bags, gift boxes, cork screws, as well as products related to hospitality service such as mixers, cocktail flavoring, etc. The authority and requirements to purchase these items would be similar to that currently used by the Commission for the purchase and resale of wine and spirits.

The LCMA would also permit the Commission to purchase retail store supplies and promotional items used for store operations under the same authority currently used to purchase and resell wine and spirits.



Liquor Commission Modernization Act

Proposed Statutory Changes

Additionally, the LCMA would permit the Commission to make necessary building maintenance improvements, emergency repairs and changes to its retail environment with greater speed and efficiency.

Agency Stores Expansion

The LCMA adjusts existing statutes to expand the issuing of Agency Liquor Store Licenses as may be needed to replace existing Commission stores that are not operating optimally or to better serve a specific geographical area or region of the state that may currently be under serviced. Any further expansion of Agency Liquor Stores or so-called sales of spirit products in grocery stores would require the development of revised agency rules with public hearings and opportunity for broader input and regulatory structure.

Direct Shipping of Wine Products

The LCMA makes minor modification to assist direct shipping statutes to more effectively control this growing sales channel, while continuing to allow consumers access to the many products that may not be generally available through other sources.

Ethics

The LCMA prohibits the inappropriate influencing of state officials in agency store licensing decisions as well as providing clearer ethical and communication guidelines regarding pending administrative matters before the Commission.

Eases Restrictions on Charity/Non-Profit Wine Tasting Events

The LCMA lifts burdensome restrictions on charity and non-profit wine tasting that have constrained worthwhile organizations from engaging in needed fundraising activities that benefit both their organization and consumers who enjoy wine responsibly.

Permits No-Fee Wine Auction Sales

The LCMA permits New Hampshire consumers to purchase fine wine at auctions held outside our state without burdensome restrictions, taxes or fees.

Simplifies "Corkage Fee" Statute

The LCMA will clear the way for licensees to allow privately-owned wines to be consumed on the licensed premises with the purchase of a full course meal and establish better regulatory controls. This measure will assist the hospitality industry marketing efforts and expand the fine wine market.

Reducing Licensing "Red Tape"

The LCMA will adjust overly restrictive licensing procedures to realize greater efficiency in process and improvement in controls. The goal is to eliminate unnecessary license filing requirements so that businesses seeking to open a hospitality establishment can do so more efficiently and with minimal delay.



Questions and Answers Liquor Commission Modernization Act

Q. Why is the Liquor Commission Modernization Act (LCMA) Needed?

A. There are many aspects of the Liquor Commission operations that have remained unchanged for years and even decades (the Commission celebrates its 75th Anniversary this year). With changing times and changing customer needs, it is important that all state agencies develop new ways of operating to ensure they are serving the public in the best manner possible. The LCMA will provide necessary statutory changes to assure the Commission can continue to meet its legislative mandate to maximize revenues in the most efficient and effective manner possible.

Importantly, a nationally recognized management consulting firm noted the benefits of the proposed LCMA in its recent review and recommended extending greater operating flexibility to the agency to ensure greater efficiency and maximum revenue-generating ability.

In short, the LCMA would assist the Commission in operating its stores more like the large quasi-business it has become.

Q. Will Legislative Authority Over the Liquor Commission Change as a Result of the LCMA?

A. No, the Legislature will retain full control of the Liquor Commission, as well as all laws related to alcoholic beverages.

Q. Will the LCMA Give the Commission Additional Authority to Sell Other Products in Their Stores?

A. Yes, the Commission would be able to sell other related items to spirits and wines such as cork screws, wine bags and glasses, special gift sets, etc.

Q. Give an Example of How Purchasing Procedures Would be Simplified for the Commission under the LCMA.

A. Right now, for example, if a store window is broken, existing state procedures might delay the full repair for months (in one case the repair actually was 5 months long). The LCMA would allow the Commission the authority to act quickly and purchase the goods and materials it needs quickly so that it can operate more like a retail business.

Q. Would The Process Of Obtaining a License For Restaurants and Other Hospitality Organizations Change With The LCMA?

A. Yes. The process of obtaining, renewing or changing a license would require less time, paperwork and "red tape" by eliminating old regulatory requirements that no longer serve a useful purpose.



Questions and Answers Liquor Commission Modernization Act

Q. Regarding the Management Reorganization Proposed by the LCMA, why is that Needed and How would that work?

A. The organization structure of the Liquor Commission is not consistent with most state agencies and it was not included in the reorganization of state government under RSA 21-G (Organization of Executive Branch). In addition and very importantly, the organization structure does not reflect its current business needs and is outdated. Here is why: the current Commission management structure was developed decades ago when the number of stores, employees and product lines were relatively small. With the phenomenal growth of the Commission, greater management attention needs to be focused on areas such as product pricing, finance, loss prevention, employee performance and store maintenance.

Following an extensive review by internal and external management and human resource experts, it was determined that the senior management configuration of the Commission should be changed from the existing three bureau chief configuration to five senior unclassified directors. These five new divisions are the **Division of Finance, Division of Marketing, Merchandising and Warehousing, Division of Administration, Division of Enforcement & Licensing, and the Division of Store Operations.** (See the attached organizational charts.)

Q. Why Does The LCMA Change These Positions From Classified To Unclassified Positions?

A. The Liquor Commission is the only major state agency without any unclassified directors. By making the Directors unclassified positions, the Commission will be better able to attract and retain highly experienced professionals to these positions and, when necessary, terminate non-performing staff without burdensome labor constraints.

Q. Would Eliminating the "Red Tape" of the Licensing Procedures Mean Less Control Over Who Gets Licenses?

A. No. By eliminating the amount of time spent on the administration and "paperwork", more time can be spent by licensing professionals making sure the proposed establishment is adhering to the important aspects of existing laws and agency rules.

Q. Why does the LCMA Create a Special Condition License?

A. A special condition license will eliminate the need to further expand the number of new license categories, which the Commission believes is already too large, and much too confusing. Secondly, the special condition license will also ease the regulatory burden of those operators who, in some cases, now need multiple liquor licenses due to the scope of their operations (such as the Balsams Resort which currently needs five different licenses to adequately serve its facilities). Thirdly, with the availability of a special condition license, it is the expectation of the Commission that the process of consolidating licensing categories can begin and that ultimately the overall number can be reduced (this would require further legislative action).



Questions and Answers Liquor Commission Modernization Act

Q. Will the LCMA Reduce Other License Categories?

A. No. Although the Commission believes there are now too many licenses (all of which were created by the Legislature over the years), the process to consolidate licenses in any significant way requires careful examination as well as hospitality industry input and legislative action. The Commission plans on reviewing this licensing consolidation process beginning with the 2010 Legislative session.

Q. Will the LCMA Give the Commission Special Purchasing Authority?

A. Yes. The Commission will have the ability to select and acquire products for sale using the same process it currently uses to purchase wine and spirits. In all cases the Commission would be obligated to acquire all goods (as well as services) at the best possible price for the state.

Q. What Type Of "Blue Laws" Would Be Eliminated As A Result Of The LCMA?

A. Currently state law prohibits the advertising of "happy hours" and establishes other restrictions regarding the promotion of food and beverages in advertising. The LCMA would allow for broader advertising by restaurants and other hospitality establishments provided it is done in a responsible manner.

Q. Would Liquor be Sold in All Grocery Stores as a Result of the LCMA?

A. No. Currently the Commission does have the authority to permit the sale of liquor in private grocery and convenience stores under some restrictions, most notably a requirement that no agency store can operate within 5 (five) miles of an existing NH State Liquor Store (see RSA:177-11). The LCMA would allow the Commission to grant an "agency license" to qualified applicants without restriction regardless of how close they might be to an existing state liquor store.

Q. How Many Agency Licenses Does the Commission Plan on Issuing?

A. The Commission has no specific number of new agency licenses it plans on issuing as part of the LCMA. The Commission has stated that any expansion of agency liquor stores should be done cautiously, thoughtfully and in a limited manner to determine the financial and social impact of increasing the availability of alcoholic beverages.

Q. Will Wine and Spirits Prices Go Up as a Result of the LCMA?

A. No. In fact, it is hoped that as a result of greater efficiency, better buying and overall improvement in business practices, the Commission will be in a better position to maintain its low prices (when compared to other states) while improving its profits.

Q. How Much Will the LCMA Cost?

A. The Fiscal Note for SB 181 estimated costs are approximately \$130,000.



Questions and Answers Liquor Commission Modernization Act

Q. How Much Additional Revenue Can the Commission Raise as a Result of the LCMA?

A. It is expected that overall improvement to operations and efficiencies will produce in excess of \$1 million in incremental net revenues to the state a year.

Q. How Will The LCMA Assist Charities and Non-Profits With Wine Tasting Events?

A. The LCMA will make it easier and much simpler to conduct wine tasting events for community organizations and non-profit groups by eliminating unnecessary regulation and requirements that make it difficult to conduct these events.

Q. Why Does The Commission Need A Deputy Commissioner And What Will This Person Do?

A. Virtually all major state agencies have Assistants or Deputy Commissioners to assist in the overall management of their agencies. For example, the Department of Safety has an Assistant Commissioner, Health and Human Services has one Deputy Commissioner and three Associate Commissioners, Department of Environmental Services has an Assistant Commissioner, and the Department of Transportation has an Assistant Commissioner and a Deputy Commissioner. As an agency with nearly \$500 million in annual sales and a network of 77 retail stores, the Commission's mission, responsibilities, and operations are far more complicated and elaborate than ever before and have increased the demands on management significantly.

The LCMA would establish a senior staff position of Deputy Commissioner of Legal Counsel, Ethics and Compliance. Among other duties, this individual would be responsible for serving as the administrative hearing officer for licensees and would investigate and report on ethical complaints regarding operations and enforcement. An aggrieved decision made by the Deputy Commissioner may be appealed to the Commission as a whole.

A Deputy Commissioner of Legal Counsel, Ethics and Compliance will greatly aid the Commission's effort to ensure high ethical standards, protect the rights of licensees and ensure full compliance with all relevant state and federal laws, rules and other regulatory requirements.

Q. Would any Liquor Stores Close as a Result of the LCMA?

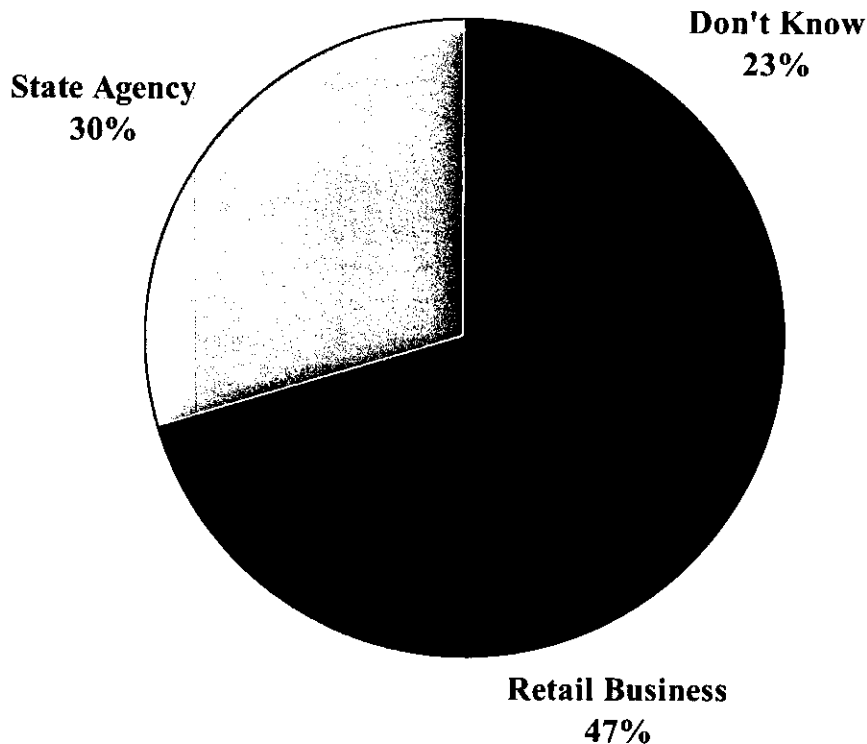
A. No. The LCMA would not impact any decisions regarding individual liquor stores.

Q. Is the LCMA Similar to What Other States Have Done?

A. Yes. A number of other control states, such as Pennsylvania, Washington and Utah, have enacted or are in the process of enacting new laws and regulations to allow their liquor boards and commissions to operate more like a business.

NH people favor operating the NHLC like a business:

“Do you think the NH Liquor Commission and its retail stores should be run and managed like every other state agency?”

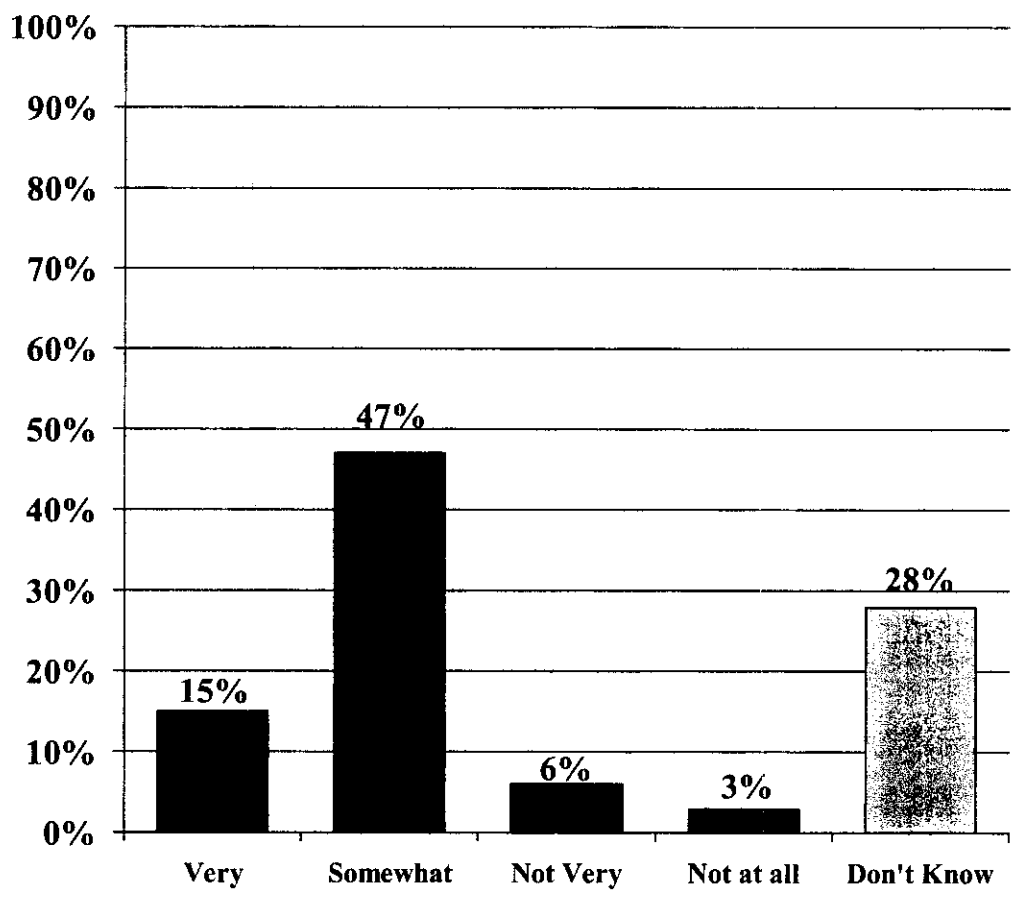




NH Public Opinion

NH people are overwhelming favorable of the NHLC:

“Overall, would you say your opinion of the NH State Liquor Commission is very favorable... somewhat favorable...not very favorable... or not at all favorable?”

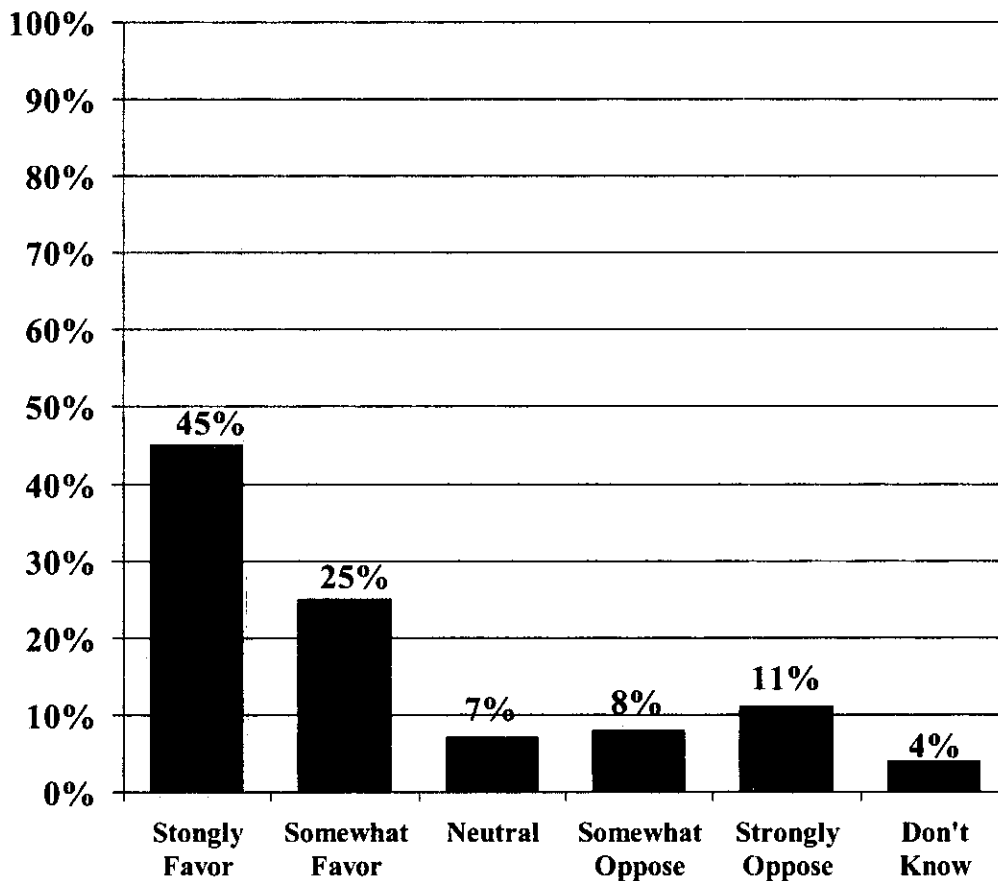




NH Public Opinion

NH people favor closing and consolidating some liquor stores:

“Some of the 77 NH liquor stores are not as profitable or as efficient as others. Do you favor or oppose the Commission closing or consolidating some stores that may not be performing well if this would improve the financial performance of the Liquor Commission and the profits it generates for the state?” “Is that strongly or just somewhat?”



Survey of Adults 21 or older

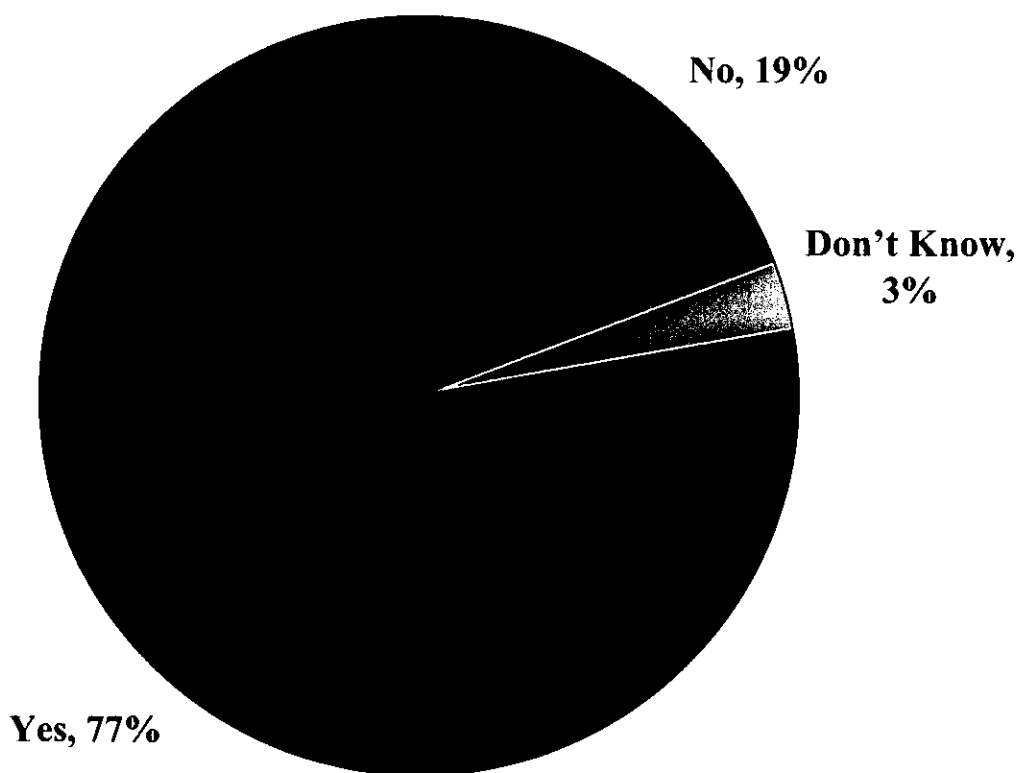
University of New Hampshire
Survey Center Feb 2009



NH Public Opinion

NH people surprisingly support the closing and consolidation of stores located nearest to them if necessary:

“What about the liquor store in your area? Would you still favor the closure of a store nearest you if you learned it was not performing well economically?”





New Hampshire Liquor Commission

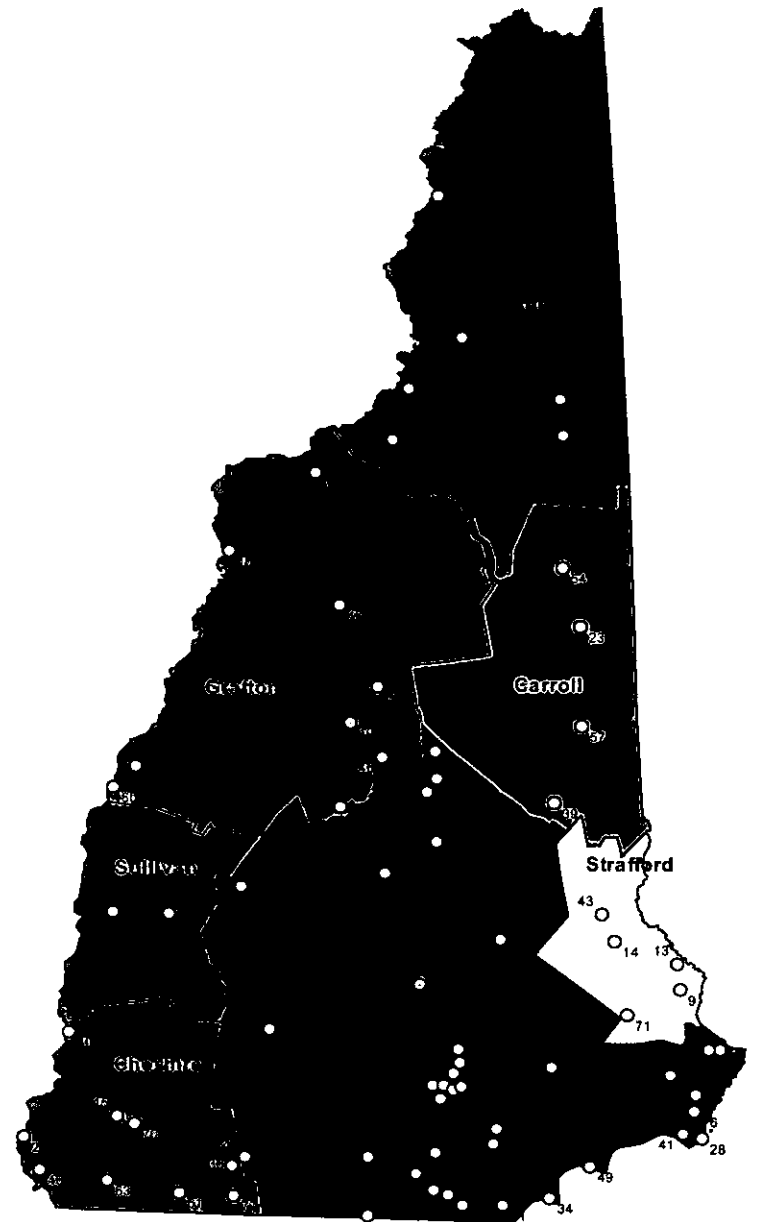
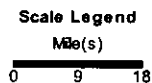
NHLC Distribution System Analysis





New Hampshire Counties and NH Liquor Store Locations

County	State Liquor Stores
Belknap	4
Carroll	4
Cheshire	9
Coos	6
Grafton	9
Hillsborough	17
Merrimack	8
Rockingham	13
Strafford	5
Sullivan	2
Total State of New Hampshire	77

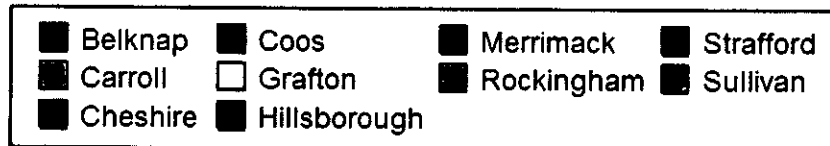
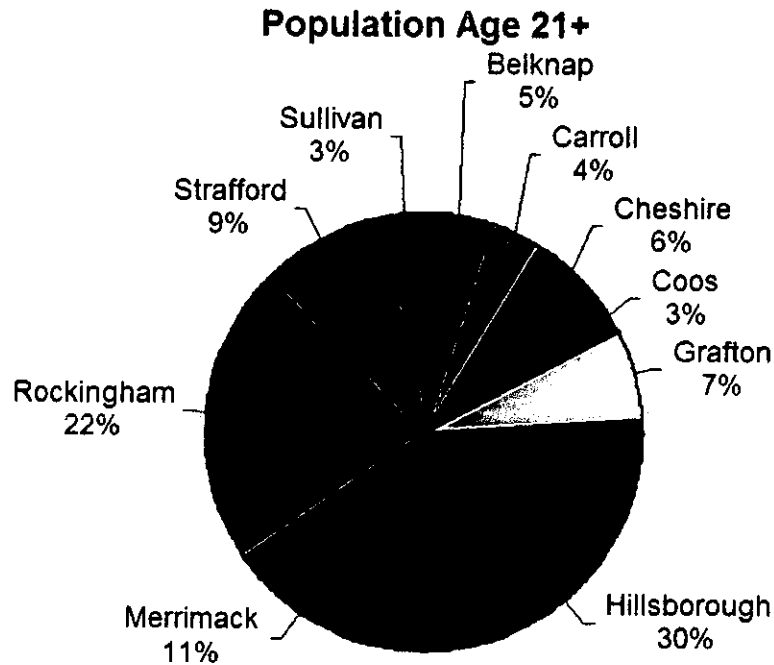




Counties Liquor Stores & Legal Drinking Age Population Distribution

Highlights

- The exhibit below compares the New Hampshire population of legal drinking age to the distribution of New Hampshire State Liquor Stores by county.
- The New Hampshire State Liquor Commission operates 77 liquor stores throughout the State of New Hampshire.
- In total, there are 981,502 individuals of legal drinking age, 21 or older, within the State of New Hampshire.
- The distribution of New Hampshire State Liquor Store locations is askew of the population of individuals of legal drinking age.

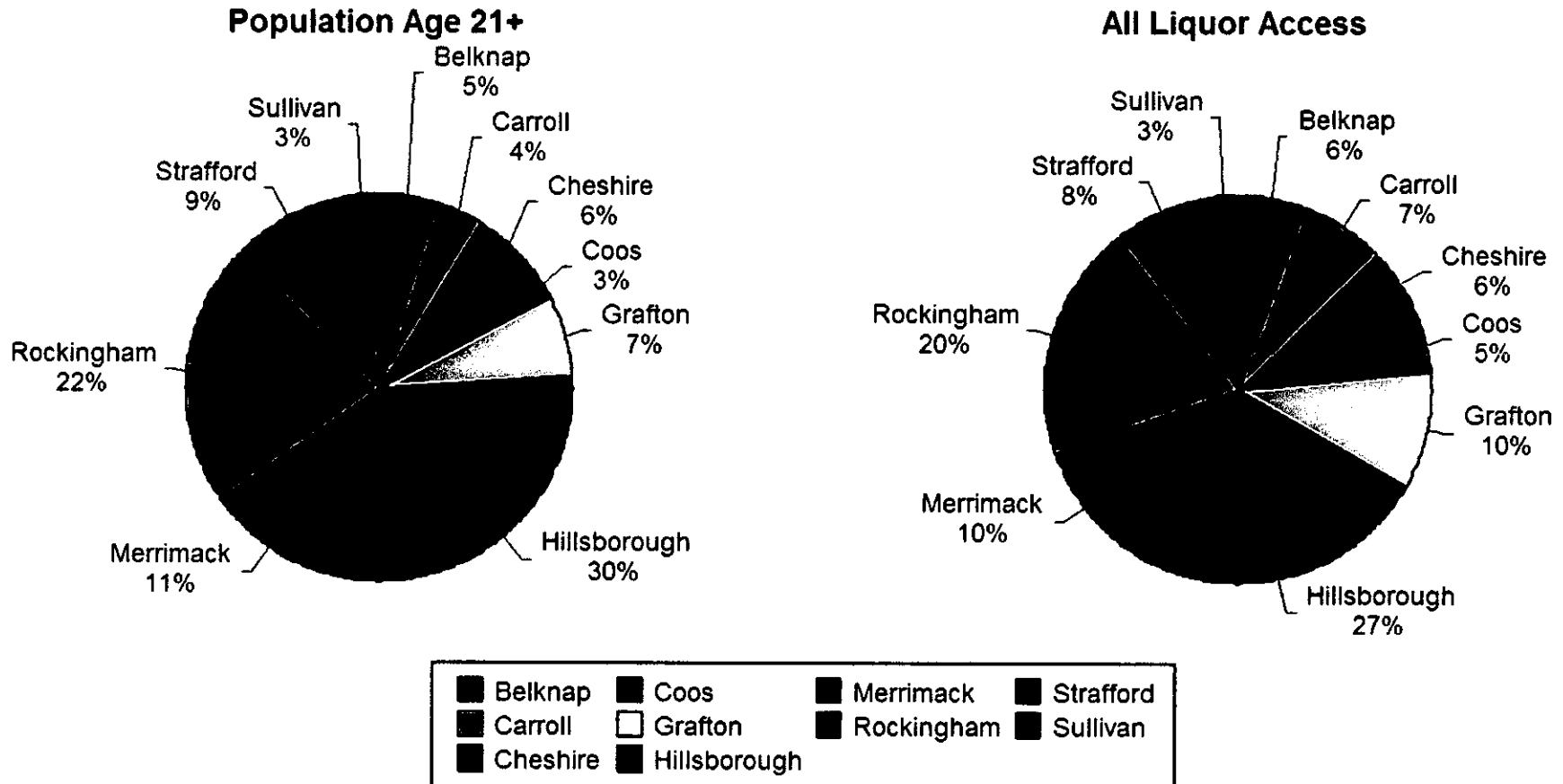




Counties All Liquor Access and Legal Drinking Age Population Distribution

Highlights

- The exhibit below compares the New Hampshire population of legal drinking age to the distribution of aggregate liquor access (New Hampshire State Liquor Stores, on-premise and off-premise licensed facilities) by county.
- The New Hampshire State Liquor Commission provides 3,225 liquor access points throughout the State of New Hampshire.
- In total, there are 981,502 individuals of legal drinking age, 21 or older, within the State of New Hampshire.
- Proportionately, the most populated counties of legal drinking age (Hillsborough, Rockingham, Merrimack) have comparatively less access to liquor.



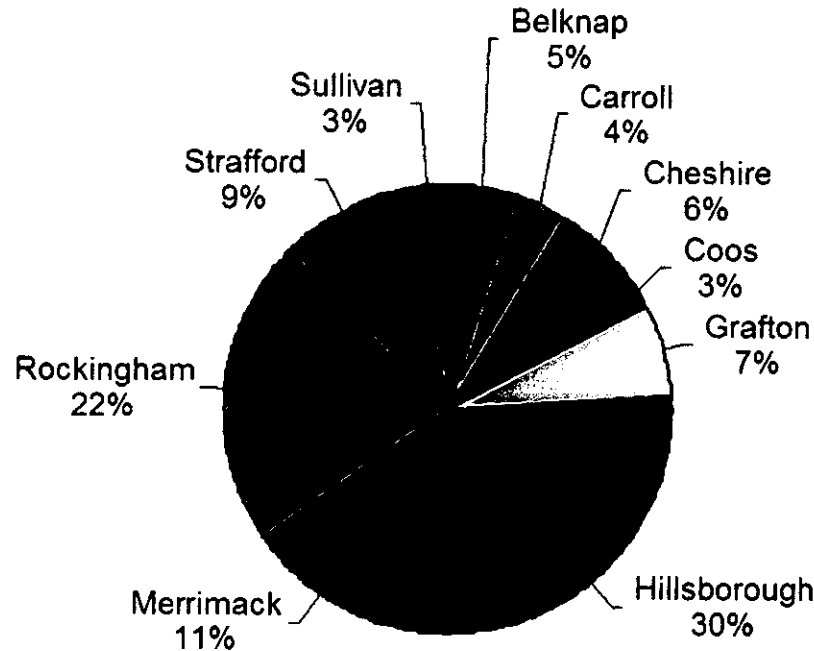


Counties Gross Sales and Legal Drinking Age Population Distribution

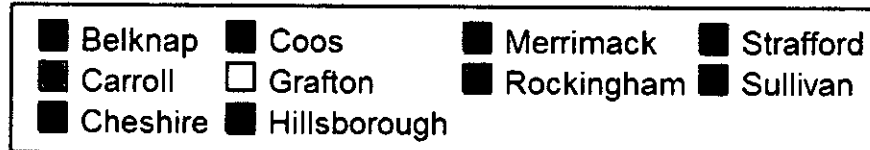
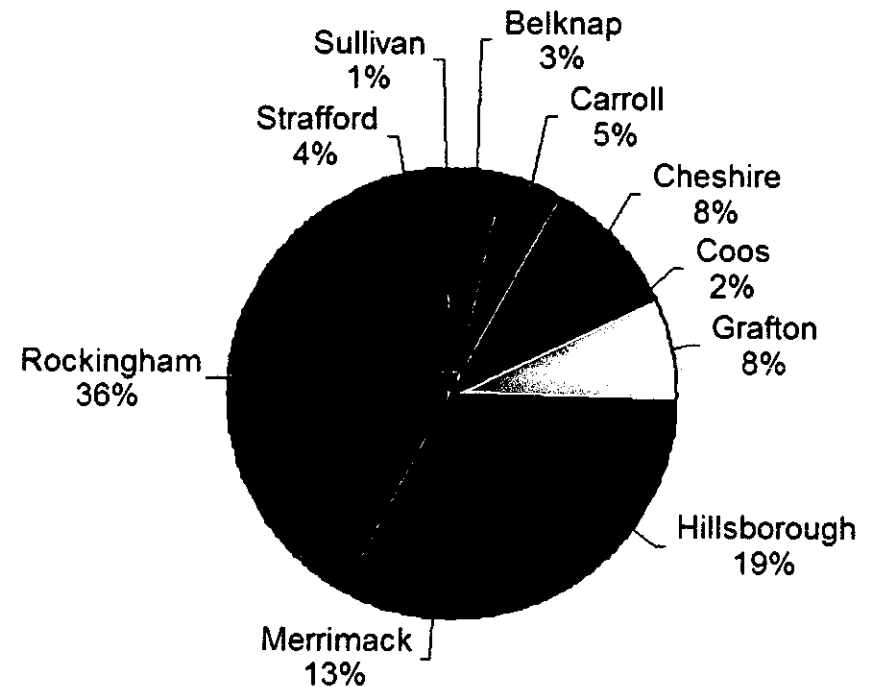
Highlights

- The exhibits below display the New Hampshire population of legal drinking age by county as compared to county gross sales revenue for the fiscal year ending June 30, 2008 at New Hampshire State Liquor Stores.
- In total, there are 981,502 individuals of legal drinking age, 21 or older, within the State of New Hampshire.
- The New Hampshire State Liquor Commission generated \$357.5 million in gross sales for the fiscal year ending June 30, 2008.
- Rockingham, Merrimack, Carroll, Cheshire and Grafton counties are disproportionate contributors to gross sales revenue when compared to the distribution of individuals over the age of 21 by county.

Population Age 21+



Gross Sales Fiscal Year Ending June 30, 2008



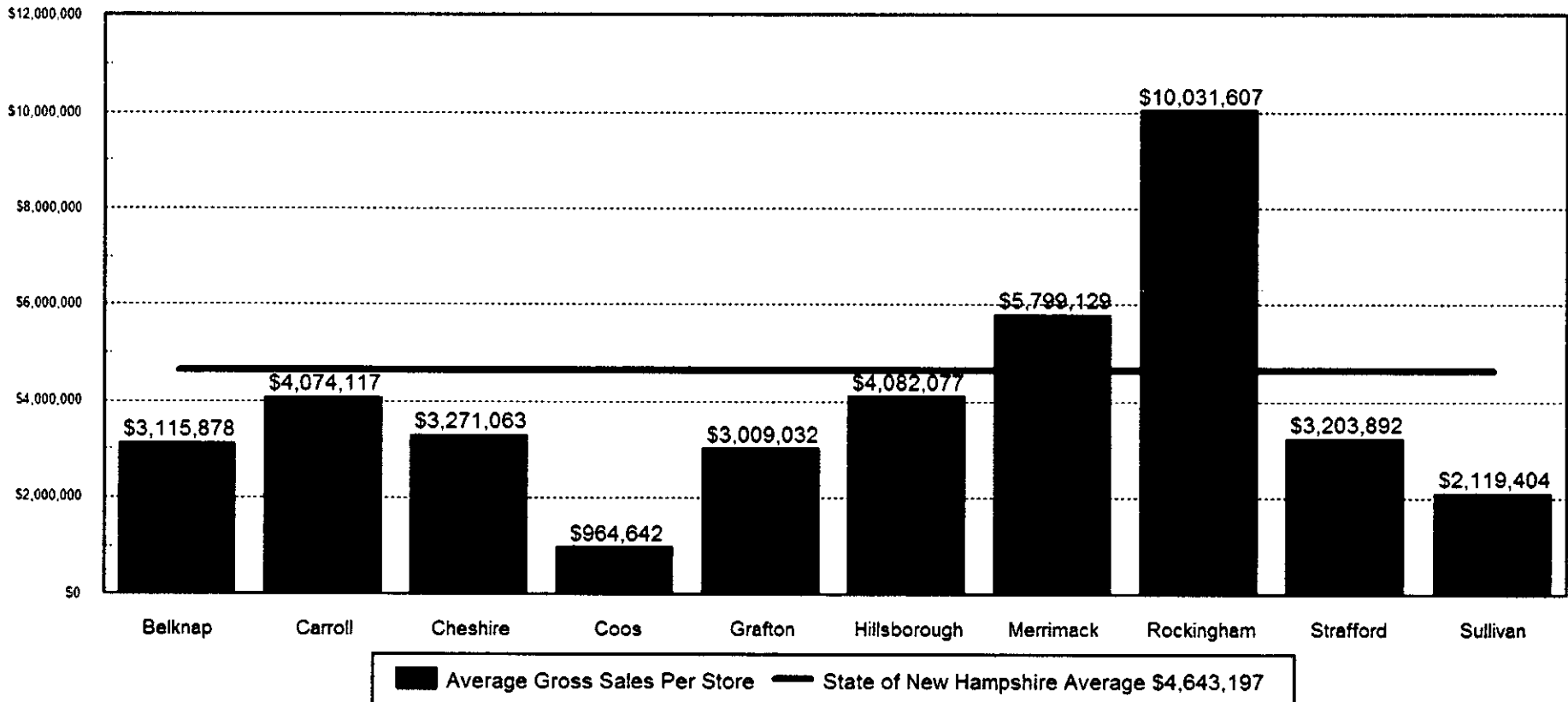


Counties Gross Sales per Store

Highlights

- The New Hampshire State Liquor Commission generated \$357.5 million in gross sales for the fiscal year ending June 30, 2008.
- The exhibit below displays the average gross sales per liquor store by county.
- The State of New Hampshire's 77 liquor stores produce an average of \$4.6 million in gross sales per store for the fiscal year ending June 30, 2008.
- Rockingham County generated the greatest average gross sales per store for the fiscal year ending June 30, 2008.

Average Gross Sales Per Store for the fiscal year ending June 30, 2008



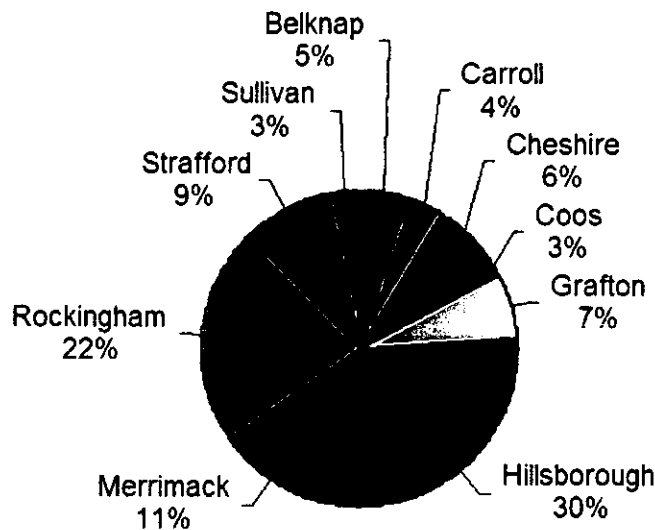


Counties Net Profit with Legal Drinking Age Population Distribution

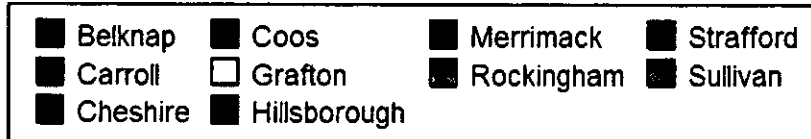
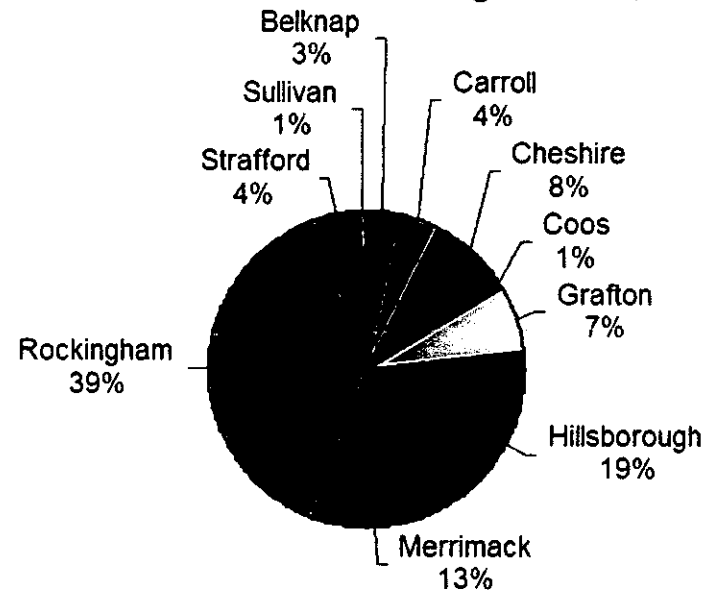
Highlights

- The exhibits below display the New Hampshire population of legal drinking age by county as compared to county net profit for the fiscal year ending June 30, 2008 at New Hampshire State Liquor Stores. Net profit does not include enforcement expense and includes on-premise sales.
- The New Hampshire State Liquor Commission generated \$72.9 million in net income for the fiscal year ending June 30, 2008.
- In total, there are 981,502 individuals of legal drinking age, 21 or older, within the State of New Hampshire.
- Rockingham, Merrimack and Cheshire counties are disproportionate contributors to net profit when compared to the distribution of individuals over the age of 21 by county.

Population Age 21+



Net Profit Fiscal Year Ending June 30, 2008



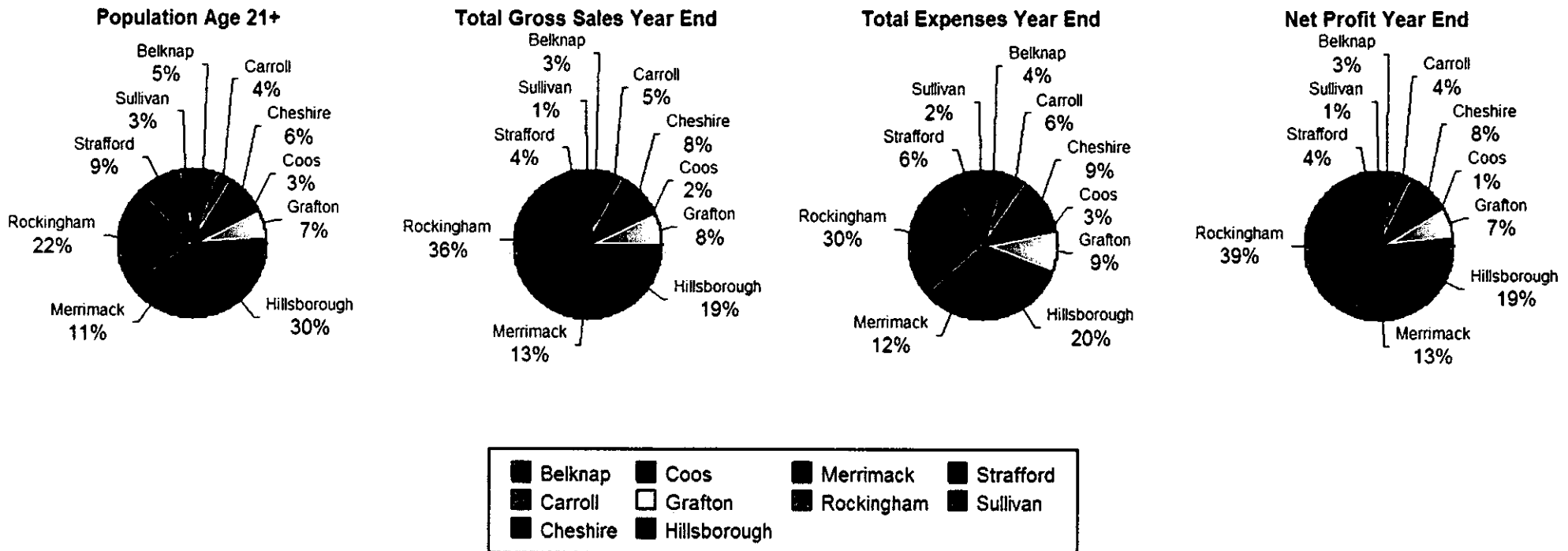
Net Profit = Excludes Enforcement Expense and includes On-Premise Sales



Counties Financial Performance with Legal Drinking Age Population

Highlights

- The exhibits below display the New Hampshire population of legal drinking age by county as compared to county net profit for the fiscal year ending June 30, 2008 at New Hampshire State Liquor Stores. Net profit does not include enforcement expense and includes on-premise sales.
- The New Hampshire State Liquor Commission generated \$72.9 million in net income for the fiscal year ending June 30, 2008.
- In total, there are 981,502 individuals of legal drinking age, 21 or older, within the State of New Hampshire.
- Rockingham, Merrimack and Cheshire counties are disproportionate contributors to net profit when compared to the distribution of individuals over the age of 21 by county.



Total Expenses = Excludes Enforcement Expense
Net Profit = Excludes Enforcement Expense and includes On-Premise Sales

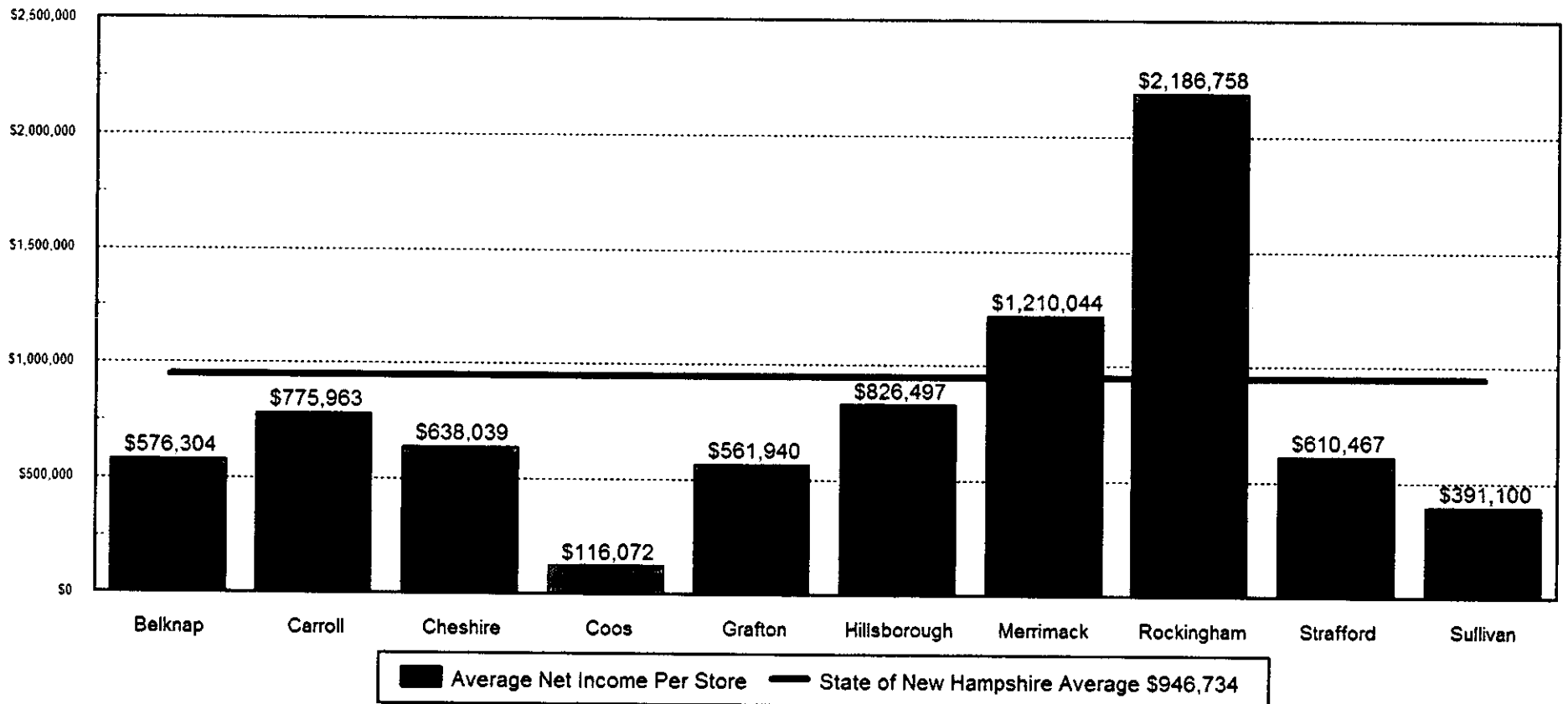


Counties Net Profit per Store

Highlights

- When excluding enforcement expense and including on-premise sales, the New Hampshire State Liquor Commission generated \$72.9 million in net profit for the fiscal year ending June 30, 2008.
- The exhibit below displays the average net profit per state liquor store by county.
- On average, the 77 state liquor stores produce \$946,734 in net profit for the fiscal year ending June 30, 2008.
- Rockingham and Merrimack counties generated the greatest average net income per store for the fiscal year ending June 30, 2008.

Net Profit excluding Enforcement Expense and including On-Premise Sales for the Fiscal Year Ending June 30, 2008



Source: New Hampshire Liquor Commission and The Long Group



State Liquor Store, Licenses and Population Data By County

County	State Liquor Stores	Off Premise Licenses	On Premise Licenses	Total Licenses	Total Access Points - Stores & Licenses	Access Points - Stores & On Premise Licenses	Population Age 21 and Older	Access Ratio Legal Drinking Age Pop per Store	Access Ratio Legal Drinking Age Pop per Off Premise Licenses	Access Ratio Legal Drinking Age Pop per On Premise Licenses	Access Ratio Legal Drinking Age Pop per Total Licenses	Access Ratio Legal Drinking Age Pop per Total Access Points	Access Ratio Legal Drinking Age Pop per Store and On Premise Licenses
Belknap	4	74	102	176	180	106	47,740	11,935	645	468	271	265	450
Carroll	4	89	138	227	231	142	37,466	9,367	421	271	165	162	264
Cheshire	9	91	95	186	195	104	58,448	6,494	642	615	314	300	562
Coos	6	64	79	143	149	85	25,883	4,314	404	328	181	174	305
Grafton	9	125	182	307	316	191	65,102	7,234	521	358	212	206	341
Hillsborough	17	373	468	841	858	485	294,290	17,311	789	629	350	343	607
Merrimack	8	144	161	305	313	169	111,499	13,937	774	693	366	356	660
Rockingham	13	273	363	636	649	376	219,552	16,889	804	605	345	338	584
Strafford	5	111	128	239	244	133	88,652	17,730	799	693	371	363	667
Sullivan	2	47	41	88	90	43	32,870	16,435	699	802	374	365	764
Total State of New Hampshire	77	1,391	1,757	3,148	3,225	1,834	981,502	12,747	706	559	312	304	535



State Liquor Store Gross Sales, Net Sales, Net Profit Data By County

County	State Liquor Stores	Gross Sales YE June 2008	Net Sales YE June 2008 Full Allocation	Net Profit YE June 2008 Full Allocation	Gross Sales YE June 2008 Per Store	Net Sales YE June 2008 Full Allocation Per Store	Net Profit YE June 2008 Full Allocation Per Store
Belknap	4	\$12,463,512	\$12,329,485	\$2,305,214	\$3,115,878	\$3,082,371	\$576,304
Carroll	4	\$16,296,467	\$16,127,166	\$3,103,852	\$4,074,117	\$4,031,792	\$775,963
Cheshire	9	\$29,439,565	\$29,197,112	\$5,742,349	\$3,271,063	\$3,244,124	\$638,039
Coos	6	\$5,787,853	\$5,733,342	\$696,433	\$964,642	\$955,557	\$116,072
Grafton	9	\$27,081,286	\$26,780,393	\$5,057,463	\$3,009,032	\$2,975,599	\$561,940
Hillsborough	17	\$69,395,302	\$68,681,004	\$14,050,457	\$4,082,077	\$4,040,059	\$826,497
Merrimack	8	\$46,393,032	\$45,846,169	\$9,680,351	\$5,799,129	\$5,730,771	\$1,210,044
Rockingham	13	\$130,410,889	\$128,873,010	\$28,427,859	\$10,031,607	\$9,913,308	\$2,186,758
Strafford	5	\$16,019,461	\$15,877,444	\$3,052,336	\$3,203,892	\$3,175,489	\$610,467
Sullivan	2	\$4,238,809	\$4,199,173	\$782,201	\$2,119,404	\$2,099,587	\$391,100
Total State of New Hampshire	77	\$357,526,175	\$353,644,299	\$72,898,515	\$4,643,197	\$4,592,783	\$946,734



New Hampshire Liquor Commission

Financial Highlights





NHLC Financial Highlights

- The Liquor Commission deposited \$479.0 million into the State's General Fund during fiscal year 2008.
- Net sales increased by \$24.4 million or 5.6% over the previous fiscal year to more than \$460.5 million.
- Liquor Commission operations earned net profits for the State of New Hampshire totaling \$111.6 million in fiscal year 2008, an increase of \$5.8 million or 5.45% over the previous fiscal year.

REVENUE / EXPENSE ITEM	FY 2007-08 (In Millions \$)	FY 2006-07 (In Millions \$)	% INCREASE (DECREASE)
Gross Sales ¹	\$ 470.2	\$ 443.7	6.0
Licensee Discounts	9.7	7.6	27.7
Cost of Goods Sold	333.0	316.9	5.1
Gross Revenue - Liquor	127.5	119.2	6.9
Operating Expenses ²	34.7	32.2	7.7
Miscellaneous Revenue	6.0	5.9	1.7
Net Income (Not including taxes and grants) ³	98.8	92.9	6.3
Specific Liquor Taxes	12.7	12.7	0.0
Net Grants	0.2	0.2	0.0
Total Net Revenue	\$ 111.6	\$ 105.8	5.5

OTHER MERCHANDISING STATISTICS	FY 2007-08	FY 2006-07	% INCREASE (DECREASE)
Number of Cases Sold	4,364,881	4,261,824	2.4
Average Price Per Case	\$ 107.73	\$ 104.12	3.5
Items Available (brands and sizes)	14,825	14,658	1.1
Number of Bottles Sold	40,794,143	39,356,430	3.7
Average Price Per Bottle	\$ 11.53	\$ 11.27	2.2

APPARENT CONSUMPTION STATISTICS	FY 2007-08		FY 2006-07	
	Gallons	Per Capita ⁴	Gallons	Per Capita ⁴
Distilled Spirits	4,637,706	3.53	4,522,802	3.44
Wine (21% alcohol or less)	6,648,022	5.06	6,493,283	4.94
Beer	41,544,007	31.59	41,566,913	31.61

NOTES:

(1) For the current fiscal year, off-premise licensees accounted for 18.75% or \$86.4 million of total liquor sales. On-premise licensees, such as bars, restaurants, hotels and clubs accounted for 11.72% or \$54.0 million of total liquor sales.

(2) Operating Expenses do not include liquor purchases and grants. The transfers for grants of \$127,375 for FY2008 and \$153,086 for FY2007 are for Grants to Enforcement for Alcohol and Drug Prevention programs. Enforcement and Licensing expenses attributable to General Fund are included in Operating Expenses.

(3) Net Income is computed after deducting all operating expenses including the General Fund portion of Enforcement and Licensing expenses.

(4) Based on 2007 population estimate of 1,315,000, from the Office of Energy and Planning (OEP).



Total Sales By Location

FISCAL YEARS ENDED JUNE 30, 2008 AND JUNE 30, 2007 (unaudited)

ST #	LOCATION	JUNE 30, 2008	JUNE 30, 2007	INCREASE/(DECREASE)		% OF SALES		RANK	
				AMOUNT	%	FY 08	FY 07	FY 08	FY 07
76	HAMPTON-NO	26,598,209.92	25,290,032.29	1,308,177.63	5.17	5.71	5.73	1	1
73	HAMPTON-SO	23,357,172.95	22,813,698.66	543,474.29	2.38	5.01	5.17	2	2
38	PORTSMOUTH	21,209,164.51	20,313,692.27	895,472.24	4.41	4.55	4.61	3	3
34	SALEM	18,637,326.21	17,410,509.60	1,226,816.61	7.05	4.00	3.95	4	4
66	HOOKSETT-NO	15,515,439.19	14,660,249.31	855,189.88	5.83	3.33	3.32	5	5
50	NASHUA	13,093,134.93	11,888,435.64	1,204,699.29	10.13	2.81	2.70	6	7
69	NASHUA	12,978,179.81	12,673,241.34	304,938.47	2.41	2.78	2.87	7	6
67	HOOKSETT-SO	12,178,698.73	11,614,085.77	564,612.96	4.86	2.61	2.63	8	8
60	W. LEBANON	10,048,521.78	9,681,815.76	366,706.02	3.79	2.16	2.20	9	9
15	KEENE	9,577,812.71	8,591,478.86	986,333.85	11.48	2.05	1.95	10	10
48	HINSDALE	7,956,176.58	5,198,790.85	2,757,385.73	53.04	1.71	1.18	11	15
49	PLAISTOW	7,785,767.15	7,497,267.61	288,499.54	3.85	1.67	1.70	12	11
23	CONWAY	7,556,467.65	7,256,240.77	300,226.88	4.14	1.62	1.65	13	12
41	SEABROOK	6,450,533.09	5,871,614.49	578,918.60	9.86	1.38	1.33	14	13
55	BEDFORD	6,040,573.07	5,459,819.77	580,753.30	10.64	1.30	1.24	15	14
6	PORTSMOUTH	5,508,156.30	5,124,808.02	383,348.28	7.48	1.18	1.16	16	16
25	STRATHAM	5,304,845.03	4,963,765.36	341,079.67	6.87	1.14	1.13	17	17
1	CONCORD	\$4,991,166.47	\$4,887,928.64	\$103,237.83	2.11	1.07	1.11	18	19
74	LONDONDERRY	4,969,586.50	4,892,905.60	76,680.90	1.57	1.07	1.11	19	18
9	DOVER	4,852,053.59	4,608,373.02	243,680.57	5.29	1.04	1.04	20	21
33	MANCHESTER	4,727,408.12	4,814,171.24	(86,763.12)	(1.80)	1.01	1.09	21	20
68	N. HAMPTON	4,605,920.47	4,487,503.71	118,416.76	2.64	0.99	1.02	22	22
56	GILFORD	4,548,134.71	4,305,145.50	242,989.21	5.64	0.98	0.98	23	23
7	LITTLETON	4,469,409.81	4,230,974.81	238,435.00	5.64	0.96	0.96	24	24
72	CONCORD	4,265,347.83	4,029,639.80	235,708.03	5.85	0.92	0.91	25	26
64	NEW LONDON	4,263,993.26	4,108,545.29	155,447.97	3.78	0.91	0.93	26	25
14	ROCHESTER	4,043,030.69	3,870,957.08	172,073.61	4.45	0.87	0.88	27	27
71	LEE	3,888,270.68	3,679,268.17	209,002.51	5.68	0.83	0.83	28	28
2	CHESTERFIELD	3,686,806.39	3,566,759.17	120,047.22	3.37	0.79	0.81	29	29
54	GLEN	3,630,371.38	3,436,282.05	194,089.33	5.65	0.78	0.78	30	30
11	LEBANON	3,416,892.99	3,261,046.96	155,846.03	4.78	0.73	0.74	31	31
39	WOLFEBORO	3,209,979.73	3,132,914.70	77,065.03	2.46	0.69	0.71	32	32
20	DERRY	3,195,644.18	2,852,232.19	343,411.99	12.04	0.69	0.65	33	35
22	BROOKLINE	3,180,293.90	2,591,861.88	588,432.02	22.70	0.68	0.59	34	42
10	MANCHESTER	3,099,676.86	2,954,134.59	145,542.27	4.93	0.67	0.67	35	34
32	NASHUA	3,076,386.69	1,493,053.71	1,583,332.98	106.05	0.66	0.34	36	60
8	CLAREMONT	2,947,511.80	3,034,784.60	(87,272.80)	(2.88)	0.63	0.69	37	33
21	PETERBOROUGH	2,931,189.11	2,647,459.30	283,729.81	10.72	0.63	0.60	38	40
51	PELHAM	2,855,887.57	2,678,387.43	177,500.14	6.63	0.61	0.61	39	38
4	HOOKSETT	2,851,786.87	2,719,129.78	132,657.09	4.88	0.61	0.62	40	36
53	HUDSON	2,782,845.38	2,559,791.99	223,053.39	8.71	0.60	0.58	41	43
30	MILFORD	2,764,384.09	2,619,531.71	144,852.38	5.53	0.59	0.59	42	41
42	MEREDITH	2,695,081.04	2,654,257.27	40,823.77	1.54	0.58	0.60	43	39



Total Sales By Location (Continued)

FISCAL YEARS ENDED JUNE 30, 2008 AND JUNE 30, 2007 (unaudited)

ST#	LOCATION	JUNE 30, 2008	JUNE 30, 2007	INCREASE/(DECREASE)		% OF SALES		RANK	
				AMOUNT	%	FY 08	FY 07	FY 08	FY 07
75	BELMONT	2,676,620.77	2,681,007.84	(4,387.07)	(0.16)	0.57	0.61	44	37
77	RINDGE	2,577,697.68	2,464,338.31	113,359.37	4.60	0.55	0.56	45	44
12	CENTER HARBOR	2,572,765.72	2,411,236.58	161,529.14	6.70	0.55	0.55	46	45
62	RAYMOND	2,434,062.06	2,266,119.75	167,942.31	7.41	0.52	0.51	47	48
31	MANCHESTER	2,422,076.78	2,338,715.80	83,360.98	3.56	0.52	0.53	48	47
58	GOFFSTOWN	2,308,554.26	2,243,801.85	64,752.41	2.89	0.50	0.51	49	49
27	NASHUA	2,251,943.44	2,217,994.19	33,949.25	1.53	0.48	0.50	50	50
19	PLYMOUTH	2,038,084.03	2,353,524.43	(315,440.40)	(13.40)	0.44	0.53	51	46
57	OSSIPEE	1,945,304.38	1,876,682.53	68,621.85	3.66	0.42	0.43	52	54
59	MERRIMACK	1,926,629.15	1,930,436.43	(3,807.28)	(0.20)	0.41	0.44	53	51
40	WALPOLE	1,876,095.13	1,906,304.26	(30,209.13)	(1.58)	0.40	0.43	54	52
47	N. WOODSTOCK	1,843,237.36	1,886,295.85	(43,058.49)	(2.28)	0.40	0.43	55	53
52	GORHAM	1,834,295.34	1,845,046.33	(10,750.99)	(0.58)	0.39	0.42	56	55
13	SOMERSWORTH	1,805,243.17	1,729,651.88	75,591.29	4.37	0.39	0.39	57	56
35	HILLSBORO	1,757,769.43	1,630,657.83	127,111.60	7.80	0.38	0.37	58	58
17	FRANKLIN	1,457,590.35	1,381,932.21	75,658.14	5.47	0.31	0.31	59	63
43	FARMINGTON	1,457,504.13	1,439,099.42	18,404.71	1.28	0.31	0.33	60	62
3	MANCHESTER	1,425,162.13	1,483,669.57	(58,507.44)	(3.94)	0.31	0.34	61	61
46	ASHLAND	1,424,115.10	1,513,547.28	(89,432.18)	(5.91)	0.31	0.34	62	59
65	CAMPTON	1,392,125.06	353,401.54	1,038,723.52	293.92	0.30	0.08	63	77
70	SWANZEY	1,320,258.77	1,650,865.97	(330,607.20)	(20.03)	0.28	0.37	64	57
44	BRISTOL	\$1,304,211.42	\$1,281,465.00	\$22,746.42	1.78	0.28	0.29	65	64
63	WINCHESTER	1,303,716.75	1,233,020.18	70,696.57	5.73	0.28	0.28	66	65
24	NEWPORT	1,300,381.83	1,215,570.92	84,810.91	6.98	0.28	0.28	67	66
16	WOODSVILLE	1,231,297.11	1,156,894.25	74,402.86	6.43	0.26	0.26	68	67
18	COLEBROOK	1,201,244.89	1,142,682.11	58,562.78	5.13	0.26	0.26	69	68
5	BERLIN	1,047,160.94	1,036,907.28	10,253.66	0.99	0.22	0.24	70	69
45	PITTSFIELD	1,009,605.73	981,812.79	27,792.94	2.83	0.22	0.22	71	70
28	SEABROOK-BCH	1,003,048.24	917,877.95	85,170.29	9.28	0.22	0.21	72	71
37	LANCASTER	895,263.66	889,361.32	5,902.34	0.66	0.19	0.20	73	72
61	FITZWILLIAM	630,443.41	605,680.44	24,762.97	4.09	0.14	0.14	74	74
36	JAFFREY	626,036.12	659,531.88	(33,495.76)	(5.08)	0.13	0.15	75	73
29	WHITEFIELD	486,112.32	474,425.13	11,687.19	2.46	0.10	0.11	76	76
26	GROVETON	338,827.83	475,884.60	(137,056.77)	(28.80)	0.07	0.11	77	75
TOTAL STORES		\$358,869,724.21	\$338,102,030.26	\$20,767,693.95	6.14	77.00	76.66		
900	WHSE-CONCORD	704,281.05	669,639.51	34,641.54	5.17	0.15	0.15		
905	WHSE-NASHUA	106,500,705.85	102,293,683.90	4,207,021.95	4.11	22.85	23.19		
TOTAL WHSES		107,204,986.90	102,963,323.41	4,241,663.49	4.12	23.00	23.34		
GRAND TOTAL		\$466,074,711.11	\$441,065,353.67	\$25,009,357.44	5.67	100.00	100.00		



Total Sales By Month

FISCAL YEARS ENDED JUNE 30, 2008 AND JUNE 30, 2007 (unaudited)

	2008	2007	INCREASE/(DECREASE)		% OF TOTAL	
			AMOUNT	%	SALES '08	SALES '07
JULY	\$ 51,251,059.05	\$ 48,769,193.77	\$ 2,481,865.28	5.09	10.99	10.99
AUGUST	40,447,093.03	37,195,043.72	3,252,049.31	8.74	8.67	8.38
SEPTEMBER	34,349,417.11	32,197,779.77	2,151,637.34	6.68	7.37	7.26
OCTOBER	44,724,331.46	42,728,546.74	1,995,784.72	4.67	9.59	9.63
NOVEMBER	39,387,587.04	38,206,227.06	1,181,359.98	3.09	8.45	8.61
DECEMBER	47,865,528.78	49,013,164.36	(1,147,635.58)	(2.34)	10.27	11.05
JANUARY	35,850,628.33	31,953,151.02	3,897,477.31	12.20	7.69	7.20
FEBRUARY	28,645,974.09	28,287,478.55	358,495.54	1.27	6.14	6.37
MARCH	29,244,442.42	27,809,257.73	1,435,184.69	5.16	6.27	6.27
APRIL	38,977,642.90	36,934,200.78	2,043,442.12	5.53	8.36	8.32
MAY	35,000,754.10	33,920,491.26	1,080,262.84	3.18	7.51	7.64
JUNE	40,527,599.55	36,721,706.64	3,805,892.91	10.36	8.69	8.28
TOTAL	\$ 466,272,057.86	\$ 443,736,241.40	\$ 22,535,816.46	5.08	100.00	100.00



22 Purchase of Supplies. Amend RSA 179:32 to read as follows:

179:32 Purchase of Supplies.

I. All licensees shall purchase their supplies of liquor and wine from the commission, **agency store or** ~~[as provided by law]~~ **licensed New Hampshire wine manufacturers.**

II. All on-premises or off-premises licensees shall purchase their supplies of beverages from licensed wholesale distributors, manufacturers, brew pubs, or as otherwise specifically provided by law.

21 Advertising Restrictions. Amend RSA 179:31, VIII-XII to read as follows:

VIII. Coupon offers shall be redeemed by the vendor or the vendor's agent as specified in the offer. ~~[No redemptions shall be made by state stores.]~~

IX. ~~[Advertising of liquor or beverages shall not be inconsistent with the spirit of safety or safe driving.]~~ **Advertising or promotion of alcohol by the use of a billboard, sound trucks, or outdoor internally illuminated screen displays is prohibited. On-premises and off-premises licensees may advertise their liquor and beverage prices. Advertising of liquor or beverages shall not be inconsistent with the spirit of public health or safety. Any violation of title XIII by a licensee shall authorize the commission at its discretion to suspend the advertising and promotion of happy hours or regulate drink prices charged by the licensee.**

X. It shall be the responsibility of the advertiser to insure that all advertising copy is in complete conformity with the New Hampshire laws and rules.

XI. ~~[No advertising or promotion shall be done by the use of a billboard. Advertising shall not contain any reference to a "happy hour" except that a "happy hour schedule" may be posted within the licensed premises, not in view of any public way, and an on-premises licensee may advertise or promote the holding of a "champagne brunch" or similar package.]~~

XII.] No holder of a beverage manufacturer license, wholesale distributor license, or beverage vendor license shall advertise, either directly or indirectly, in any booklet, program, program book, yearbook, magazine, newspaper, periodical, brochure, circular, or other similar publication published by, for, or in behalf of any religious, fraternal, educational, patriotic, social, or civic group. No on-premises licensee or off-premises licensee, any group thereof, or any holder of a beverage manufacturer license, wholesale distributor license, or vendor license, through any control, ownership, interlocking ownership, interlocking directors, or otherwise shall advertise or cause any manner or form of advertising to be inserted in such publications.

Communicate ~ Educate ~ Legislate



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E-mail: john@grocers.orgWeb Site : www.grocers.org

Testimony of
John M. Dumais

Before

Senate Ways and Means Committee

March 3, 2009

Good Morning Mr. Chairman and Members of the Committee.

For the record, I am John Dumais, President of the New Hampshire Grocers Association. Unfortunately, due to a scheduling conflict, I was not able to return to today's recessed hearing. I do feel, however, that it is important to address our concerns about this Modernization Act with you.

This is an extremely complex Bill that deserves a lot of thoughtful deliberation before it becomes law. At the same time, as I stated at the first Hearing, the sponsors and the Liquor Commission should be commended for bringing this issue forward. As I said then, a portion of this Bill we wholly agree with (that the Liquor Commission should operate more like a business); while other sections we do not agree with at all (such as restrictions on Agency Stores).

Mindful of your time restraints, I will not discuss all of the specific issues at this time, but rather will submit a complete list to you today for your review.

As I stated to this Committee in the past, the discussion of selling Spirits in food stores came about by our association's interest to serve better over 40% of our customer base who travel here from out-of-state. In addition, our study makes it clear that the State could generate an additional \$16 million annually in net revenue by expanding Spirit sales. It requires only 5 basic principles which were recommended in that study:

1. **Completely open licensing for any food store, currently allowed to sell beer and wine products**
2. **Maintain a reasonable wholesale discount. NHGA suggests 20% is reasonable, to market properly**
3. **Establish a reasonable Spirits license fee.**
4. **Allow Spirits to be sold during the same hours and days that beer and wine are sold now**
5. **Allow all alcoholic products sold in State Stores to be additionally sold in food stores**

Senate Bill 181 did not address any of these concerns. In a subsequent meeting with the Liquor Commission, only the issue of license fees was addressed, corrected, and added to today's amendment. We now remain concerned with the amended version of SB 181. Without the inclusion of the four remaining principles, we do not see this will be good for the State citizens or tourist; will not generate substantial additional revenue; and will create an unfair competitive advantage for only a few stores. New Hampshire Grocers Association has always believed in a "level playing field" for all size stores and formats. For this reason, our membership, which comprises a majority of the current off-premise licensees, urge you to amend this Bill with the four remaining principles we brought forward.

Finally, we recognize this Modernization Bill eliminates the huge bureaucratic oversight that hampers the progress and growth sought by the Commission. That insight should be commended. At the same time, we believe there is a benefit to reviewing planned decisions and actions by an outside body. We make no concerns of the intentions of the current Commission, but do have reservations about unknown future administrations. All substantial businesses have boards of directors. Even the Governor has the Governor's Council. We believe the Liquor Commission would be well served with a similar arrangement, perhaps comprised of all licensee classes.

Today, NH Grocers Association can only support a portion of this Bill. With these recommended changes, the grocers of this state could enthusiastically support this modernization effort. To assist you, I or any of the members of our Association would be willing to meet with you to further discuss our views. Thank you for your consideration.

Signed:

John M. Dumais

President & CEO

NH Grocers Association

110 Stark Street

Manchester, NH 03101

Tel: (603) 669-9333

Cell: (603) 315-4164

Interpretation of Senate Bill 181, SLC Modernization Bill State Proposed Amendment and NHGA Comments

The attached is an evaluation of the proposed legislation and the recently introduced amendment.

Pg.1-Line # 6 Eliminates direct shipment of Spirits and Beer, but does allow direct shipment of wines.

Amendment: Reverses this back to allow Spirit and Beer Shipments, but not Wine.

Pg.1-Line # 15 Combines a restriction on all types of alcohol on Billboards, etc. (See Pg.7 Line # 32)

Pg.1-Line # 18 Eliminates all restrictions on where the SLC spends adverting monies.

NHGA agrees the Commission should not be restricted where it advertises

Pg.1-Line # 29 Allows Commission to waive the 25% fee to transport personal wine.

Pg.2-Line # 5 Reorganizes the Commission into five separate divisions. Rather than being hired by the State, the Commissioners appoint each Director.

NHGA agrees with greater ability in hiring practices

Pg.2-Line # 19 All SLC Funds remain in their own Fund rather than going to State Treasury. To be used for paying all SLC Operating Expenses, before turning funds over to State Treasury.

NHGA disagrees on eliminating oversight on how funds are spent; or how excess funds over Budget projections are retained by the Commission.

Amendment: Clarifies the language, but the intent remains the same

Pg.2-Line # 30 Allows Commission complete authority to purchase leased space, equipment, promotional items, and products without any legislative oversight.

NHGA agrees that the Commission should have more freedom in contracting lease space purchasing advertising items and related products such a glassware and informational books. NHGA does not agree that valuable State Store retail floor space should be utilized for low-profit margin consumable products like crackers, cheese, mixers, or cases of beer.

Pg.2-Line # 33 Allows Commission to install ATM Machines at State Stores.

NHGA supports this profitable, consumer convenience that takes up little floor space.

Pg.3-Line # 1 Allows Commission to close a State store by determining sales, expenses, and allocation of "indirect expenses" [not defined or reviewed by anyone].

NHGA believes the Commission should have the ability to close an unprofitable location. In all cases, "indirect expenses" should be defined; and alternative nearby locations should be identified and allowed as Agency Stores, to insure local residents are not inconvenienced.

Pg.3-Line # 12 Establishes new law for licensing "Agency Stores" (Grocers selling Spirits).

NHGA strongly believes in the need to redefine the existing definition of Agency Store.

Pg.3-Line # 17 Allows Commission to decide who gets an Agency license at their sole discretion.

NHGA believes the legislature should develop the general criteria which would allow any legally acceptable business to hold an Agency License, similar to currently held beer and wine licenses.

Pg.3-Line # 17 Mandates NO additional licensed Agency Stores after 5 years.

NHGA disagrees. There should be no barriers to future owners or expansion of existing owners obtaining Agency Store status.

Pg.3-Line # 31 Allows only corporation or owner only ONE agency store license.

NHGA believes this is an unfair restraint of trade and should not be allowed.

Pg.3-Line # 33 Requires a one-time entry fee of \$500.

**Amendment: Changed to \$500 for a new retailer; \$100 for an existing retailer
NHGA supports this amendment**

Pg.3-Line # 34 Requires ANNUAL license fee of \$1,000 for each register in the store.

**Amendment: Changed to \$500 per register up to a maximum of 4 registers (\$2,000)
NHGA supports this amendment**

Pg.3-Line # 35 Additional licenses are not issued until after December 2008 (maybe a typo with the actual intent not to issue any agency licenses until January 2010).

NHGA believes that to enhance state revenues, licenses should be issued no later than

Pg.4-Line # 14 Allows for "combining Licenses with conditions".

The purpose of this is not clearly understood. Whatever conditions are allowed should be clearly defined and made available to all licensees with similar circumstances.

- Pg.4-Line # 15 Allows Commission to suspend or modify any licensing requirement without any Legislative oversight.
NHGA disagrees. All licensing requirements should be standardized and approved by the legislature.
- Pg.4-Line # 23 Pertains to Restaurant 'Corkage' fees.
- Pg.4-Line # 31 Allows Beer, Wine or Spirits dealers to donate their products to a one-day licensed non-profit.
Amendment: Mandates that product must be purchased from the Commission
- Pg.5-Line # 1 Commission at its sole discretion may change percentage discount for donation.
- Pg.5-Line # 9 Only allows for direct shipments of Wine (excludes beer and Spirits).
- Pg. 5-Line #23 Restricts direct shipment of wine to 12-9 liter cases per year. If a total of 1,200 liters sold, shipper must sell same amount to SLC at the lowest price.
Amendment: Adds liquor to the above statement
Amendment: Allows for direct shipments of beer
Amendment: Restricts annual direct shipments of beer to 27 gallons or 30 units of liquor to a consumer per calendar year.
- Pg. 5-Line #31 Requires shipper to pay 10% of retail price to Liquor Commission as a fee.
- Pg.6-Line # 16 Outlines Direct Shipper Fees AFTER first year.
- Pg.6-Line # 23 Initial first year licenses is \$300.
NHGA supports limited direct shipments in general as an opportunity for the states consumers to sample new products which may later be introduced into the state.
- Pg.7-Line # 5 Identifies mitigating circumstances for volume of ALL alcoholic drinks.
- Pg.7-Line # 7 Identifies mitigating circumstances for responsible serving of beer, wine and Spirits.
- Pg.7-Line # 17 Mandates sampling restrictions for ALL alcoholic drinks.
NHGA disagrees with the need for this entire section. NHGA and the Restaurant and Lodging Association have been working for several months on developing aggravating and mitigating circumstances for the sale and serving of alcoholic beverages.
- Pg.7-Line # 20 Requires 10 day prior notification for distribution of samples or donations.
NHGA believes this may be too restrictive for the proper promotion of products.
- Pg.7-Line # 26 Mandates all beverage samples to be defined as sales.
- Pg.7-Line # 30 Allows coupons to be redeemed at State Stores (previously banned).
Amendment: Reverts back to 'no coupons allowed'
Amendment: Allows any licensee to give 12 units to the commission as samples
Amendment: Limits any liquor or wine representative to 12 bottles per year of unregistered product.
Amendment: Allows restaurants and grocers only 2 bottles of wine per year
NHGA believes this should be 2 bottles per business location
Amendment: Eliminates all liquor and wine cooler samples.
Liquor and wine cooler products should have the same criteria beer or wine.
- Pg.7-Line # 33 Allows food stores to advertise Beer and Spirit prices, but NOT wine prices.
NHGA disagrees. Wines should be advertisers the same as Beer and Spirits
- Pg.8-Line # 7 Restricts beer distributors, restaurants, and grocers from any advertising in any media.
Amendment: Completely exempts the Liquor Commission from the requirement of purchasing supplies
- Pg.8-Line # 24 Establishes an alternative to Direct Shipper license for a fee. (determine solely by Commission).
Amendment: Establishes a new position of Deputy Commissioner of Legal Counsel and Compliance
With three Commissioners, is this an unnecessary additional expense?
Amendment: Allows Commission to enter into contracts, leases, etc (without oversight)
NHGA believes every type of administrative authority should have strong oversight
Amendment: Allows consumers to ship alcohol
Amendment: Prohibits elected officials from interfering or obstructing commission members or employees.

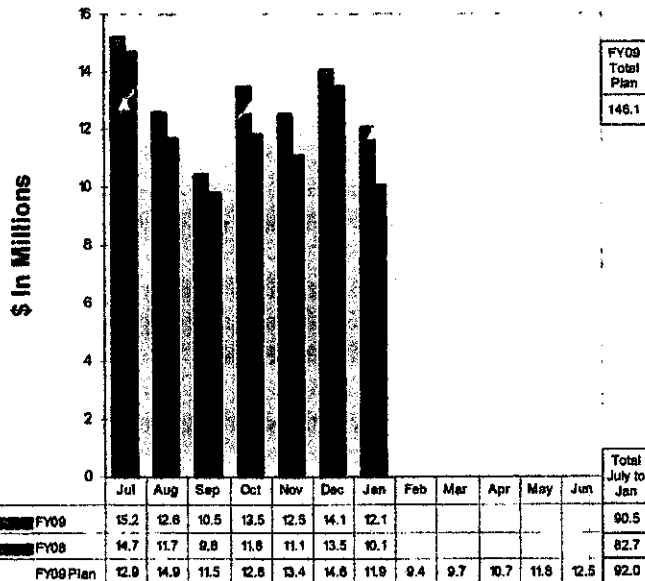


REVENUE UPDATE

New Hampshire Liquor Sales Remain Positive

Year to Date	FY 08	FY 09	Inc/(Dec)	Plan	Inc/(Dec)
Spirits / Wine	82.7	90.5	9.5%	92.0	\$(1.5)
Beer	7.6	7.7	0%	8.1	\$(0.4)

(In millions)



SALES AND PROFITS CONTINUE TO RISE

The New Hampshire Liquor Commission's gross un-audited income from all sources for the month of January 2009 totaled \$42.9M, up 13.63% over the same period one year ago. Gross profit to the state's General Fund for January 2009 amounted to \$12.1M, representing a \$2M increase when compared to the same period one year ago.

Fiscal year-to-date Liquor Commission gross profit from all sources amounted to \$90.5M, up \$7.8M and represents a 9.5% increase over the same period one year ago.

Sales of wine to grocery and convenience stores have experienced a strong growth of 17.7% in the month of January 2009 and are up 9.0% fiscal year to date, totaling \$57.1M for the fiscal year-to-date. The growth of off-premise sales in New Hampshire is consistent with a national trend as consumers opt to dine and drink more at home as a result of the current economic downturn.

Overall commission sales to restaurants were up 1.85% for January 2009 and are off 2.3% when compared to the previous fiscal year-to-date.

ABOUT LIQUOR REVENUE ESTIMATES

The Liquor Commission's revised revenue estimate for wine and spirits revenue is \$146.1M for FY 2009 (representing an ambitious 10% annual growth rate).

Original Budget Law Estimate for FY 2009 = \$146.1M from wine and spirits:

- Liquor Commission revised estimate to House Ways and Means – May of 2008 – HR28 = \$136.8M for FY 2009.
- Liquor Commission revised estimate to Governor's Office – September 2008 – based on FY2008 actuals = \$138.6M for FY2009
- Revenue Enhancements of \$7.5M added to the most recent revenue projection of \$138.6M for a revised revenue projection of (\$138.6M + \$7.5M) = \$146.1M for FY2009. These revenue enhancements get us to the original budget law estimate of \$146.1M. This revised plan calls for an aggressive increase of 10% over the prior year.

Information presented on the Monthly Revenue Focus Report prepared by the Department of Administrative Services differs from our revised revenue estimate by adding \$7.5M to the original budget law estimate of \$146.1M for a total revenue expectation of \$153.6M. In addition the Monthly Revenue Focus Report is reported on a cash basis whereas the attached information is based on actual sales information from our retail point of sales system. **

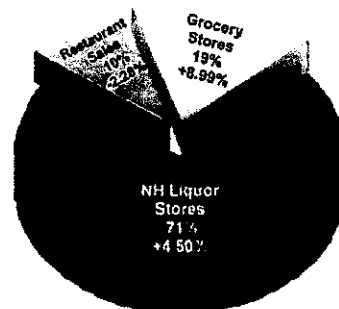
Net Sales by Spirits and Wine

	FY 2009 (126 days)	FY 2008 * (128 days)	\$ Change	%
Spirits	163,767,706	156,654,746	7,112,960	4.54
Wine	143,532,344	137,220,899	6,311,445	4.60
Total:	307,300,049	293,875,645	13,424,405	4.57

Net Sales by Customer Type

Type	FY 2009	FY 2008 *	\$ Change	%
NH Liquor	217,698,007	208,326,766	9,371,241	4.50
Restaurant Sales	31,535,450	32,269,974	(734,524)	(2.28)
Grocery Stores	58,066,593	53,278,905	4,787,688	8.99
Total:	307,300,049	293,875,645	13,424,405	4.57

FY2009 YTD Sales by Customer Type



* FY08 has two extra days compared to FY09.
** See back page.

Amend the bill by replacing section 10 with the following:

10 Location of Agency Liquor Stores. RSA 177:11 is repealed and reenacted to read as follows;

117:11 Location of Agency Liquor Stores.

I. The commission shall have the authority to license an agency liquor store at its discretion and in the best interests of the state. An agency liquor store shall only be located in a municipality which has voted in favor of the operation of state liquor stores under RSA 175:7. ~~[The commission shall not license any new agency liquor stores after June 30, 2014.]~~ ***Agency Liquor Stores shall maintain a minimum wholesale inventory of \$5,000 in consumable foods and beverages, excluding tobacco and alcoholic beverages.***

II. The commission shall only issue an agency liquor store license, in accordance with RSA 541-A:39. ~~[The commission shall hold a public hearing before issuing an agency liquor store license in any municipality.]~~ The license application shall be processed by the director of the division of enforcement and licensing. The director of the division of enforcement and licensing shall recommend in writing approval or denial of any agency liquor store.

III. The commission shall notify any applicant denied a license of the reasons for the denial by certified mail to the mailing address given by the applicant in the application for an agency Liquor store license.

IV. Any applicant aggrieved by a decision made by the commission may appeal the decision in accordance with RSA 541.

V. Any retail licensee, whether proprietorship, partnership, limited liability company, or corporation ~~[shall only]~~ ***may*** be approved ~~[to establish one]~~ ***as an agency liquor store in any location approved for a combination license.***

VI. Any applicant selected for an agency liquor store license shall pay a one-time background check processing fee of \$500; ~~[holders of an agency liquor store license on the effective date of this paragraph]~~ ***current holders of a combination license*** shall pay a one-time background check processing fee of \$100. The annual fee for *each* agency liquor store{s} shall be \$500 per cash register up to a maximum of \$2,000.

VII. Agency Liquor Stores shall be allowed to sell all beverage products sold at state stores. The wholesale price shall be computed as 20% less than the current retail price of the same product sold in state stores.

VIII. Agency Liquor Stores shall sell to on-premise licensees at the required discount, to be reimbursed by the commission.

~~[VII]~~***IX.*** The commission shall collect data on new revenue, alcohol-related violations, social disorder, population growth, alcohol availability, and emergency services relative to use or abuse of alcohol in each municipality where an agency liquor store license has been issued. The commission shall publish its findings in an annual report submitted to the governor and council, the fiscal committee of the general court, the president of the senate, and the speaker of the house of representatives.

Amend the bill by replacing section 12 with the following:

12 New Section: Combination Conditional License. Amend RSA 178 by inserting after section 17 the following new section:

178:17-a Combination Conditional License.

I. ~~[At its discretion, it]~~ The commission may combine license types and issue a combination conditional license to a licensee that holds or is seeking more than one license for a single establishment. In issuing a combination conditional license, the commission ~~[may suspend or]~~ ***shall*** modify ~~[any]~~ ***the*** existing licensing requirement established under title XIII ~~[and may impose additional conditions]~~ ***to accommodate a combination conditional license.*** The commission may deny, in its discretion, any license under this section that constitutes a risk to public health, safety, or welfare of any community.

II. The commission shall issue a combination conditional license in accordance with RSA 541-A:39.

III. This section shall not be interpreted to create a license category that does not exist in statute.

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Traditional Ciders from True Cider Apples
 www.farnumhillciders.com

Senate Ways and Means Committee

March 3, 2009

Dear Senator Odell and members of the committee:

Thank you for the opportunity to comment on SB 181. In principle, and in most of its parts, I applaud this bill. I believe that, with a few minor adjustments, the bill will improve the flow of revenue through the Liquor Commission to the state's coffers.

Please accept my comments in the context of my approval of the intent of this bill. I hope that its sponsors will see fit to amend it slightly to clarify and respect the position of New Hampshire producers. I know that we don't represent a particularly significant portion of the current revenue stream to the commission. But our production is growing, and our contribution to other benefits (and revenues) to the state is substantial - we bring in tourists, we provide jobs, and we conserve open space. And, if our efforts are recognized with fair treatment in state law and regulation, many of us will grow, and our direct contribution to the revenues of the commission will rise.

With respect, here follow my suggestions:

¶4:

The phrase "limited winery specialty sales license" doesn't appear in RSA 178:8 (though it does, mistakenly, in RSA 175:6).

Perhaps replace the mistaken phrase with:

"...or from a wine manufacturer licensed under RSA 178:8, or from a liquor manufacturer licensed under RSA 178:6."

¶13:

A problem lies in the sentence, "The licensee shall have a house policy outlining the corkage fee and receiving of corked table wine."

The phrase “corked wine” denotes a defect, caused by contamination by TCA, a compound in defective corks. Meanwhile, as written, the law would exclude wines that are closed by other means than corks. Perhaps striking the word “corked” from the sentence would eliminate confusion and unintended exclusion.

¶15:

It's not clear from the drafted language of 178:27,I,(a) whether New Hampshire manufactures are meant to be included in the proposed provisions for direct shipping to consumers. Does the phrase, “any person currently licensed in its state of domicile...” apply to licensed NH manufacturers as well? I assume the drafters didn't intend to exclude NH producers from a marketing opportunity being offered to out-of-state producers.

This might best be addressed by amending RSAs 178:6 (Liquor Manufacturer License) and 178:8 (Wine Manufacturer License) to add to each:

“Each (wine/liquor) manufacturer may ship (wine/liquor) directly to New Hampshire consumers over 21 years of age; any (wine/liquor) manufacturer who ships (wine/liquor) directly to New Hampshire consumers shall be subject to all the provisions of (new) RSA 178:27.”

¶19 (in bill as amended; ¶20 as introduced):

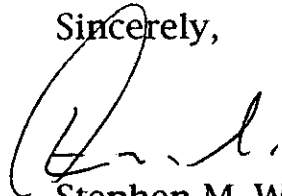
179:31,II,(b) “...All liquor or wine distributed as samples shall be purchased from the commission.” As written, this paragraph would prohibit the sampling of any New Hampshire products that are not sold through the commission. This would choke off the development of a potential revenue stream both to producers and to the commission. Meanwhile, for products that are sold through the commission, it will create unnecessary inventory and logistical headaches for both the commission and New Hampshire producers.

This could be avoided by borrowing language from the amended ¶14, to read:

“All liquor or wine distributed as samples by wholesale distributors or wine and liquor vendors under this subparagraph shall be purchased from the commission. All wine distributed as samples by manufacturers shall be taken from existing stock at the winery, and shall be considered retail sales for the purposes of RSA 178:8, IV”

Thank you again for the opportunity to comment on this proposed legislation. With these few adjustments, I would support its passage.

Sincerely,



Stephen M. Wood.

AMENDED
SENATE CALENDAR NOTICE
WAYS AND MEANS

Printed: 03/12/2009 at 4:28 pm

Senator Bob Odell Chairman ✓
Senator Lou D'Allesandro V Chairman ✓
Senator Harold Janeway ✓
Senator Deborah Reynolds ✓
Senator Peggy Gilmour ✓
Senator Michael Downing ✓

10:40 a.m.

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: March 12, 2009

HEARINGS

Tuesday

3/17/2009

WAYS AND MEANS

SH 100

10:15 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

Comments: SB83 recessed on 01/27/2009. Please note that SB83 had been previously scheduled.
SB181-FN-A, which was recommitted on 03/05/09, has been added.
10:15 AM SB83 establishing a committee to study net loss carry forward provisions under the business taxes.
10:45 AM SB181-FN-A relative to the liquor commission and alcoholic beverages.

Sponsors:

SB83

Sen. Betsi DeVries

Rep. Pamela Price

Sen. Lou D'Allesandro

Sen. Bob Odell

SB181-FN-A

Sen. Lou D'Allesandro

Sen. John Barnes, Jr.

Rep. David Campbell

Rep. John Hunt

Sen. Michael Downing

Sen. Molly Kelly

Rep. Alfred Lerandean

Rep. Peter Ramsey

10:50 a.m.

Laurette Joppie 271-3067

Sen. Bob Odell

Chairman

Date: 03/17/2009
Time: 10:48 a.m.
Room: SB 100

The Senate Committee on Ways and Means held a hearing on the following:

SB181-FN-A relative to the liquor commission and alcoholic beverages.

Members of Committee present:

- Senator Odell
- Senator D'Allesandro
- Senator Janeway
- Senator Reynolds
- Senator Gilmour
- Senator Downing

The Chair, Senator Bob Odell, opened the hearing on SB 181-FN-A.

Senator Bob Odell, D. 8: We have a number of people who have signed up in favor of the legislation. Senator Barnes, Senator Downing, Senator Kelly, but no one indicated that they wish to speak. After we close this hearing, we are just going to go into an executive session, and have a conversation about this legislation. And seeing no one signed up to speak, I now close the public hearing on SB 181.

Respectfully submitted,



Laurette Joppie
Senate Secretary
03/17/2009

**SENATE CALENDAR NOTICE
WAYS AND MEANS**

- ✓ Senator Bob Odell Chairman
- ✓ Senator Lou D'Allesandro V Chairman
- ✓ Senator Harold Janeway
- Senator Deborah Reynolds
- ✓ Senator Peggy Gilmour
- Senator Michael Downing
- Senator Jeb Bradley

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
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<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: January 14, 2010

EXECUTIVE SESSIONS

Tuesday

1/19/2010

WAYS AND MEANS

SH 100

10:15 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION ON PENDING LEGISLATION

Comments: EXEC SESSION ON RE-REFERRED BILL

SB181-FN-A relative to the liquor commission and alcoholic beverages.

Sponsors:

SB181-FN-A

Sen. Lou D'Allesandro
Sen. Michael Downing

Sen. John Barnes, Jr.
Sen. Molly Kelly

Rep. David Campbell
Rep. Alfred Lerandean

Rep. John Hunt
Rep. Peter Ramsey

Speakers

Testimony

SB 181 Side by Side
(Introduced vs. Amendment)

Section #	Title	SB 181 (Introduced)	SB 181 (Amendment)
Section 1	(NEW) General Revenue Exceptions	Insertion of language	Same
Section 2	Definition; Direct Shipper	Amends Allows for the shipment of wine and licensed carriers for the shipment of wine. Removes "liquor and beverage" language from current law and adds "wine"	Amends Reverts back to current law language of "liquor or beverages" and allows for the licenses carriers for the shipment of "liquor and beverages."
Section 3	Advertising	Amends RSA 175:4 to take out the provision prohibiting the advertising of liquor on billboards. This prohibition was put back into a revised version of section 21.	Amends Same - however Section 21 is eliminated from the amendment and the billboard provision reverts back to current law which was deleted in section 21 of SB 181.
Section 4	Transportation of Liquor	Amends RSA 175:6. The provision states that no person can transport liquor in a quantity greater than 3 quarts unless it's purchased from a state store, direct shipper, retail wine license holder or a winery holding a limited winery special sales license. The LC may grant special licenses for transport however they are subject to a 25% fee of the entire value of the product. SB 181 gives the LC the ability to waive the 25% fee.	Same
Section 5	Divisions and Directors	Repeals and Reenacts The LC shall have 5 divisions under unclassified positions of Division Directors: 1) marketing, merchandising and warehousing, 2) store operations, 3) administration, 4) enforcement and licensing, 5) finance. Appointed by and serve at the pleasure of the commission.	Same
Section 6	Preference Given (Reference Change)	Reference Change Regarding the appointment of veterans	Same
Section 7	Liquor Commission Funds	Amends Established the LC Fund which is non-lapsing and continually appropriated. The State Treasurer can invest according to the law and all interest on the funds is to be credited to the said fund.	Amends Creates the LC fund and credits all gross revenue and interest to the fund to pay the expenses of the LC. Any balance will be credited to the general fund on a daily basis. (P2) Leaves in current law the formula for Alcohol Abuse Treatment Fund (P3 NEW) If expenditures over the budget are necessary the LC can go to the G&C (with approval of Fiscal) to transfer funds for health and retirement benefits. (P4 NEW) The LC may transfer funds within the LC for any specific purpose (subject to RSA's) within and among the PAU's for Commission operation. The LC will report to the Fiscal Committee on a semi-annual basis.

SB 181 Side by Side
(Introduced vs. Amendment)

Section 8	State Stores	Repelas and Reenacts Gives the LC the authority to lease and purchase equipment for state stores. Can lease space to banks in the stores for ATM machines. No state store can be operated within 200 feet of any public or private school, church, chapel or parish house. Gives the LC the authority to close a store to increase profitability and efficiency. LC shall provide public notice when closing a store. If a state closes a store the LC must make a reasonable effort to provide state employees other positions.	Same
Section 9	Agency Liquor Stores; Rulemaking	Amend RSA 177:10.	Same
Section 10	Location of Agency Stores	Repealed and Reenacts P1: Gives the LC the authority to license a store. The municipality must vote to approve and there's a sunset provision for the establishment of agency stores which is June 30, 2014. P2: Established the public hearing notice for agency license application. Will be processed by the Director of Enforcement and Licensing. The Director shall approve or deny. P3: The decision will be made by mail. P4: Aggrieved decisions may be appealed. P5: 1 license = 1 store. P6: 1 time background check of \$500. Annual licensing fee of \$1,000 per cash register. P7: Allows for data collection with a report.	Repealed and Reenacts P1: Adds the language "at its discretion and in the best interests of the state." P6: 1 time background check fee of \$500. Current holders will pay \$100. Annual fee of \$500 per register at a maximum of \$2,000.
Section 11	Reporting	Reference Change Changes who the monthly reports must be submitted to based on the newly titled Div. Directors. Reports must be submitted to the LC enforcement and licensing as well as the marketing, merchandising and warehousing division.	Same
Section 12	Conditional License	(New Section) Titled Conditional License: Creates a new section conditional license. LC at its discretion can issue a conditional one day license. Can issue a conditional combinational license and may suspend or modify licensing requirements under title 13. The commission can deny a license. The LC can't create a license that does not exist in statute already.	(New Section) Titled Combinational Conditional License: Creates a new section combinational conditional license. Adds the language "to a licensee that holds or is seeking more than one license for a single establishment" also adds "may impose additional conditions" to the combinational conditional licenses.
Section 13	Corkage Fees	Amends A licensee may charge a corkage fee for privately owned wine that is consumed on premise with the purchase of a full-course meal. The licensee shall have a house policy outlining the fee and receiving of wine. The policy must be available upon request by the Director of Enforcement and Licensing. Any violation the LC can suspend or modify the licensee's corkage policy.	Same
Section 14	One Day Licenses; Donations to Nonprofit Organizations	(New Section) Manufacturers and distributors may donate their product to a non-profit organization with a one-day license. The Division of Enforcement and Licensing must be noticed 10 days prior. All donated products must be purchased from the LC and all donated beverages are considered sales. Applies to wine and liquor.	(New Section) Removes the 10 day notification and adds "all wine donated by manufacturers shall be taken from existing stock at the winery and considered retail sales." All other provision remain the same.

SB 181 Side by Side
(Introduced vs. Amendment)

Section 15	Preference Given	Repealed and reenacts Applies to WINE only. Manufacturers etc. can apply for a direct shipper permit and can ship to individuals 21 years or older within New Hampshire. The package must be marked and signed for. Shipments into the state must be made by a licensed carrier. Shipments can not be made to places where liquor can not be sold. Wine that has been registered within the previous 2 months with the LC may be shipped only if it's available to the LC wholesale in a matching amount. Can't ship more than 12-9 liter cases to an address within one year. 1200 liters or more of a wine the manufacturer etc. must offer that product to the LC at the lowest price. Must file a monthly report by the 10th of the month regardless of activity. Must include the invoice, show the retail price, pay 10% fee for shipment. Records must be kept for three years and the carrier must provide information to the LC if requested. The LC will adopt rules addressing the following: 1) application procedures, 2) signature and identity procedures, 3) filings of direct shippers. If you ship to an individual under the age of 21 you are guilty of a class B felony. There's a reciprocity agreement.	Repealed and reenacts Applies to LIQUOR and BEVERAGES and not WINE only. P4: (NEW) 27 gallons of beer in containers and no more than 30 units of liquor in NH in a calendar year. Can't ship to a licensee. P5: 10% of retail to the LC - must report in the month that the shipment was made. Report includes: 1) total amount shipped, 2) name and address, 3) shipping and purchasing information, 4) \$250 penalty for non-reporting, 5) records must be maintained for two years.
Section 16	Direct Shipper Fees	(New Section) Wine manufacturers \$120 and Importers, retailers and wholesalers \$336. Both fees paid annually.	Same
Section 17	Probationary License Fees	(New Section) A probationary license fee of \$300 will be paid by the licensee during the initial license period.	Same
Section 18	Prohibited Sales	Amends Can not sell or permit anyone under the age of 21 to have alcohol. For all packages that contain alcohol they must be marked "alcoholic products" and the carrier must obtain a signature from someone 21 years or older.	Same
Section 19	Sales to Intoxicated Persons	(New Section) Standard serving size is defined to mean: 1.5 oz. of liquor, 4 oz. wine, 12 oz. of a beverage other than wine. Also outlines the parameters for prosecution of innocence and defense.	Deleted from the Amendment. Issue is being addressed in SB 103.
Section 19 (Amended Version)	Advertising Restrictions; Samples		Amends Must provide 12 units to the LC for sampling. Manufacturers etc. may distribute samples to licensees. Representatives can get 12 bottles per year of an unregistered item or vintage. On and off premise licensees may receive 2 units. Deletes the mL requirements except for that of beer. All samples must be distributed through the LC. All samples are considered sales. Eliminates the 10 day reporting requirements. Eliminates the advertising of prices.

SB 181 Side by Side
(Introduced vs. Amendment)

Section 20 (Introduced)	Samples	(Repeal and Reenact) Manufacturers etc. can distribute samples for the purposes of tasting. No licensee shall add samples to inventory for resale. The Division of Enforcement must be notified 10 days prior to distribution of samples/donations. All samples must be purchased from LC. All beverages furnished as samples are considered sales.	Amendment combines Sect. 20 and 21 into amendment section 19.
Section 20 (Amended Version)	Purchase of Supplies		Amend Allows the LC to purchase consumables. Must use a competitive bidding process.
Section 21 (Introduced)	Advertising Restrictions	Amend: Advertising of alcohol by billboard, sound trucks or outdoor illuminated screens is prohibited. On-premise and off-premise licensees may advertise their liquor and beverage prices. Responsibility of the advertiser that the NH laws are adhered to. Eliminates the "happy hour" provision. Can not advertise in certain publications.	Leaves in current law certain advertising restrictions (billboards, pricing etc.) and keeps the happy hour provision in current law. See attached for RSA 179:31
Section 21 (Amend)	Repeals	See section 23 introduced.	Repeal: RSA referencing the closing of state liquor stores and the RSA referencing the operation of state stores and sales persons.
Section 22 (Intro and Amend)	Purchase of Supplies	Repeal and reenact States that all licensees must purchase supplies from the LC or license wine manufacturers. May purchase beverages from warehouses etc. The LC may grant permission to purchase products not otherwise available from direct shippers.	Repeal and reenact: Although the amendment used the same title it has a completely different meaning. Pertaining to the purchase of supplies for licensees current law would remain the same (RSA 179:32) The amendment exempts the LC from the Department of Administrative Services Statutes for supplies. However it must use a competitive bidding process (i.e. broken window)
Section 23 (Introduced)	Repeals	Repeal: 1) Closing of state stores, 2) the operation of state stores and salespersons, 3) soundtrucks and outdoor illuminated displays. Section 21 of amendment.	Outdoor illuminated display provision will stay in current law.
Section 23 (Amend)	Deputy Commission of Legal Counsel and Compliance	<i>Not addressed in SB 181 introduced</i>	(New Section) Creates position.
Section 24 (Introduced)	Division of Liquor Commission Transitional Provisions	Pursuant to RSA 94:1-d Allows for the LC to submit for 8 unclassified positions and gives the Commissioner of Administrative Services the authority to hire a consultant to apply letter grades to the positions. The report shall go to the Committee on Joint Employee Classification. The LC will report which classified positions are to be abolished. Any classified employee appointed to an unclassified position will retain leave and accrue terminal pay etc.	Not addressed in Amendment
Section 24 (Amend)	Contracts	<i>Not addressed in SB 181 introduced</i>	(New Section) Gives the LC the authority to enter into leases.

SB 181 Side by Side
(Introduced vs. Amendment)

Section 25 (Introduced)	Effective Date	July 1, 2009	Same as Section 28 in amended version
Section 25 (Amend)	Shipment for non-commercial purposes	<i>Not addressed in SB 181 introduced</i>	(New Section) Allows non-commercial shipments.
Section 26 (Amend)	Prohibited Influence	<i>Not addressed in SB 181 introduced</i>	(New Section) Corecian etc.
Section 27 (Amend)	Filing of Direct Shipper Reports	<i>Not addressed in SB 181 introduced</i>	(New Section) Will make direct shipper reports electronic within 6 months of passage,
Section 28 (Amend)	Effective Date	<i>Same as section 25 in SB 181 introduced</i>	July 1, 2009

HR 6 - AS INTRODUCED

2009 SESSION

09-1050
01/09

HOUSE RESOLUTION **6**

A RESOLUTION affirming revenue estimates for fiscal years 2009, 2010, and 2011.

SPONSORS: Rep. Almy, Graf 11

COMMITTEE:

ANALYSIS

This house resolution affirms certain revenue estimates for fiscal years 2009, 2010, and 2011.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nine

A RESOLUTION affirming revenue estimates for fiscal years 2009, 2010, and 2011.

1 Whereas, the House Ways and Means Committee has considered what the unrestricted revenue
2 estimates should be for fiscal years 2009, 2010, 2011 and has presented those estimates to the House
3 of Representatives; now, therefore, be it

4 Resolved by the House of Representatives:

5 That the House wishes to go on record as affirming the following revenue estimates for fiscal
6 years 2009, 2010, and 2011.

7 Committee estimates are based on current rates.

		FY 2009	FY 2010	FY 2011
8				
9	GEN'L & EDUCATION			
10	TRUST FUND:			
11	(Dollars in Millions)	Official Estimate	Committee Estimate	Committee Estimate
12	Business Profits Tax	\$388.600	\$290.000	\$281.600
13	Business Enterprise Tax	<u>285.400</u>	<u>212.600</u>	<u>206.500</u>
14	Subtotal	674.000	502.600	488.100
15	Meals & Rooms Tax	230.000	213.000	215.000
16	Tobacco Tax	175.900	180.500	155.000
17	Real Estate Transfer Tax	145.600	80.600	80.000
18	Liquor Sales	146.100	144.600	145.800
19	Interest & Dividends Tax	126.000	107.000	100.000
20	Insurance Tax	98.300	90.500	88.300
21	Communications Tax	82.900	82.600	82.000
22	Other	75.050	84.000	54.600
23	Tobacco Settlement Funds	49.300	53.000	49.400
24	Securities Revenue	34.000	34.000	34.000
25	Court Fines & Fees	32.900	28.700	20.100
26	Board & Care Revenue	16.400	19.000	19.900
27	Beer Tax	12.900	12.900	12.800
28	Utility Consumption Tax	6.600	6.100	6.000
29	Racing & Games of Chance	<u>3.000</u>	<u>4.000</u>	<u>3.700</u>
30	SUBTOTAL	\$1,908.950	\$1,643.100	\$1,554.700
31	Medicaid Enhancement Tax	91.800	101.400	105.000
32	Utility Property Tax	23.600	23.600	25.000
33	Statewide Property Tax	363.000	363.000	363.000

HR 6 - AS INTRODUCED

- Page 2 -

	FY 2009		FY 2010	FY 2011	
1					
2					
3	Lottery Transfers to Education	87.800	75.600	76.600	80.400
4	Bingo Lucky 7 Transfers to Education	1.500	1.300	1.300	1.300
5	Medicaid Recoveries	14.600	21.200	18.800	19.600
6	TOTAL GEN'L & ED				
7	TRUST FUNDS	\$2,491.250	\$2,229.200	\$2,144.400	\$2,184.800
8	HIGHWAY FUNDS:	Official	Committee	Committee	Committee
9	(Dollars in Millions)	Estimate	Estimate	Estimate	Estimate
10					
11	Road Toll	\$139.900	\$131.400	\$125.400	\$125.400
12	Motor Vehicle Fees	103.900	99.400	111.400	105.400
13	Miscellaneous	<u>13.700</u>	<u>15.300</u>	<u>19.200</u>	<u>19.200</u>
14	TOTAL HIGHWAY FUNDS	\$257.500	\$246.100	\$256.000	\$250.000
15					
16	FISH & GAME FUNDS:				
17	(Dollars in Millions)				
18	Fish & Game Licenses	\$8.300	\$8.300	\$8.300	\$8.300
19	Fines & Miscellaneous	<u>1.900</u>	<u>1.700</u>	<u>1.700</u>	<u>1.700</u>
20	TOTAL FISH & GAME FUNDS	\$10.200	\$10.000	\$10.000	\$10.000

**Remarks of Senator Lou D'Alessandro before the
Senate Ways and Means Committee
March 3, 2009**

Senate Bill 181

"Mr. Chairman and members of the Committee: For the record, I am Senator Lou D'Allesandro Senate District Twenty.

I am pleased to appear before you today in support of SB 181 and offer today an amendment to the bill that clarifies some technical provisions as well as several other changes. Although relatively minor, these changes do address some of the issues which were expressed at the original public hearing of this bill last month.

In the interest of time, I will defer to Chairman Bodi and his colleagues from the Liquor Commission to outline in more specific terms the principal components of the amendment. But I do want to outline some of the key objectives of the bill – as well as the amendment – and what the sponsors of this legislation seek to accomplish with these changes.

Let me begin by noting that as you are no doubt aware, the Liquor Commission is the largest non-tax revenue producer in our state. Last year alone it generated approximately \$112 million in net profits. At a time when virtually all of our state

revenue sources are down, the Liquor Commission is generating record sales and profits. SB 181 will ensure that the state's control of alcoholic beverages remains vigilant but that we also maximize our revenue opportunities as we move into the future.

Many of the proposed changes in SB 181 have been talked about for years. Others have been recommended by previous Blue Ribbon Commissions, study groups, trade associations as well as the Commission itself. For one reason or another, the legislative imperative to act fell short. Today we have the opportunity, in the year of the Commission's 75th Anniversary, to position this agency to ensure that it operates efficiently and responsibly for decades to come. These changes will make the Commission's management more accountable and allow the legislature to raise the standard of performance for this very important business-like agency.

To accomplish this objective The Liquor Commission Modernization Act will eliminate unnecessary bureaucratic constraints that inhibit the Commission's ability to maximize its full revenue potential and enhance service to its customers. A summary of the intent of the statutory changes are as follows: First, SB 181 as amended provides for an important Management Structure Reorganization.

The organization structure of the Liquor Commission is not consistent with most state agencies.

Additionally, its management structure does not reflect its current business needs and legislative mandate.

The proposal recognizes the five unique operational needs of the Commission:

Division of Finance, Division of Marketing, Merchandising and Warehousing, Division of Administration, Division of Enforcement & Licensing, and the Division of Store Operations.

Secondly, The LCMA would establish a senior staff position of Deputy Commissioner of legal counsel, ethics and compliance. Among other duties this individual would be responsible for serving investigating and reporting on ethical complaints regarding operations and enforcement as well as the many state and federal statute and rule requirements.

Third, the Modernization Act properly recognizes the Liquor Commission as an Enterprise Fund and appropriately reflects its source of funding as Liquor Funds, not General Funds, similar to the other Enterprise Fund agencies including NH Lottery, NH Turnpikes and the NH Unemployment Trust Fund.

Proper recognition of the Liquor Fund is vital for the Commission to operate in a more business-like fashion and to be better suited to respond to the rapidly changing retail environment that it operates in, similar to other revenue generating

business type activities in the state that more than cover their expenses from fees and charges.

In addition the Modernization Act would permit the Commission to increase revenues by offering non-alcoholic beverage items related to wine and spirits, such as wine and gift bags, recycling bags, gift boxes, cork screws, etc.

A fourth component of this legislation adjusts existing statutes to expand the issuing of Agency Liquor Stores Licenses as maybe needed to replace existing Commission stores that are not operating optimally or to better serve a specific geographical area or region of the state that may currently be under serviced. This is not a wholesale opening of liquor sales in grocery and convenience stores but a modest adjustment that will allow the Commission the ability to cautiously supplement sales outlets while carefully reviewing its impact.

A provision of this new law would also authorize the Commission to issue a special condition license in cases in which a prospective licensee's operations do not fit into the state's existing license categories. There are too many license categories now and having a special condition license will put and end to adding new license types in the future. It will also set in motion the process to hopefully consolidate the many licensee categories.

Finally, the Modernization Act includes provisions that eases restrictions on charity/non-profit wine tasting events, permits no-fee wine auction sales and simplifies "Corkage Fee" statute.

In conclusion, The Liquor Commission Modernization Act brings positive, constructive change to an important state agency. It is a responsible and constructive set of legislative changes that when taken together will create an opportunity for our state to continue its leadership as a control state but doing so in a responsible and constructive manner. Most importunately, while the Liquor Commission Modernization Act gives the agency the flexibility it needs to operate more like a businesses - this legislation fully preserves the legislative oversight and prerogatives that have long governed and provided needed oversight of this state agency.

Thank you and I would be happy to answer any questions you might have."

Amend the bill by replacing section 8 with the following:

8 State Stores. RSA 177:1:1 is repealed and reenacted to read as follows:

177:1 State Stores

I. The commission may lease and purchase and equip, in the name of the state, such stores, warehouses, supplies, materials, *informational and accessory* products, and other merchandising requirements for the sale or promotion of liquor as are necessary to carry out the provisions of this chapter. The commission may lease, in the name of the state, space in the state stores to banks for the purpose of installing automated teller machines. No newly established state store shall be operated within 200 feet of any public or private school, church, chapel, or parish hall.

Amend the bill by replacing section 10 with the following:

10 Location of Agency Liquor Stores. RSA 177:11 is repealed and reenacted to read as follows;

117:11 Location of Agency Liquor Stores.

I. The commission shall have the authority to license an agency liquor store at its discretion and in the best interests of the state. An agency liquor store shall only be located in a municipality which has voted in favor of the operation of state liquor stores under RSA 175:7. ~~[The commission shall not license any new agency liquor stores after June 30, 2014.]~~ *Agency Liquor Stores shall maintain a minimum wholesale inventory of \$5,000 in consumable foods and beverages, excluding tobacco and alcoholic beverages.*

II. The commission shall only issue an agency liquor store license, in accordance with RSA 541-A:39. ~~[The commission shall hold a public hearing before issuing an agency liquor store license in any municipality.]~~ The license application shall be processed by the director of the division of enforcement and licensing. The director of the division of enforcement and licensing shall recommend in writing approval or denial of any agency liquor store.

III. The commission shall notify any applicant denied a license of the reasons for the denial by certified mail to the mailing address given by the applicant in the application for an agency Liquor store license.

IV. Any applicant aggrieved by a decision made by the commission may appeal the decision in accordance with RSA 541.

V. Any retail licensee, whether proprietorship, partnership, limited liability company, or corporation ~~[shall only]~~ *may* be approved ~~[to establish one]~~ *as an agency liquor store in any location approved for a combination license.*

VI. Any applicant selected for an agency liquor store license shall pay a one-time background check processing fee of \$500; ~~[holders of an agency liquor store license on the effective date of this paragraph]~~ *current holders of a combination license* shall pay a one-time background check processing fee of \$100. The annual fee for *each* agency liquor store[s] shall be \$500 per cash register up to a maximum of \$2,000.

VII. Agency Liquor Stores shall be allowed to sell all beverage products sold at state stores. The wholesale price shall be computed as 17% less than the current retail price of the same product sold in state stores.

VIII. Agency Liquor Stores shall sell to on-premise licensees at the required discount, to be reimbursed by the commission. Hours of sale for Spirits will be the same as beer and wine sales.

~~[VII]~~*IX.* The commission shall collect data on new revenue, alcohol-related violations, social disorder, population growth, alcohol availability, and emergency services relative to use or abuse of alcohol in each municipality where an agency liquor store license has been issued. The commission shall publish its findings in an annual report submitted to the governor and council, the fiscal committee of the general court, the president of the senate, and the speaker of the house of representatives.

Amend the bill by replacing section 12 with the following:

12 New Section: Combination Conditional License. Amend RSA 178 by inserting after section 17 the following new section:

178:17-a Combination Conditional License.

I. ~~[At its discretion, t]~~ The commission may combine license types and issue a combination conditional license to a licensee that holds or is seeking more than one license for a single establishment. In issuing a combination conditional license, the commission ~~[may suspend or]~~ *shall* modify ~~[any]~~ *the* existing licensing requirement established under title XIII ~~[and may impose additional conditions]~~ *to accommodate a combination conditional license.* The commission may deny, in its discretion, any license under this section that constitutes a risk to public health, safety, or welfare of any community.

II. The commission shall issue a combination conditional license in accordance with RSA 541-A:39.

III. This section shall not be interpreted to create a license category that does not exist in statute.

January 19, 2010

The Honorable Bob Odell, Chair
Senate Ways and Means Committee
Room 100
State House
Concord, NH 03301

RE: New Futures' Support for Amendment 2010 – 0113s to SB 181 – FN – A

Dear Senator Odell and Honorable Members of the Ways and Means Committee,

The purpose of this letter is to convey New Futures' strong support for Amendment 2010 – 0113s to re-referred bill SB 181. Amendment 2010 – 0113s:

- Repeals the provisions of the Laws of 2009, Chapter 144: 163 – 175 that would require the transfer of Liquor Enforcement to the Department of Safety effective July 1, 2010; and
- Creates a committee to study the administrative structure and adjudicative process at the Liquor Commission.

Amendment 2010 – 0113s is the recommendation of the study committee created by the Laws of 2009, Chapter 144: 162. After a series of meetings at which the committee received testimony from all interested parties, the committee voted 4 -1 to recommend the repeal of the transfer of Liquor Enforcement to the Department of Safety and to further study of the organizational structure of the Liquor Commission and the Commission's adjudicative and appeals processes.

New Futures, a nonpartisan advocacy organization working to reduce underage alcohol problems and increase access to substance use disorder treatment and recovery services, strongly supports maintaining the liquor enforcement and licensing function within the Liquor Commission because:

- **Enforcement and licensing are core functions of the Liquor Commission.** Pursuant to RSA 176: 3, the second of the "primary duties of the liquor commission" is to "maintain proper controls." The central responsibilities of the Bureau of Enforcement and Licensing - education, licensing, and enforcement – are directly linked to the Commission's core responsibility to maintain proper controls. Proper control is necessary to enable the Commission to maximize profit and ensure public health and safety. Proper control is achieved by the efficient licensing of establishments; the education of licensees regarding their legal responsibilities under the liquor laws; and effective enforcement that both encourages voluntary compliance with licensing and regulatory standards and holds licensees accountable for compliance with these standards.

- **The current organizational structure is efficient and effective.** Assigning the education and licensing of establishments to liquor investigators with enforcement authority ensures both operational efficiency and effective enforcement.
 - Liquor investigators, as sworn officers, are able as part of the licensing process to educate prospective licensees not only about the administrative requirements of their licenses, but also about their critical legal public health and safety responsibilities to refuse service to minors and to intoxicated individuals.
 - A liquor investigator who identifies a possible violation during a licensing visit is able to immediately begin an investigation, ensuring a prompt resolution of the matter – to the benefit both of the licensee and the Commission.
 - Through the consolidation of education, licensing, and enforcement, the current organizational structure has been effective in reducing violations for over service and sales to minors. The most recent annual Bureau statistics indicate that out of 4500 licensees, there were fewer than 50 violations for over service and that compliance checks for sales to minors showed a 91% compliance rate.
 - At the 2007 National Conference on Enforcing Underage Drinking Law sponsored by the Office of Juvenile Justice and Delinquency Prevention within the United States Department of Justice, the Bureau of Enforcement was recognized as the enforcement entity of the year. At the 2009 conference, Bureau Investigator Brandon Neudecker received the National Liquor Law Enforcement Association's Liquor Law Enforcement Agent of the Year Award for his work in shutting down three fake ID operations.
- The vast majority of states (72%) utilize organizational structures akin to that currently in effect in New Hampshire – in which the responsibility for alcohol regulatory enforcement is assigned either to the state's liquor control commission or the state's department of revenue.

For the reasons set forth above, we respectfully request that the Ways and Means Committee recommend SB 181 Ought to Pass with Amendment 2010 – 0113s. Thank you for your attention to this matter and do not hesitate to contact me if you have questions or need additional information.

Sincerely,



Tricia H. Lucas, Esq.
Policy Director



THE GENERAL COURT
OF
NEW HAMPSHIRE
CONCORD 03301

SYLVIA B. LARSEN
PRESIDENT OF THE SENATE

TERIE NORELLI
SPEAKER OF THE HOUSE

November 1, 2010

The Honorable John Lynch
Governor of New Hampshire
State House, Room 208
Concord, NH 03301

The Honorable Sylvia Larsen
President of the Senate
State House, Room 302
Concord, NH 03301

The Honorable Terie Norelli
Speaker of the House
State House, Room 308
Concord, NH 03301

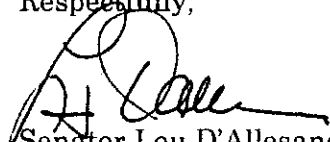
Dear Governor Lynch, Senate President Larsen and Speaker Norelli,

Re: ***SB 181, Chapter 248:2, Laws of 2010, committee to study the administrative and adjudicative process at the Liquor commission.***

Pursuant to SB 181, Chapter 248:2, Laws of 2010, enclosed please find the Final Report of the study committee.

Should you have any questions or comments regarding the report please do not hesitate to contact me.

Respectfully,


Senator Lou D'Allesandro
Chair

cc: Tammy L. Wright, Senate Clerk
Karen O. Wadsworth, Clerk of the House
Michael York, State Librarian
Members of the Committee

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2. Observations report concerning the N.H. State Liquor Commission~ Submitted by Acting Commissioner Earl M. Sweeney
3. All meeting minutes
4. Stake holder's opinion regarding the transferring of Enforcement to Department of Safety.
5. N.H State Liquor Strategic Plan FY 2011 and onward
6. Committee fact-finding tour on NH Liquor retail stores and City of Concord Warehouse.
7. New Hampshire Liquor Commission on Bailment.

SB 181

SB 181, Chapter 248:2, Laws of 2010

Committee to study the administrative structure and adjudicative process at the Liquor Commission

Final Report

DUE DATE: November 1, 2010

The above named study committee selected to study the following issues (1) Whether the liquor commission should have an executive director rather than a full-time 3-member commission (2) How best to ensure impartial review of appeals of licensing and enforcement decisions (3) How best to ensure that the enforcement division is properly supervised, contains its function to that of a regulatory authority, and guards against overly broad interpretation of its function (4) Whether a liquor commission ombudsman should be appointed and the duties and responsibilities of that office. (5) The committee shall also identify the appropriate statutory changes required to be made for the transfer, having duly met the committee offers the following final report.

FINDINGS and RECOMMENDATIONS

Whether the liquor commission should have an executive director rather than a full-time 3-member commission

- Members of the Committee have heard some concerns regarding the expansive activity of liquor enforcement personnel. The Committee believes that the Liquor Commission should instruct the Director of the Division of Enforcement and Licensing to focus all activities and resources to licensing, education and enforcement of the liquor and tobacco laws; and to refrain from venturing into other areas of state and local law enforcement.
- The committee felt that the New Hampshire legislature put considerable thought behind their legislation to organize the Commission. It sought to achieve the proper balance between profitability and control. Historically, the Commission always functioned best when there were three commissioners in place that were engaged and active. The issues that have risen seem to stem from a breakdown in the commissioner's structure.
- Does it make sense to have criteria for the Liquor Commission? There needs to be specific assignments of duties due to the nature of the business through out the Liquor Commission. The Chairman, (Director of Operations) along with the

other two Commissioners should have specific assignments for each by dividing specific duties and responsibilities amongst one another. Each of the commissioners should have actual authority to make final decisions in their assigned area of responsibility- A concern was that when everyone is in charge, no one is in charge. This would determine the assignment of responsibilities and strengthen the Commission. The likely breakdown would be a commissioner with a background in sales and marketing, a commissioner with a business background with some experience in the licensed community and a commissioner with experience in regulatory oversight. In addition with a 6 year terms staggered by 2 years it allows for an institutional memory that ensures a smooth transition and continuity from one administration to the next.

How best to ensure impartial review of appeals of licensing and enforcement decisions

- Potentially, with Enforcement, it would be overwhelming to just one individual. The revenue stream is too valuable. The committee felt that looking at the adjudicatory issue and personality issue; we should look at refreshing the independent appeals process and consider a panel.
- New Hampshire is the envy of the other control states, both in terms of the amount of revenue it returns to the General Fund and in terms of its system of enforcement and the resultant effect on New Hampshire's quality of living measures, such as the rates of alcoholism, alcohol –involved crimes and traffic crashes, teenage involvement with alcohol and public health. Some secrets to this success are emphasizing enforcement of upfront licensing requirements and a strong educational component.
- The Liquor Commission is too important of a revenue source for the state to risk turmoil and upheaval that could rise during the transition from the current 3 Commissioners to an Executive Director. A single Executive Director who would hear appeals could lead to personality conflicts between a licensee and the Director- with the only recourse currently being an appeal to the courts; this would be cumbersome and timely process.

How best to ensure that the enforcement division is properly supervised, contains its function to that of a regulatory authority, and guards against overly broad interpretation of its function.

- Virtually all major stakeholders oppose transferring NHSLC Enforcement to safety a (Please refer to attachments).

- The industry is very concerned that should Liquor Enforcement be allowed to move to the Department of Safety a change in mission would take place.
- There is a different mind set with the Liquor Commission, not just pro business. We want licensing, safety and responsibility, which is what NH, is all about.
- No enforcement transfer: There is opposition to the pending transfer of Liquor Enforcement to the Department of Safety. We encourage this committee to act on legislation that would repeal the move. We feel that enforcement should remain at the Liquor Commission, but feel there needs to be some checks and balances added to the system. What we have in place now is fair, transparent and public, with on-site professionalism, quality and education.
- How to ensure enforcement remains focused on their primary mission. The legislature has repeatedly changed course on where enforcement should be situated. Rumors abound regarding investigators in SWAT uniforms, etc. The commission has recently promulgated more definitive policies on Investigator attire and exercise of enforcement authority.
- A new emphasis for Enforcement. The primary functions of enforcement education and licensing belong with the commission and not with another State agency. Changes like this should not be based on the popularity of lack thereof individuals, but on system considerations. Local law enforcement and licensees support the Division of enforcement remaining where it is.

Whether a liquor commission ombudsman should be appointed and the duties and responsibilities of that office.

- There is clearly a need for an independent third party to hear panels. The industry has long felt that the deck is always stacked against you- with the Commissioners and the Chief of Enforcement being on one side of a hearing and the licensees on the other. A third party appeals process would eliminate any perceived conflicts of interest.
- The idea of an ombudsman: who are independent people within an organization who bring concerns from outside and within an organization to those who have the power to change rules/operations/decisions. Ombudsmen generally act with confidentiality and do not have any authority or position within an organization. If a third party appeals process is warranted then we as a committee or the Commission should establish it and appeals officers should have a certain degree of tenure, so that they can act independently for the Commissioners.

- The 3 commissioners should be ensuring maintenance of high ethical standards, customer relations and fair hearings. A Deputy Commissioner position would only be needed if a CEO system replaced the 3 Commission system.

The committee shall also identify the appropriate statutory changes required to be made for the transfer

- Statutory changes of Enforcement transfers to Safety on July 1, 2011. At least 27 current statutory references would have to be deleted, amended or added in order for the transfer to be successfully implemented.
- It was expressed through the NHSLC that the state should be extremely careful of various alarms regarding the short term, one time money, to plug temporary General Fund Budget gaps by Sales of valuable NHSLC assets and various privatization proposals.
- The committee did discuss looking further into the neighboring State of Maine and their experience of moving the alcohol beverage enforcement and licensing its version to the Department of Safety.
- The future holds great potential. The New Hampshire State Liquor Commission is on track to deliver a billion dollars in net profit to the General Fund over the next 8 years.

Recommended Legislation

- The committee's overall recommendation will be to file legislation to reverse the pending transfer of the Division of Enforcement, licensing and education of the State Liquor Commission to the Department of Safety for the sole purpose to ensure they remain with the Liquor Commission

Overview of the strategic NHSLC plan

- Policy and procedure development
- Legislative initiatives
- Advertising, marketing and merchandising
- Employee relations, selection and training
- Management of liquor and wine outlet stores
- Management of real estate

- Reduction of energy costs
- Loss of prevention, safety and security
- Streamlining of procedures for cost reduction
- Data processing improvements

Upgrading NH Liquor Store and Wine Outlets in the State of NH
For more information please refer to the "Tour Memo"

- Two of the most popular reasons for shopping at New Hampshire Liquor store and wine outlets stores are value and selection.
- The NHSLC maintains a chain of 76 State liquor and wine outlets located through the state, plus 3 Agency Stores in remote areas- Errol, Pittsburg and Greenville. 11 of the stores are in state owned buildings, 65 are in leased premises.
- Visitors come to NH specifically to purchase their wine and spirits tax free at NH's conveniently located stores.
- Most popular and most production stores are at the Portsmouth traffic circle and at the Hampton 95 north and 95 south bound stores.
- NH Hampshire Liquor Commissions visions for the future website. Go to: liquorandwineoutlets.com
- A multifunctional space for shopping and in-store events. In terms of new design: increased sales space, improved store layout, a new wine room and tasting area, a colorful mix of wood and metal shelving, additional check-out registers, state of the art lighting and signage. Increased shelf depth allows employees to keep more products on the shelves, increasing open floor space and creating wider aisles.
- Have wine tastings and marketing of NH Wines and Spirits. The new wine area is called the "Vineyard Collection" The room features 300 wines (fine wines) around the world, giving a different concept. The wine tasting center enhances Friday night from 5-7pm that also enables the Manchester store to partner with local restaurants.

Please also review attached documents:

1. Observations concerning the N/H State Liquor Commission~ submitted by Acting Commissioner Earl M. Sweeney, November 3, 2010
2. All meeting minutes
3. Stake holder's opinion regarding the transferring of Enforcement to Department of Safety.
4. State liquor Strategic Plan FY 2011 and onward

5. Committee fact-finding tour on NH Liquor retail stores and City of Concord Warehouse.
6. New Hampshire Liquor Commission on Bailment.

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1. SB 181 study committee Final Report
2. Observations report concerning the N.H. State Liquor Commission~ Submitted by Acting Commissioner Earl M. Sweeney
3. All meeting minutes
4. Stake holder's opinion regarding the transferring of Enforcement to Department of Safety.
5. State liquor Strategic Plan FY 2011 and onward
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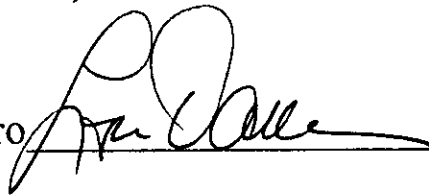
Submitted by Committee member: Representative Edward Butler

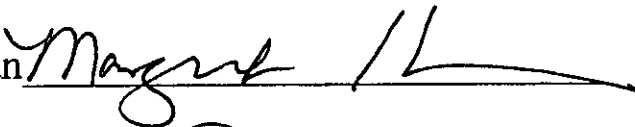
- SB 181 Study committee to study the administrative structure and adjudicative process at the Liquor Commissioner
- Subject: 3 commissioners versus one addendum

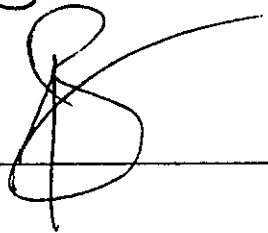
Two recent bills to change the Commissioner structure to one executive have been proposed. In 2008 HB 1552 was submitted, sent to Interim Study and was not supported. In 2009 HB 248 was proposed and was supported unanimously, with amendment, by the Executive Departments and Administration Committee. It subsequently died on the table.

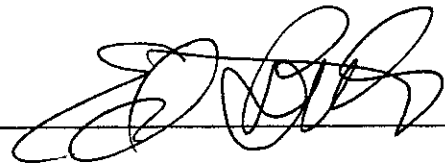
One of the advocates of HB 248 was Commissioner Mark Bodi. I believe that more discussion of this issue may have brought more detail to the arguments in support of changing the Commissioner structure and the SB181 Commission would have been better able to make a supportable recommendation.


Respectfully submitted,

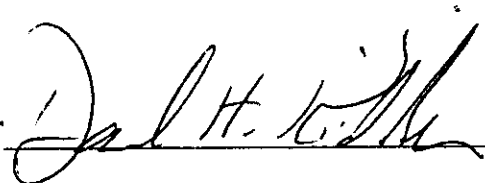
Senator D'Allesandro 

Senator Hassan 

Senator Bradley 

Rep. Butler 

Rep. Shurtleff 

Rep. Kidder 

**Observations Concerning
The
NH State Liquor Commission**

**By: Earl M. Sweeney
Acting Commissioner
November 3, 2010**

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NH State Liquor Commission

50 Storrs Street

Concord, NH 03301

November 3, 2010

Senator Lou D'Allesandro, Chair, and members

SB 181 Study Committee

Rm. 100, State House

Concord, NH 03301

Dear Senator D'Allesandro and members:

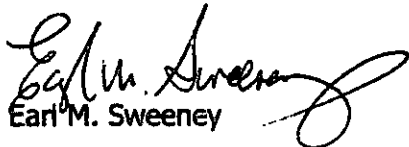
Thank you for inviting me to submit this white paper to supplement my testimony before you that took place on August 23.

Although my appointment as Acting Commissioner was a temporary one, I approached the task with the intention to give it my full attention for as long as I would be there, and to learn as much as I could about the Commission and its operations so as to serve the Commission and the State as best I could. The following thoughts and observations are mine and do not necessarily reflect those of anyone else, although I believe from my conversations with the other two Commissioners that you will find that they agree with most of my conclusions. I hope you will find them of some value as you finalize the task that you are fulfilling under the legislative mandate for your Committee, as outlined by the Legislature in Chapter 248, laws of 2010 (SB 181-FN-A).

I also hope by means of this document to make you aware of the efforts of the many hardworking and dedicated employees of the Commission, who kept the operation effective and profitable despite the months of uncertainty and turmoil at the top.

I hope that these observations in some small way will be making a contribution to the State and to the organization, and that this report will be of some value to you and the other decision makers, in whose hands the fate of the State Liquor Commission lies.

Respectfully submitted,


Earl M. Sweeney

Acting Commissioner

Executive Summary of Recommendations and Conclusions

1. The statute should be much more specific than it is regarding the duties of a Liquor Commissioner and the types and amount of experience that will qualify someone for the appointment.
2. The Commission should cultivate an amicable but arms-length and very transparent business relationship with the brokers.
3. When an individual is under serious consideration for the post of Liquor Commissioner, taking a page from the gaming legislation that has been proposed, the Attorney General should be tasked with conducting a thorough background investigation on him or her. The investigation could be farmed out to a reputable licensed private investigative agency or to the State Police. It should not be conducted by the Commission's Division of Enforcement because they may ultimately be working for this individual.
4. The duties of the Liquor Commission Chair should be spelled out in detail. In general terms the Chair, like the Chief Justice of the Court System, should be a "first among equals", conducting the Commission meetings and acting as spokesperson.
5. The recommendations of the Hay Study Group should be implemented to comply with current law that requires that the Directors of the Divisions of Marketing, Administration, and Enforcement be appointed and paid as unclassified employees. The salaries of the 3 Liquor Commissioners should be adjusted so that they do not make less than their unclassified subordinates.
6. Legislation should be passed requiring criminal history record checks for other State Liquor Commission employees in positions where they handle money or product.
7. The law regarding providing samples of product to licensees should be amended to include the manner in which samples are provided to the Commission and its buying staff.
8. The CEO, his or her Deputy and each of the part-time Commissioners, if a CEO system is adopted, should undergo stringent, statutorily-mandated background checks prior to being appointed.
9. There is no significant volume of contested hearings such as would warrant having a full-time Hearings Officer or transferring this responsibility to an outside agency.
10. The State should not farm out the Enforcement Division, one of its most important responsibilities, to another State agency. Instead, the Commission should ensure the proper balance between education and enforcement through formal written policies.

11. The only way the State should consider creating the position of Ombudsman should be if one were appointed to serve all State agencies. Current thinking is that an Ombudsman should serve more than one agency. Having an ombudsman solely for the Liquor Commission would be an unjustified expense during the current economic time.
12. Instead of an Ombudsman, the Commission could designate the Director of Administration as the individual to whom public complaints will be directed and assign him or her responsibility of investigating and mediating complaints in cases where there is the possibility of an enforcement hearing and thus ex parte communications with the Commission are inappropriate or impractical. Legislation should be introduced providing for an appeal from the Commission's licensing decisions to the Superior Court instead of having the sole avenue of appeal as the Supreme Court, which is the current situation.
13. If the current legislation authorizing Agency Stores is not allowed to lapse but is re-enacted it should contain substantially the same provisions including not opening such a store within 10 miles of an existing State store, requiring public hearings and local community approval, and leaving the decision of whether to open additional Agency Stores up to the Commission.
14. The Commission should not sell the Storrs Street facility, given the current real estate market unless it can be conclusively proven that it would be in the best long term interest of the State. (The State owns the property, pays no taxes on it, and makes a net profit after operating expenses of about \$600,000 a year from bailment paid by producers for storing spirits at their warehouse. If the unused railroad siding was removed, this would open up storage space for additional inventory and result in more profit from bailment).
15. If they sold the Concord property the Commission would have to relocate their headquarters and Store #1 to another location in Concord by either buying an existing office building, constructing a new one, or leasing one. At current rates in downtown Concord they could expect to incur \$600,000 a year in leasing costs, plus moving and relocation expenses and possible lost sales volume during the transition.
16. Over the years the State Liquor Stores as the sole purveyor of hard liquor within the State have been the "goose that lays the golden egg" year after year. Without the revenues produced by this business enterprise, the General Fund would be unable to support many of the vital services provided by the State to its citizens, particularly services to the disadvantaged, the elderly and the infirm, without some form of new taxation.
17. The State has been so successful in producing these revenues largely because it has exercised monopolistic control over the sale of the product. Currently the State does not have to share these revenues with anyone – the profits all go to the State coffers. Once

the door is opened for additional "agency stores" or the sale of spirits at grocery, convenience and drugs stores, the entire profit would no longer accrue to the State – it would be shared with the private outlets, whose focus would naturally be on increasing their bottom line at the expense of the State.

18. It is much easier for the Commission to control the actions of its own employees at its chain of stores than it is to control the thousands of employees that would be selling spirits at more than 1,400 licensed private outlets. The expansion that would be necessary to the Commission's Enforcement Division alone would eat into whatever added profits might accrue from having these additional outlets.
19. Allowing the private sale of spirits would eventually lead to the closure of all 76 Outlet Stores. After factoring in the savings from laying off personnel and store closures, if there was no increase in sales the net profit to the State from the sale of spirits would fall to \$134,006,681, based on current figures, a loss of \$121,000,000 to the General Fund plus another \$48,400,000 for a total loss of \$169,000,000. To make this amount up with the 20% discount the Grocers' Association estimates they would have to receive on product in order to make an acceptable profit, the combined sales of spirits and wine would have to grow by about 500%, or 5 times the current sales, an unreachable amount – and this is without increasing the State's revenues in any way.
20. The best way to evaluate proposals to allow the sale of spirits in grocery, drugs, and convenience stores is to look at New Hampshire in relation to other states. Our liquor business is the envy of everyone else including especially states that allow the sale of hard liquor at private outlets. If the proposed system worked so well, one would expect that Maine and Vermont, both of whom like New Hampshire attract large numbers of tourists, would make nearly the same from the sale of alcohol as New Hampshire, but this is not the case.
21. The State must ask itself – do we want hard liquor to be available on all major street corners, which is where you find the convenience stores, grocery stores and combination gas station/convenience stores? The easy availability of hard liquor can lead to increased incidents of teenage drinking, and an increase in drunk driving and alcoholism because of the unlimited access and availability of the product from 6:30 a.m. until nearly midnight and in some cases, later.
22. Likewise, selling off or leasing the State's liquor operation to a private consortium of investors makes no fiscal sense for the State, as attractive as a one-time infusion of cash to fill a hole in the State budget might seem. The state of Maine was the most recent victim to succumb to that idea, and by all accounts it has been a disaster in terms of not living up to the promise of greatly increased revenues. The private entity that took over the business is doing well; not so the State. Once the dog was let out of the

yard and Maine realized the mistake they had made, it was too late. It is unlikely that any proposal to privatize New Hampshire's liquor stores would fare any better.

23. The so-called "free market incentives" for privatization of the liquor business are just that – incentives to increase the sale of alcohol, with concerns for the control of alcohol left out of the equation. A comprehensive review and analysis by the U.S. Task Force on Preventive Medicine found that privatization leads to higher alcohol outlet density, greater physical availability of alcohol, and more deaths from drunk driving.
24. Long term financial return and public safety are the key benefits of New Hampshire's system. As tempting as it may be to look for a short-term solution to the State's fiscal woes, it is not worth the bigger social and financial woes that would occur over the long haul by auctioning this invaluable State asset to the highest bidder.
25. Instead of throwing a monkey wrench into a well-oiled system which is poised to return over a billion dollars in revenues to the State's General Fund over the next 8 years, the Commission should be allowed to continue to go forward with its strategic plan to modernize its retailing model without sharing the profits with private corporations.
26. Rather than rolling the dice and taking a chance on destroying a system that has been successful both in terms of maximizing profits from and controlling the abuse of alcohol, the Legislature should shy away from experimentation and allow the Commission to continue to modernize and update its stores, adjust its hours to the needs of the responsible buying public, and focus on closing underperforming stores and opening stores in new and potentially more profitable market areas. It makes no sense to consider changes to a system that works well and raises revenue that would otherwise come only from increased taxation.

Part One

History of the Commission, Current Status and Demographics

Background – Alcohol's Good and Bad Sides

Alcohol as a libation has been around since pre-Biblical days, and wine is mentioned prominently in both the Old and New Testaments. Alcoholic beverages fulfill a social role in our society. Weddings, anniversaries and other important family events are often happy occasions where alcohol is served. Many people enjoy drinks in moderation at these outside events, and also when entertaining guests at their homes, or at home with dinner or as a nightcap. Reputable medical authorities have reported health benefits from a moderate use of certain forms of beverage alcohol.

Alcohol also has its dark side. Alcoholism is a terrible disease that once contracted leaves the victim vulnerable for the remainder of his or her life and if not conquered, makes them increasingly prone to other health problems and shortens their lifespan. Alcohol-impaired drivers account for more than 30% of the fatal traffic crashes in this nation every year, claiming more than 12,000 lives and leaving many more seriously injured or even disabled for life. Medical costs to individuals, health insurance carriers and the Medicare and Medicaid systems for treatment of such diseases as cirrhosis of the liver and other physical and mental ailments attributed to alcoholism are enormous, along with lost productivity.

As police officers will attest a substantial number of the homicides, suicides, domestic assaults, fatal traffic crashes, fights, child sexual assaults and disturbances they respond to involve one or more persons who is intoxicated or who has been using both alcohol and illegal or prescription drugs, with each substance having a synergistic effect and multiplying the effects of the other on the central nervous system.

Every year alarming numbers of high school and college students across the nation die due to acute alcohol poisoning as a result of overdosing on alcoholic drinks. Social scientists report there is a recent trend for this age group to binge drink for the sole purpose of becoming intoxicated. Research data has made it clear that when the legal drinking age was increased nationwide to 21, this had an immediate positive effect on reducing the involvement of minors in serious and fatal traffic crashes.

Truly, beverage alcohol is a commodity unlike any other openly sold in our society. It is a recreational drug whose overuse leads to intoxication and to the entire dangers attendant to impaired judgment. Addiction to alcohol can cause job loss, family loss,

and an early death. On the other hand, alcohol is also a catalyst to conviviality and a stress reliever, and may even have some health benefits when used in moderation. By controlling the manufacture, distribution, sale and consumption of alcoholic beverages, the State imbeds in the social consciousness a reality of alcohol's hazards as well as its good points.

History of Alcohol in the United States from Prohibition to the Present Day

The advent of the period known as the "Roaring Twenties" ushered in a devil-may-care attitude in society but also saw the culmination of a strong "temperance movement" in the United States and Canada which vowed to close all drinking establishments and outlaw the sale of alcohol. Congress proposed the 18th amendment to the U.S. Constitution known as "The Noble Experiment" in 1917 and it was ratified by a majority of the states in 1919 and took effect the next year, banning the sale of alcohol. Congress then passed the Volstead Act, named for its sponsor, Congressman Andrew Volstead of Minnesota, to enforce prohibition by providing criminal penalties, including fines, jail terms, and the forfeiture of motor vehicles used in the commission of the crimes of manufacture, sale and distribution of beverage alcohol.

Washington granted the states concurrent jurisdiction with federal revenue agents to enforce an equivalent State law that could be more, but not less stringent than the federal law. The 1,500 officer Prohibition Bureau in the Internal Revenue Service was at the time the largest federal law enforcement agency ever created. Any beverage containing more than 0.5% alcohol was prohibited under the Act. President Woodrow Wilson vetoed the Volstead Act, but Congress promptly overturned his veto and the Act went into effect. Only Maryland among the states refused to empower their state and local officers to enforce Prohibition.

The Noble Experiment was a failure, however. Resistance to it grew, especially in urban areas where immigrants and middle and upper-class citizens were unwilling to give up their alcohol. Within less than a decade, more than a half-million arrests were made and jails and prisons had overflowed to capacity. In 1929 Congress increased the penalties hoping this would deter the drinkers, but it did not. By 1925 in New York City alone, there were as many as 100,000 "speakeasy" clubs illegally dispensing alcohol.

Bootlegging had become a staple of the economy in some Southern states and in fact the current sport of NASCAR in its early days consisted largely of drivers who had made their living outrunning revenue agents in souped-up cars.

Organized crime recognized the profits to be made from the illegal sale of alcohol, giving rise to crime kingpins such as Al Capone, who made a fortune selling bootleg liquor and who corrupted government by bribing politicians and police and murdering his rivals. The resulting notoriety saw the advent of lawmen like Elliot Ness who brought Capone to justice on tax evasion charges. Then, the nation entered the Great Depression with the stock market crash, and what little support Prohibition had diminished.

In 1932 the Democratic Party platform endorsed the repeal of Prohibition. After a sweeping victory at the polls, a bipartisan majority in Congress endorsed a new Constitutional Amendment repealing the 18th Amendment. This was approved by a majority of the states in 1933 and became the 21st Amendment. Meanwhile, Congress had already passed and President Franklin D. Roosevelt signed, the Cullen-Harrison Act that allowed the manufacture and sale of beer at 3.2% alcohol. The Canadian provinces also repealed their prohibition legislation, with Quebec repealing theirs shortly after its enactment.

What the Noble Experiment proved was that although alcohol was, and is unless used in moderation, a definite threat to the public health and welfare, it can be controlled to a degree but not eliminated. When the 21st Amendment passed in 1933 Congress left it up to the states to regulate alcoholic beverages. Some states decided to license private businesses to sell alcohol, but 18 states, including New Hampshire, voted to control the sale of alcohol by placing it under State monopoly control. The goal was to provide a legal way for people to obtain alcohol, but also to encourage sensible consumption by reducing the economic incentives for maximum sale that would exist if it was left in the hands of private businesses, whose sole motivation would be the profit motive. The New Hampshire State Liquor Commission observed its 75th Anniversary two years ago.

Other states that currently control alcohol in this manner are Alabama, Idaho, Iowa, Maine, Michigan, Mississippi, Montana, North Carolina, Ohio, Oregon, Pennsylvania, Utah, Vermont, Virginia, Wyoming, and Montgomery County, Maryland which has a monopoly over the sale of beer, wine, and hard liquor (spirits) and is the only jurisdiction that completely controls all three.

The structure that the Legislature set up to control and oversee the manufacture, distribution and sale of alcohol in New Hampshire was to have the Liquor Commission overseen by three Commissioners, one of whom would act as Chairman and nominal head of the Commission. Commissioners were appointed by the Governor with consent of the Executive Council for 6-year terms. At least one Commissioner had to hail from

the minority political party. The Liquor Commission was to be an agency in the executive branch of State Government, not unlike the Department of Transportation, the Department of Revenue, and other State agencies. These were all checks and balances initiated because the Legislature at the time recognized the immense opportunities for corruption that can attend this business.

For many years the Liquor Stores around New Hampshire were popularly known as the "Green Fronts" because the outsides were painted green. Customers came into the store, looked around and decided what they wished to purchase, then filled out a slip with the product number and handed it to a clerk, who retrieved the product from the shelf, bagged it and rang up the sale. Customers were not allowed to handle the product until it was paid for and left the store.

Today, shopping at a State Liquor and Wine Outlet is not much different than shopping at your favorite local supermarket or department store. Customers have shopping carts and baskets for their use, are allowed to browse, fill the basket with whatever products they desire, and the codes are scanned at a point of sale terminal and the sale is completed. Employees at our Outlet stores have received extensive training in spotting fake ID's, detecting underage purchasers and detecting intoxicated persons. Because their salaries contain no incentives based on how much they sell, the goal of optimizing sales while minimizing the adverse effects of alcohol is preserved.

Current Organization and Scope of Operations

The operation of the State Liquor Commission is regulated by Title XIII of the Revised States Annotated and the administrative rules of the Commission contained in the NH Code of Administrative Rules. Liquor revenues are deposited in an Enterprise Fund and after expenses are paid, the profits go to the General Fund of the State, providing approximately 17% of all General Fund revenues. Extensive oversight is provided by the Governor's Budget Office, the Department of Administrative Services, the Legislative Budget Assistant, and the House and Senate Finance and Ways and Means Committees, the Public Works Committee, the Capital Budget Oversight Committee, the Local and Regulated Revenues Committee, the Commerce, Labor and Consumer Affairs Committee, and the Joint Legislative Committee on Administrative Rules. Certainly nobody can say that the Liquor Commission "flies under the radar."

The Commission operates under the executive direction of three Commissioners, one of whom is the Chairman. They are appointed by the Governor and Council for 6-year terms. At least one member must be from the minority party. There are 3 Divisions, each with an unclassified Director – Marketing, Enforcement, and Administration. The

law requiring Directors to be unclassified has never been implemented because the Hay study recommended salary levels for two of them that would exceed those of the Commissioners, their bosses. The Department of Administrative Services then asked the Hay group to recommend a revised salary schedule for the Directors that would not exceed that of the Commissioners, and they came back with a recommendation of GG for two of them, which is exactly that of a Commissioner. This would create the untenable situation of Commissioners being paid the same salary as their subordinates. It also placed the Director of Administration at one salary grade less than the Directors of Marketing and Enforcement. We believe the three Directors have equal responsibilities and one should not be paid less than the other two.

Recommendation: The Legislature should increase the pay of the Commissioners to grade II and the Chairman to grade JJ on the unclassified scale; similar to the salary grades of most other unclassified agency heads with the exception of the largest agencies, and set the salaries of the three Directors at grade GG.¹

Sales and Profit Picture

Fiscal 2010 was a banner year for the Commission. Sales topped the half-billion dollar mark for the first time (\$511.4 million), a 4.8% increase over 2009, and well ahead of national growth trends. Spirits sales were up 5%, wine sales 4.5%. This came from a 6% increase in State Liquor and Wine Outlet Store sales, a 2.6% increase in grocery store wine sales, and a 1% increase in restaurant sales.

Gross profits increased by 10% over the prior year. Revenues from liquor and wine brought in \$2.9 million over plan. Beer is taxed by the gallon and sold by off-premise licensees. Beer revenues have been flat for several years and last year they were only \$100,000 or 1% over plan.

Net profits, the "bottom line" increased by more than 10%, a level of profit to the State only achievable in a monopoly state where State stores are the main source of alcohol purchases.

¹ A copy of suggested legislation is located in the Appendix to this report.

Retail wines and spirits sales at our State Outlet Stores accounted for 71% of our revenues; wholesale wine sales to grocery, drug and convenience stores 17%; on-premise sales to restaurants 11%; and miscellaneous items such as administrative fines and license fees, 1%. Of the 1% in miscellaneous income, 9% of that figure is derived from the 5% of gross Sweepstakes sales at State stores; 9% from direct shipper permits for shipment of wines into the state; 27% from warehouse bailment; 49% from liquor license fees; 3% from administrative fines; and 3% from a variety of other small sources.

The highest volume store, I-93 Northbound, has gross annual sales of more than \$28 million. 50% of customers at State stores come from New Hampshire, 21% from Massachusetts, 8% from Maine, 5% from Connecticut, 4% each from Vermont and New York 3% from Rhode Island, and 5% from other states and Canada. The Commission spends about \$2 million a year in advertising. The image they promote is "the best prices in the region, wide selection, never a tax, and a pleasant, safe shopping experience."

The Commission has plans to modernize and update all of the State stores over a period of time. Recent updates to Manchester, Merrimack, Plaistow and Lebanon are expected to result in double-digit increases in monthly sales revenues at those locations. The Peterborough store is scheduled for a new location later this year.

The State has a chain of 76 State Liquor and Wine Outlet Stores situated throughout the state, plus 3 Agency Stores located in Errol, Pittsburg, and Greenville. Eleven of the stores are in State-owned buildings; the remainder are in leased premises.

There are 2,799 on-premise licensees (restaurants and clubs) and they bring in about \$52 million in annual revenue. There are 1,306 off-premise licensees (beer and wine) who bring in \$95 million. There are multiple types of licenses.

The Commission has 218 full-time and 400+ part-time employees. Full-time employees are represented by one of two labor unions – the NEBPA represents Investigators and the SEA represents the other employees.

The Bailment Process

"Bailment" is a process by which liquor and wine suppliers pay a fee to have their product stored in a warehouse. This allows the suppliers to avoid the cost of maintaining local warehouses, simplifies the supply and delivery chain, and ensures

against stock-outs at the Stores. It also saves the Commission from having to bear considerable inventory costs.

The longer a pallet or case remains at the warehouse, the more the monthly bailment fee increases. The warehouse is also compensated for applying shipping labels and other services. The ownership of the product remains with the supplier while it is in the warehouse and only transfers to the State when it arrives at a State store. This means the only inventory cost the State has is for product on the shelves and in the stockrooms at the State stores, and for returned products for restocking. The State maintains a small warehouse in Concord on which it makes an annual profit of about \$600,000 from bailment. The Commission has a contract with the Law Company in Nashua to provide warehouse services for the State in Law's large warehouse. Bailment there is estimated to bring in about \$5,000,000 a year to Law.

Law also has the transportation contract to deliver product to the stores. They are on the final 5 years of a 15-year contract, which expires in 2012.

If the State built a new warehouse large enough to accommodate the entire product it holds, the return on investment would occur in about 6 years. The question is whether it is a core function for the Commission to be in the warehouse business. Some control states such as Utah do maintain their own warehouses exclusively.

Wine sales account for about 46% of the sales dollars (but 57% of the bottle count) and spirits 54% of dollar sales and approximately the same ratio of gross profit. State stores sell about 60% of the off-premise wine sales, grocery stores 40%. At restaurants and clubs, wine accounts for about 38% of sales, spirits 62%.

Questions the Legislature is mandated by Chapter 248, laws of 2010, to address:

1. *Should the Liquor Commission have an Executive Director rather than a full-time 3-member Commission?*

Considerable debate by persons with great forethought in the Legislature many decades ago went into the structure of the Liquor Commission. It is not difficult to decipher their reasoning.

They established 3 co-equal Commissioners, with one to serve as Chair and preside over Commission meetings. At least one was to be from the minority political party.

They established staggered terms of 6 years, unusually long for an unclassified position. This was because they recognized that with the exception of the regulation of gaming, there is no position in State government as potentially susceptible to corruption as that of Liquor Commissioner.

By having 3 Commissioners and at least one from the minority political party, the Legislature hoped to minimize the impact of partisan politics as much as possible, and created a built-in brake on corruption and erratic decision making. The intent was that the 3 Commissioners would serve as a check and balance on each other and provide more transparency, and it would be more difficult to corrupt three than one. The six-year staggered terms would prevent constant political interference, make it easier to develop and carry out the long-range planning that is necessary in such a business, and give the appointees time to thoroughly learn the business and develop expertise and continuity of management.

In an ideal world this may be still the best structure for this organization, as unique within the State government as it is. The system works well when Commissioners are carefully chosen. They must be knowledgeable of retail business, State government, law enforcement, or all three. No one business or profession should come to dominate the Commission membership. They must be the type of persons who do not have large egos and can therefore work together in a collaborative atmosphere, arriving at decisions by give and take and consensus. They must be incorruptible.

Once appointed, the Commissioners must be capable of dividing up the many duties involved with running such a large organization. It is not necessary that each choose an area he or she feels comfortable with – in fact, it might be best for them to rotate these duties among themselves periodically so that each becomes familiar with the entire operation rather than only facets of it.

Although there are Division Directors and other supervisory and management personnel within the structure, in an organization this size and handling the revenues that it does, there is more than enough for three top administrators to handle if they divide up the duties. One should be primarily concerned with oversight of the retail outlets and real estate, one with financial management, licensees and customer relations, and one with enforcement, labor relations, legislative liaison, administrative rules and oversight of the strategic plan.

Here is an example of the diverse area that the Commissioners are responsible for overseeing:

- Legal matters
- Executive and Legislative relations
- Real estate strategy
- Facilities and Equipment
- Labor relations
- Training and Human Resources
- Marketing, Advertising and Sales
- Products and pricing strategy
- Budget and Finance
- Broker relations
- Store operations (can be divided by area of the state)
- Data Processing
- On and off-premise licensees
- Hospitality and tourism industry relations

Much of the time there has been 3 Commissioners who have divided up their duties amongst themselves in a similar manner – historically this has been the rule rather than the exception and the Commission as an agency has prospered as a result.

The tripartite Commissioner system has also hit rough patches from time to time, and may again in the future. This can occur if none of the appointees has any experience in retailing. It can also occur if Commissioners lack prior knowledge of how government works. Such Commissioners may have little patience for the fact that when running a public agency it is the public's funds that are placed at risk and therefore there are multiple levels of accountability and transparency. They may not grasp the concept that things take longer to accomplish than with a sole proprietorship, partnership or corporation, with only its own funds or that of its creditors at risk from their decisions.

There is also potential for problems to occur if an appointee arrives with predisposed notions or a fixed agenda, such as the expressed intention of privatizing the sale of alcohol, without even knowing how the Commission operates.

Problems can also occur if one Commissioner becomes jealous of another because he or she covets the position of Chairman, or if the Chair is an erratic decision maker, changing course so often that they leave the staff and/or the Legislature wallowing in their wake, or attempts to dominate the other two. A runaway Chair, or if a CEO structure is adopted, a runaway CEO, could destroy half-billion dollar a year business in a relatively short period of time.

Most problematic is if two Commissioners form an alliance against the remaining one; leaving that Commissioner as the "odd person out." Human nature being what it is; members of the management team would take advantage of the situation, playing one Commissioner off against the other, much as children sometimes try and play one parent off against the other.

If incidents like these should occur, they could perpetuate an inaccurate public stereotype of a Liquor Commissioner as someone appointed to a cushy job because of political connections. This would be unfortunate because most Commissioners historically and presently have devoted their full time and attention to the business and worked hard to manage it properly.

Recommendation: The statute should be much more specific than it is regarding the duties of a Liquor Commissioner and the types and amount of experience that will qualify someone for the appointment.²

The Proper Role and Relationship of Brokers to the Commission

The State Liquor Commission acquires the product that it sells through a system of licensed Liquor Brokers, each of whom represents one or more distilleries or vineyards. State law requires that the Commission acquire its alcohol through a "primary source" and the Commission uses these brokers as its primary source.

There are numerous advantages to the broker system. These individuals are solely engaged in the liquor business and as such, they have considerable knowledge and expertise regarding trends in the industry, various federal laws affecting commerce

² See Appendix for a draft of such legislation.

in alcohol, merchandising and advertising strategies from other localities and their success or failure, and an in-depth knowledge of the products they represent. The alternative would require the Commission to deal individually with hundreds and hundreds of distilleries, wineries and other producers and require an enormous administrative overhead. Brokers share with the Commission the need to make money from the sale of alcohol, however unlike the Commission the brokers aim to maximize rather than optimize profits from the sale of alcohol. They can be, and are, valuable stakeholders of the Commission, as long as the Commissioners and the Brokers each know and respect their place in the system.

Recommendation: The Commission should cultivate an amicable but arms-length and very transparent business relationship with the brokers.

Today, the nature of the broker business itself has changed. Brokers and the manufacturers they represent are much more aware of federal anti-trade and anti-competitiveness laws and regulations, and State ethics laws. The Commission can and must maintain an open door policy as each group has knowledge and experience that the other needs. There will always be opportunities for corruption and it is important that issues regarding the receipt and disposal of sample bottles, advertising promotional items and attendance at broker-sponsored business meetings be carefully controlled. It is also critical that the listing and delisting of products for sale in the State stores be discussed and voted upon in regularly scheduled and noticed meetings, with full transparency.

Recommendation: The statute controlling the provision of samples of product to licensees should be amended to address the provision of product samples to Commissioners and the Commission's buying staff.

If the tripartite (three-Commissioner) system is continued, there are statutory changes that should be made in order to alleviate some of the problems that we have discussed above.

Recommendation: When an individual is under serious consideration for the post of Liquor Commissioner, taking a page from the gaming legislation that has been proposed, the Attorney General should be tasked with ordering a thorough background investigation on the applicant. The investigation could be farmed out to a reputable licensed private investigative agency or to the State Police. The investigation should not solely concern itself with the applicant's criminal and motor vehicle history or lack thereof, but should also inquire into his or her financial

stability and general reputation in their present and former employment, in the community, and in the neighborhood where he or she resides including any known problems with the abuse of alcohol. It should not be conducted by the Commission's Division of Enforcement because they may ultimately be working for this individual.³

The background investigation should include a thorough financial credit check, criminal and motor vehicle history checks, and a check with business and personal associates, family members and neighbors, not just the references listed by the person under consideration. It is important to try and determine that the individual is stable financially, has no criminal or serious motor vehicle record, no major physical or mental health problems that would affect job performance, is not him or herself a problem drinker, has a stable family background free from domestic violence, and a good reputation in the community.

Candidates should be required to sign a waiver to provide the Attorney General or designee with employment, credit, criminal and motor vehicle records. These checks should be made quietly before the individual is publicly reported to be under consideration, so as not to embarrass the individual if he or she is not selected. For an FBI record check to be performed there must be an underlying State statute requiring it.

Recommendation: The duties of the Liquor Commission Chair should be spelled out in detail. In general terms the Chair, like the Chief Justice of the Court System, should be a "first among equals", conducting the Commission meetings and acting as spokesperson.⁴

Consideration might be given to rotating the Chairmanship every two years so that each Commissioner serves as Chair once during their 6-year term, unless he or she declines to do so, in which case the most senior in terms of years of service could fill that role.

Given the nature of the product and the amount of cash that some State Liquor Commission employees handle, the State should also consider requiring a criminal

³ See Appendix for a draft of such legislation.

⁴ See Appendix for a draft of such legislation.

history record check for some its other employees. FBI checks cannot be conducted unless there is an underlying State statute requiring them.

Recommendation: Legislation should be passed requiring criminal history record checks for other State Liquor Commission employees.⁵

The CEO and Part-Time Board of Directors Model

Another possible form of organization is to have a single Executive Director serving as CEO, with a part-time Board of Directors. In the private sector, in large publicly-held corporations there is customarily a President who is the Chief Executive Officer, a Chief Financial Officer, and a Chairman of the Board and a collection of paid, part-time Directors who are typically successful individuals in business or in the community.

If such a model was adopted for the Liquor Commission, the Governor and Council would appoint the members of the Board, and the Board would recommend, for Governor and Council approval, the appointment of the Executive Director or single Commissioner. With the size of the Liquor Commission in comparison with other State agencies this would likely require the appointment of a Deputy or Assistant Commissioner as well. The part-time Board would hold hearings on licenses, approve listing and delisting of products, and provide general oversight.

The advantage to this system would be holding one person accountable and giving him or her, the requisite authority to run the day-to-day business operations, and possibly some savings in salary and benefit costs, although with a Deputy or Assistant Commissioner the savings might be minimal.

This system obviates the possibility of personality clashes among 3 Commissioners and leaves no question as to who is in charge of the organization and the employees need only worry about loyalty to that one person.

There are disadvantages to this system as well. If the Board and the Governor and Council choose a CEO who is erratic, corrupt or otherwise not properly qualified for the job, this individual could literally, within a very few years, wreck a half-billion dollar a year business and a major source of State revenues.

⁵ See Appendix for a draft of such legislation.

A part-time Commission, if it met once a month or less, might not be as effective a check and balance on the person at the top as having three co-equal Commissioners. A part-time Commission could never acquire the depth of knowledge of a full-time person. There is also the same danger as with some other part-time Boards (Selectmen in some contentious towns being an example), that someone assumes that office with an ulterior motive or an axe to grind and becomes a micro-manager and an impediment to the full-time professionals running the operation. Also, there is the chance that part-time Commissioners might be more susceptible to undue influences from brokers, politicians and licensees.

Recommendation: The CEO, his or her Deputy and each of the part-time Commissioners, if a CEO system is adopted, should undergo stringent, statutorily-mandated background checks prior to being appointed.

Nearly three decades ago, New Hampshire had a brief dalliance with the idea of an Executive Director for the Liquor Commission. They appointed an Executive Director but retained the full-time three Commissioners. The Executive Director was appointed by the late Governor Hugh Gallen and hailed from Woodstock, VT to head a new management team for the SLC, which at that time was grossing \$137 million a year. His tenure ended abruptly in November of 1981 when the Concord Police Department arrested him at the now-defunct NH Highway Hotel for criminal trespass and resisting arrest. He was asked by the Hotel management to leave the bar after they refused to serve him any more drinks and he allegedly threatened to pull the Hotel's liquor license if they continued to serve him liquor. When the police arrived he refused to submit to arrest and had to be forcibly removed to the police station.

The Executive Director was quoted in the *Manchester Union Leader* as blaming his behavior on the frustrations of his job at the Commission. He said he had "three or four" martinis and a beer at another place before arriving at the Highway Hotel, and was in "a frustrated state of mind because of things going on then in the Liquor Commission." He accused the Commission Chair of using her influence to keep lounges open beyond legal closing hours when she had been out drinking with her friends. He admitted that he had been drinking with that Commissioner earlier in the evening. She denied his allegations. A few days later the Executive Director was suspended with pay and the Manager of Accounts resigned his post. The Executive Director was quoted as saying he was happy to be "relieved of my duties in the combat zone." He said his 21 months with the Commission was the "most demeaning professional experience of my entire career" and that he and his

management team had been "intimidated, harassed and discriminated against since its inception by the Commission and outside influence."

On balance, the risks may be less if the current Commissioner system is retained but additional statutory checks and balances are enacted to ensure the appointment of the most qualified persons and to spell out their respective duties and responsibilities and the parameters of the Chairman's authority.

Because of the NH Supreme Court decision in the *Alfred Rubega* case, once a person is appointed to an unclassified position in State Government, this has the effect of a non-voidable contract between that individual and the State for their term of office, unless there is some reason for the Governor and Council to discharge them for malfeasance or misfeasance in office. If at some future point the Legislature eliminates the position of Liquor Commissioner and goes to a different system such as a single CEO, or reduces the length of the Commissioners' terms, anyone serving in a term at that time is entitled to stay in office for the remaining portion of their term, or to be compensated for the remaining compensation package they would have been entitled to had they remained for their full term.

2. How can the State ensure impartial review of appeals of licensing and enforcement decisions?

Some people espouse the theory that since the Enforcement Division ultimately works for the Commissioners, there is an inherent conflict of interest in the Commissioners holding hearings where one of their Liquor Investigators has recommended taking a license. Recently enacted legislation, unless it is reversed by the 2011 Legislature, transfers the Enforcement Division to the Department of Safety, effective on July 1, 2011. There, the theory goes, they would be divorced from the supervision of the Commission and less likely to influence the Commission's decisions and vice-versa.

Some persons have also suggested that if the Division of Enforcement is transferred to the Department of Safety, that Department's Bureau of Hearings, which consists of licensed attorneys, should conduct the licensing hearings rather than the Liquor Commissioners, who generally would not have legal training.

A portion of the Liquor Modernization Act that was proposed in 2009 would have created an unclassified Deputy Commissioner/Ombudsman position, who would have served in the (possibly incompatible) positions of ethics watchdog, consumer

advocate and hearings examiner. That provision did not survive the legislative process and was removed from the bill.

It is not an everyday occurrence for the Liquor Commission to hold hearings and suspend or revoke licenses. During the past 6 months prior to this report, for example, the Commission has not held even one licensing hearing. Most of the violations that are discovered result in pre-hearing discussions between the Chief of Enforcement and the licensee, and most result in a negotiated settlement, never getting to the hearing stage. This is much like most criminal court cases, where the Administrative Office of the Courts reports that at the District Court level, 95% of the cases plead guilty and a plea bargain settles many cases without the need for a trial.

The main reason that so many cases are settled without a hearing is that the Commission's administrative rules include "sentencing guidelines" for the various offenses. With these rules, the Commission has constrained itself within certain parameters as to how long a license will be suspended for each particular violation, the number of demerit points that will be assessed, the maximum amount of the administrative fine, etc. These parameters depend on such things as the perceived seriousness of the violation, the prior disciplinary record of the licensee, the level of cooperation and acceptance of responsibility by the licensee and the willingness to make operational changes to prevent a reoccurrence of the violation, and any mitigating or aggravating circumstances.

A typical negotiated disposition for a first offense of selling to a minor or serving an intoxicated person results in a 3-day license suspension held in abeyance pending good behavior for the period of a year, a \$300 fine, and agreeing to send the bartender, server or manager to one of the Commission's training schools to learn how to detect underage or intoxicated patrons, how to spot altered or fake identification documents, etc. Most legitimate establishments want to operate within the legal framework and are more than willing to submit to this penalty, so they do not request a hearing. The negotiated settlements are brought before the Commission at its next weekly meeting and unless the Commission refuses to accept the settlement, no hearing is held.

To justify changing the present system would require the Legislature to believe that 3 Liquor Commissioners, if properly selected, would be less fair in holding hearings than the Labor Commissioner, the Insurance Commissioner, the Safety Commissioner or other State officials are in holding hearings or supervising and

ratifying the decisions of Hearings Examiners hearing violations brought forward by their respective regulatory or enforcement personnel. The Legislature would also have to believe that at the federal level agencies such as the Federal Aeronautics Commission, the Federal Communications Commission, the Nuclear Regulatory Commission, etc. are incapable of holding fair hearings and taking the enforcement actions that they do for violations of their regulations. Only if there was credible evidence that Commissioners allowed outside political influence to creep into their hearings decisions would this become a legitimate concern.

The Commission in its review of its internal policies now takes steps to ensure that there are no *ex parte* communications between the Commissioners and Investigators, or with the subjects of impending hearings prior to a hearing, so that they will not approach a hearing with any preconceived notion about the culpability of a licensee.

Recommendation: There is no significant volume of contested hearings such as would warrant having a full-time Hearings Officer or transferring this responsibility to an outside agency.

If the Commission does hold a hearing and decides against a licensee, there is an appeal process to the Supreme Court under RSA 541. This is an area where there is room for improvement. It is expensive for a litigant to appeal to the Supreme Court. A better process might be to provide, as with Motor Vehicle Hearings, for an appeal to the Superior Court. It would be less expensive for licensees and would result in a live hearing rather than merely a review on the record.

Recommendation: Amend the statute to provide for an appeal of Liquor Commission hearings decisions to the Superior Court.⁶

3. How can the State best ensure that the Enforcement Division is properly supervised, contains its function to that of a regulatory authority, and guards against overly broad interpretation of its function?

There have been numerous changes in the role of Liquor Enforcement over the years. For decades, Liquor Investigators have had the "powers of a Deputy Sheriff in any county, with reference to the enforcement of all laws." However their

⁶ See Appendix for an example.

"primary responsibility shall be the proper prosecution of" the liquor laws in Title XIII, RSA. (RSA 179:59). Liquor Investigators belong to the Group II police retirement system and are required by the Police Standards and Training Council to be certified full-time police officers or attend the NH Police Academy and become certified within 6 months of hiring. Approximately 20 years ago they were first issued firearms. They must pass background investigations, psychological evaluations and physical fitness tests prior to hiring, the same as all other full-time police officers.

Although the primary function of Liquor Investigators is clearly regulatory in nature there are occasions when they are required to make arrests and take criminal enforcement actions. Some of the establishments they are required to check do become over a period of time hangouts for undesirable groups and individuals and it is not uncommon for an Investigator checking a licensed establishment at night to encounter a fight or brawl in progress or someone being assaulted, and be the only law enforcement officer present and thus obliged to step in and halt a crime in progress.

There are other instances where Investigators observe intoxicated patrons leaving an establishment and attempting to drive a vehicle under the influence, or someone purchasing alcohol and delivering it to a minor.

An Investigator may be driving through a community and witness a citizen calling for help and be the only law enforcement officer available to render that assistance. These Investigators are clearly more than mere civilian regulators, and must be to effectively do their jobs.

The Legislature passed a law in the 2009 session with little or no hearing process that transferred the Enforcement Division to the Department of Safety. A legislative commission was set up to study the issue during the 2010 session and the Liquor Commission opposed this legislation, as did all of the licensed community that appeared at the hearings, as well as the NH Police Chiefs Association. The commission did not recommend transferring Enforcement to the Department of Safety and a Senate bill was passed, reversing the transfer. During the waning hours of the session the Legislature once more reversed course and passed a bill that as of July 1, 2011, transfers the Division of Enforcement, including its education and licensing components, to the Department of Safety. This will happen unless legislation is introduced in the 2011 session to once again change course.

There are 25 sworn and 13 civilian positions at the Liquor Commission that will be affected if this transfer takes place, along with a budget of approximately \$2.1 million plus a number of federal grants and 37 motor vehicles. These positions currently receive human resources, payroll and other administrative support from the Liquor Commission's central office. If these functions are transferred to the Department of Safety, that agency will have to impose an internal indirect cost against the Commission for these support services, which will be a charge against the Liquor Enterprise Fund.

The arguments in favor of transferring this operation to the Department of Safety are that this would be a continuation of the centralization of all State law enforcement operations under one agency; and that the Liquor Commissioners, since they are not required to have law enforcement backgrounds, may not be ideally qualified to oversee a law enforcement unit. Concerns have also been expressed that the Division of Enforcement has taken a too expansive view of its duties and responsibilities and branched out into other unrelated areas of law enforcement.

The Liquor Commission is opposed to this transfer because it believes that it would lose ownership of one of the core functions of its operation.

People frequently mistake the prime function of the Liquor Commission as to maximize profits from the sale of alcohol. In a control state such as New Hampshire, the Liquor Commission's mission is to optimize, not maximize, the sale of alcohol. To optimize is "to make as effective, perfect or useful as possible," whereas to maximize is "to increase to the greatest possible amount or degree." Given the dangers associated with problem drinking and alcoholism, drunk driving and access of minors to alcohol, although the State actively advertises and promotes the sale of alcohol, it does so in conjunction with responsible drinking.

Although the State is sometimes criticized for having Liquor and Wine Outlet stores situated along two of our interstate highways, there is no indication that this sales method contributes to drunken driving. Unlike beer, which is sold at grocery stores and is delivered to the customer in a chilled condition and ready for drinking, the typical spirits or wine sale at these interstate stores is a large quantity purchase taking advantage of competitive pricing and the customer is unlikely to consume it directly from the bottle before reaching his or her home. Moreover, employees at the State stores have extensive training in detecting and refusing sales to an

intoxicated person and the pay of the employees is in no way related to the amount of product that they sell.

The locations and times when alcohol can be sold or served and the manner in which this happens must continue to be carefully regulated and controlled. This control takes place by means of State statutes, the administrative rules of the Liquor Commission, and the efforts of its Enforcement Division, which also includes the education and licensing components, in cooperation with local authorities.

The past decade has seen positive changes in Liquor Enforcement. The Legislature has required Liquor Investigators to meet all the physical and educational standards of other law enforcement officers and to be certified full-time police officers.

More recently, placing the educational and licensing components of the Commission under the Enforcement Division has proved to be a very effective strategy. Placing the proper controls over an establishment at the time of licensing can avoid many problems later on. Joining education and enforcement has sent a message to the licensed establishments and the Liquor Investigators alike that encouraging voluntary compliance with the liquor laws and regulations is the first step toward proper regulation.

Liquor law enforcement is a highly specialized task. Title XIII of the Revised Statutes Annotated and the web of administrative rules that accompany it, are each complex. In addition, there are various federal statutes and regulations that affect the sale of alcohol. Beer, wine and liquor warehouse operations and direct shippers submit monthly reports that must be scrutinized by Enforcement for compliance.

There are dozens of different types of licenses, all with differing requirements. Direct shipments of alcohol from other states to consumers must be carefully policed to ensure that alcohol is not shipped to or received by minors, and that the State receives its share of revenues from these shipments. The transportation of beverages and wines is highly regulated, as is the alcohol content of various beverages.

Persons engaged in liquor enforcement must have a sound knowledge of the history and philosophy of control states and work hand in hand with the Liquor Commission's other Divisions – Administration, and Marketing and Merchandising. The Commission feels this can best be accomplished if the Enforcement Division is part and parcel of the Commission's operations.

There has been a perception in the recent past that the Liquor Investigators have been going beyond their appropriate mission to approximate that of a local police department. They have been accused of dressing in SWAT-style uniforms and presenting an appearance that is inconsistent with that of a regulatory agency. A few licensees have complained of being targeted for undue enforcement efforts. Some of this perception has been fostered by licensees against whom the Division had to take regulatory action. The Commission is aware of this perception and has been addressing it, because they do not want their Investigators to be viewed by the public or their licensees in a negative light.

The Need for an Internal Security Focus for Enforcement

The State Liquor Commission is one of the largest retailers in the state, with a chain of 76 stores situated from Coos to the sea. Most any retail business of that size will have an Internal Security Unit dealing with shoplifting, fraud, employee theft, and workplace safety issues. The Commission recently sent the Chief and Deputy Chief of Enforcement to retail security training with the American Society for Industrial Security and is enacting a new standard operating procedure that charges the Enforcement Division with the responsibility for coordinating internal security for the Commission. The Commission sees this as a positive move that once again reinforces the regulatory aspect of the job. If properly carried out the Investigators will not have time to be emulating conventional police work even if they had the inclination to do so.

The Commission has also examined the current practices regarding the clothing that Enforcement Officers wear to do their job. Their intention was to ensure that the image they present is similar to that of detectives in police departments and the regulatory inspectors in other State agencies. During normal daytime business hours, early evening inspections, and inspections of establishments where the clientele and management is such that there is seldom any disorder or the presence of intoxicated patrons, the policy is that the Investigators will dress in business suits.

There are two types of attire, however, that the policy allows Investigators to wear when engaged in specific assignments. One is a regular police style uniform consisting of a uniform shirt, uniform dress trousers and a police campaign hat, with shoulder patches and hat and breast badges. This is authorized to be worn at ceremonial events such as Police Academy graduations, wakes and funerals of police officers or Commission employees, and when assisting local and State police at DWI enforcement checks where they might be required to direct traffic, check driver

licenses or conduct field sobriety checks. It will also be worn when working high profile anti-shoplifting and security assignments at Liquor Stores, where it is important that they be readily recognizable as law enforcement officers. Recently the Investigators were called upon to maintain order at a demonstration conducted outside one of the Liquor Outlet Stores by a group protesting open container laws. The Investigators dressed in their police uniforms to facilitate crowd control and traffic direction and control at this event.

The second type of attire consists of tan wash and wear "511" utility pants, dark blue golf shirts with embroidered badges on the left chest, the investigator's name embroidered on the right chest, and "POLICE -STATE LIQUOR ENFORCEMENT" lettered across the back. A civilian jacket is worn over the golf shirt when the weather is cool enough to permit it, and with the jacket on, the Investigator is indistinguishable from any civilian that might be visiting the establishment. If there is a need for the Investigator to be readily identified as a police officer, the jacket is to be removed before entering the establishment. This uniform is worn on checks of the higher risk establishments, generally from 10:00 at night onward, for the safety of the officers and ready identification by the employees and patrons of those establishments and other law enforcement officers.⁷

As with any business there are some problem on-premise licensees in this state. These are locations where assaults and other disorderly incidents take place with some regularity and where intoxicated patrons cause concern in the neighborhood or drunken driving vehicle crashes have occurred and the drivers had their last drink at one of these establishments. Some are hangouts for members of known outlaw gangs who have intimidated customers and even local police in the past. It is appropriate for Liquor Investigators to be readily identifiable and have a higher profile when checking these establishments. Even then, the golf shirts and firearms are normally covered by civilian attire and only displayed when a problem is anticipated.

The Commission has recently reviewed and revised the standard operating procedures that regulate the attire to be worn by the Enforcement Officers and the occasions when it is to be worn, to ensure closer control of this aspect of its operations. The Division is in the process of rewriting all of its policies and

⁷ This is now specified in the Investigators' policy and procedure manual

procedures in connection with efforts to achieve national accreditation. The Commission must continue to be sensitive to public perception in this regard.

I note, however, the overwhelming support that has been shown to the Enforcement Division by the regulated community and the local police and that the complaints that regarding the persona of our Investigators usually have come with regard to problem establishments that have been the subject of enforcement action.

Our Investigators are often requested by local police to assist them in enforcing laws relating to access to alcohol by minors, at events such as college homecomings and in the height of the summer at Hampton Beach. For these events, the Division generally deploys the DWI enforcement van that was procured with federal funds from the New Hampshire Highway Safety Agency.

When the Highway Safety Agency decided to award a grant so that New Hampshire could have such a van, which is commonplace in many other states, they approached both the Department of Safety and the New Hampshire Sheriff's Association but neither wished to have the responsibility of the van. Due to concerns expressed that no one specific local police department should be given the task of maintaining and staffing it, the Division of Liquor Enforcement was asked to assume this responsibility. The Commissioners at the time agreed.

Differences of opinion arose during the procurement process about the amount of specialized equipment on this van and the change orders to the contractor that provided this equipment. These differences of opinion unfortunately could have been handled more diplomatically and they spilled over into public discourse. In the end, the expenses were covered by a federal grant, with no State funds involved. The van was delivered, the Division of Enforcement is responsible for its storage and upkeep, and the challenge now is to look ahead and not backward, and ensure the best use is made of this equipment in the interest of the State and its citizens.

In conjunction with State and local police the van is deployed to those locations in the state and the times when there is the highest number of DWI-related traffic crashes. Liquor Investigators officers are trained as drug recognition experts and certified to operate the Intoxilyzer instrument and give field sobriety tests, and to drive the van to and from, and participate in, these DWI road checks. When a drunk driver is apprehended, the Liquor Enforcement Officers attempt to determine where that person had his or her last drink and whether or not a licensed establishment sold or served to an intoxicated person or to a minor. Because of the communications equipment and other capabilities in the van, from time to time local

law enforcement agencies request to have it brought to the scene of tactical operations, leading to rumors that the Enforcement Division had somehow developed a SWAT team. More recently, the Division of Homeland Security and Emergency Management has listed the van as an asset that potentially can be used in times of catastrophic events as a field headquarters. Since it is a State asset, it makes sense to share it.

The attention of the Enforcement Division is usually drawn to a licensee by local police complaints of assaults, disorderly premises and customers being over-served and becoming involved in DWI related crashes including fatal crashes; complaints of neighbors of the establishments of noise, disorder, public urination, minors being served, and similar problems. Liquor Investigators do not suddenly decide to pick on certain licensees for the sport of it; there has generally been a history of complaints and a lack of success of educational efforts before a license is in jeopardy.

We have also heard concerns expressed regarding a large turnover in enforcement personnel in the recent past. The present Commission does not know all the reasons why employees may have left, but incidents were duly reported in the media where Liquor Investigators left the Commission's employ after having been found drinking with other off-duty law enforcement officers at licensed establishments after legal closing hours, and the drunk driving arrest of high-ranking Investigator while operating his official State vehicle. No law enforcement officer can expect to engage in such behavior and keep his or her job and it is a testament to an agency when it acts swiftly and decisively in dealing with such issues.

Due in part to the synergistic effect of the Commission's merger of enforcement, education and licensing within a single Division, New Hampshire last year enjoyed a 91% compliance rate on "sting" operations designed to catch licensees selling to or serving minors, and a 98% compliance rate on investigations into sales of alcohol to intoxicated persons, one of the highest rates in the nation. Between 2006 and 2009, the number of violations of service to a minor dropped from 54% of all violations to 34%, a drop of 20 percentage points, and incidents of service to intoxicated persons dropped from 13% to 4%.

The Division of Enforcement was recognized by the National Liquor Law Enforcement Association as liquor law enforcement agency of the year in 2007 for its approach to preventing underage access to alcohol, reducing impaired driving, hazardous drinking, investigation of fictitious ID's, and specialized training provided to servers and sellers of alcohol and the managers of licensed establishments, and

its partnership with local law enforcement in statewide compliance checks. Last year they were recognized by the federal Office of Juvenile Justice and Delinquency Prevention's Underage Drinking Enforcement Training Center for outstanding contribution to the enforcement and prevention of youth access to alcohol and underage drinking.

Recommendation: The Commission continues to believe that it should not farm out one of its most important responsibilities and have to seek these services that are now part and parcel of its operations and an important component of its mission, from another State agency.⁸

4. Should a "Liquor Commission Ombudsman" be appointed and what would be the duties and responsibilities of that office?

The concept of an Ombudsman originated in Sweden in 1909, having been borrowed from a somewhat similar concept in Turkey that had existed since the 1800s. Ombudsmen soon appeared in Finland, Norway and Denmark as well.

The word means "proxy" or "representative." An ombudsman is an independent government official who receives, investigates and attempts to mediate complaints from the public about the performance of government agencies. In the United States, several states have Ombudsmen that have responsibility for receiving complaints about correctional facilities, Medicaid claims, etc. Some hospitals and universities have ombudsmen to handle complaints from patients and claimants.

The American Bar Association standards for ombudsmen recommend that an ombudsman not represent a particular agency, but represent instead more than one agency.

Ombudsmen are generally given the authority to access agency files and to take statements from persons under oath. They are granted free access to agency facilities at all reasonable hours to pursue their inquiries.

A more powerful office is that of an Inspector General. An I.G. investigates complaints from inside and outside an agency, has the power to issue subpoenas, seek criminal indictments, and seek injunctions against an agency and in some cases to institute removal proceedings against public officials. The notion that the Liquor

⁸ See Appendix for a draft of legislation that would reverse the transfer of Investigators to the Department of Safety.

Commission should have an Ombudsman is based on the premise that licensees need protection from the Commission and that they might be hesitant to come forward and make complaints against Liquor Investigators or challenge Commission policies or actions for fear that they would be retaliated against or spark a "witch hunt" against their establishments.

The Commission believes such fears are unfounded. My experience, now having worked in three State agencies (Police Standards and Training, Safety, and Liquor) is that people are generally quite willing to make complaints against State agencies and officials and they have many avenues for doing so.

The Governor's Citizen Services Office receives complaints by phone and off their website every day regarding a range of issues from conditions at correctional institutions and nursing homes to misuse of State owned vehicles. Most State agency heads are appointed by the Governor and Council and have an inherent incentive to respond to public complaints if they wish to be reappointed when their terms end. The five Executive Councilors frequently receive complaints from the public and contact State agencies on behalf of their constituents. The Attorney General's Office of Public Integrity exists to investigate complaints of wrongdoing by public officials.

There are more than 400 State Legislators, all of whom participate in constituent service and often contact agency heads to discuss constituent complaints. Citizens write letters to newspapers and newspaper reporters often take up the cause of someone who feels they were wronged by a public agency. Most of these agencies and officials will act on anonymous complaints. Indeed, any citizen or visitor has multiple outlets if he or she wishes to complain about a State agency, official or employee.

Given past history regarding the number of complaints against the Liquor Commission we believe an ombudsman would have little to do. We believe it would be more practical and cost-effective if the State had a single Ombudsman or Inspector General that handled complaints against multiple agencies. Given the \$150,000 or more that such a program would cost, the Commission has much more pressing needs that it should be funding. If the Commissioners are doing their jobs properly they will be open and receptive to meeting with the public and hearing and acting on their complaints. New Hampshire is fairly unique in that our agency heads are generally far more accessible than those of most other states – it's part of the New Hampshire culture.

There is one situation where a licensee might be unable to receive the instant results they are looking for when making a complaint. That is in a case where the licensee has a pending enforcement action against them that they wish to discuss. If the action is likely to result in a hearing before the Commission, a Commissioner cannot have an *ex parte* communication about the case, either with the Division of Enforcement or with the complainant or a Legislator, because we cannot take a chance that it would cause us to pre-judge the issue rather than considering all the evidence in a formal hearing with all parties present. We must tell the party that we cannot discuss the matter until after any hearing has been concluded.

As a possible solution, one of our three Division Directors, the Director of Administration, oversees fiscal matters, liaison to the Governor and Council, Human Resources and Data Processing. He has no authority over Enforcement or licensees. The Commission could assign this individual (currently Craig Bulkey, who is a former Town Manager in Derry and well suited to such an assignment) the additional duties of External Relations and all citizen complaints that the Commissioners could not handle due to the *ex parte* rule could be routed to him. He would have access to the individuals and information needed and the authority to access the services of the Attorney General's Office if needed. Together with the recommendation presented elsewhere that legislation provides for appeal of Commission licensing actions to the Superior Court, this should obviate the need for an Ombudsman.

Recommendation: The Commission could designate the Director of Administration as the individual to whom public complaints involving *ex parte* communications prior to a hearing would be directed and assign him the responsibility of communicating with the complainants and making any necessary references to other resources.

5. What appropriate statutory changes would be required to be made if the Enforcement Division is transferred to the Department of Safety on July 1, 2011, as provided in Chapter 144, laws of 2009?

The Commission has identified 27 separate statutes or portions of statutes that will have to be amended or deleted or new provisions enacted on or before July 1, 2011 in order for Liquor Enforcement to function effectively within the Department of

Safety. That department may in fact have identified additional changes that will be needed if the transfer takes place.⁹

Additional Issues that have been discussed in the context of the Liquor Commission

Sale or "Monetization" of State Assets

A wide range of proposals has been floated from time to time, ranging from selling or leasing the entire Liquor Commission business to a private concern (which turned out to be a disaster when the State of Maine did it), to selling off the Storrs Street headquarters, Outlet Store #1 and the State warehouse. It was originally estimated that the State would realize \$5 million from the sale of the Storrs Street complex and this amount was assumed in balancing the State budget for FY 11. With the upheaval in the Commission in recent months, no steps were taken to facilitate this sale, and the Commission is attempting to make up the \$5 million by a combination of \$4 million in reductions to its various budgeted appropriations, and putting in place initiatives that we hope will increase its net profit for the year by \$1 million over plan.

I have serious doubts about the financial wisdom of selling the Storrs Street facility. In the first place, an independent appraisal of the property indicated that the value was much less than \$5 million- nearer \$3 million. The State owns the property and pays no taxes on it. It makes a net profit after operating expenses of about \$600,000 a year from bailment paid by producers for storing spirits at the warehouse. If they removed the unused railroad siding that takes up space in the warehouse they could store even more inventory and make more profit from bailment.

If the Commission sold the property they would have to relocate their headquarters to another location in Concord by either buying an existing office building, constructing a new one, or leasing one. At current rates in downtown Concord they could expect to incur \$300,000 a year in leasing costs. The Liquor Outlet Store would likewise have to be relocated, by either buying a building, constructing a new one or leasing a commercial location. Leasing a location would cost another \$300,000 a year, where the present location costs are minimized because the State owns it. There would also be moving and relocation expenses, possible lost sales volume during the transition, and any purchase agreement would have to allow the Commission to remain at the location until a move could be made. The State would also lose its warehouse, and all bailment

⁹ A list of these changes can be provided to the Committee upon request.

monies would go to the private concern that owns and operates the other warehouse, which is located in Nashua.

Not wishing to totally reject out of hand the prospect of selling the Storrs Street property, the Commission is obtaining a second independent estimate of what the real estate is worth, looking at various vacant properties in the Concord area and possible sites for a new Concord store and warehouse and if it appears that this idea is more economically feasible than believed, they will reconsider.

Recommendation: In the present real estate downturn it does not appear that the sale of the Storrs Street headquarters, outlet store and warehouse property would be in the long term best interest of the State.

Sale of Spirits in Grocery Stores

This is another form of privatization of the sale of alcohol. We believe this perennial proposal is not in the best interest of the citizens of New Hampshire. Almost since the day the State approved the sale of wine in grocery stores there have been proposals to allow the sale of spirits (hard liquor) there as well. It is only through constant efforts to differentiate itself from the supermarkets that New Hampshire's liquor stores have continued to make the sale of wine profitable, albeit less profitable than the sale of spirits.

Currently 40% of the off-premise wine sold in the state is sold at grocery; drug and convenience stores yet only 17% of the Commission's revenues are derived from those sales, compared with 100% of the revenues from sales at State Liquor and Wine Outlet Stores. Simple common sense arithmetic clearly indicates that if grocery stores were allowed to serve spirits it could be profitable for these stores but at the expense of the State stores and their ability to provide these revenues for the General Fund.

The argument in favor of spirits sales at grocery stores goes like this: Liquor stores are open during certain business hours. Some are not open on Sundays and holidays. Grocery chains and drug stores are open as early as 6:00 a.m. and many remain open until midnight or later, including Sundays and holidays, thus making it more convenient for the public to purchase their spirits. There are more than 1,400 potential grocery stores whereas the State only operates 74 liquor stores. There would be increased sales of spirits because of the increased opportunities to purchase. Female customers who might be reluctant to enter a Liquor Store to purchase spirits might feel more comfortable shopping in supermarkets, convenience stores and drug stores. Liquor

should be presented as an accompaniment to food rather than being focused solely on the sale of the alcohol itself, a "natural extension to responsible consumption."

Here are the reasons I believe this is a bad idea: Over the years the State Liquor Outlet Stores as the sole purveyor of hard liquor within the State have been the "goose that lays the golden egg" year after year. Our liquor business has been and is the envy of the rest of the nation. Without the revenues produced by this business enterprise, the General Fund would be unable to support many of the vital services provided by the State to its citizens, particularly services to the disadvantaged, the elderly and the infirm, without some form of new taxation.

We believe the State has been so successful in producing these revenues largely because it has exercised monopolistic control over the sale of the product. Currently the State does not have to share these revenues with anyone – the profits all go to the State coffers.

Secondly, we have been successful because New Hampshire State Liquor Commission has earned a reputation with the public throughout the Northeast as the place to purchase liquor at the lowest prices of any surrounding state, tax-free, and with a wide selection to choose from.

One must ask the question, why are the grocery and drugs stores so eager to sell spirits? The answer is obvious – because they see a huge profit in doing so. Once the door is opened for these so-called "agency stores" the entire profit will no longer accrue to the State – it will have to be shared with the private outlets, whose focus will naturally be on increasing their bottom line at the expense of the State. States that monopolize the sale of spirits (rather than wine and beer) receive nearly \$38 more revenue per gallon sold than states that license private off-premise sales (*The Effects of Privatization of Alcohol Control Systems*, National Alcohol Beverage Control Association).

I believe it would only be a matter of time before the State's chain of liquor stores, arguably one of the largest and successful retail chains in the area, and a chain that is operated for the sole benefit of the public, would close one by one as the grocers made it their next focus to eliminate competition, leaving perhaps only the four Interstate stores standing. Business would be bled away from the State stores as people purchased their spirits along with their groceries. As with what has happened to Main Street America, the big box stores and huge retailers with their purchasing power would soon dominate the market.

There is a finite market for liquor and I am unconvinced that there is an untapped market out there large enough to greatly enhance State revenues through added sales to be shared with the operators of the agency stores, given the 15-20% wholesale discount on purchases that the grocers say they need in order to be profitable.

The third and perhaps most important reason I believe this proposal is not in the best interest of the State goes to the very heart of why New Hampshire chose more than 75 years ago to become a "control" state – the Commission's mandate to minimize the abuse of alcohol by controlling its sale. There are reasons why New Hampshire is consistently rated as having the lowest crime rate and as being one of the best places in the nation to live. One of those reasons is that access to alcoholic beverages is limited.

Our State stores are run by a trained staff that has the highest compliance rates in the nation for making sure they don't sell alcohol to minors or sell to intoxicated persons. Our clerks are not compensated on the amount of alcohol they sell – when they are recognized for outstanding effort it is for refusing sales to minors or intoxicated persons, reducing breakage, maintaining a clean and neat store, or good customer service. This has resulted in better public safety by keeping more alcohol out of the hands of those who should not have it.

Hard liquor is a much different commodity than beer or wine – its alcohol content is much higher and it is a much more dangerous substance if not consumed responsibly. Selling spirits is different than selling beer or wine; just as selling dynamite is different than selling sparklers.

History has shown that states that have deregulated the sale of hard liquor typically allow profit to be the dominant factor in their alcohol policy. Under State controlled systems such as ours, public health and public safety and not just profit, are the driving forces. We seek to minimize public drinking, not make it easier for anyone to obtain hard liquor at any time. Someone who needs to purchase a bottle of hard liquor at 6:00 a.m. or midnight is quite likely someone who should not be purchasing alcohol at that time. With a source of hard liquor virtually on every street corner in our cities and towns it will be much easier for alcohol abusers to make repetitive daily purchases of what, while a pleasant libation for some is literally a death sentence for others – either the slow way through a ruined life, or the fast way in a highway crash.

It is much easier for the Commission to control the actions of its own employees at its chain of stores than it is to control the thousands of employees that would be selling spirits at more than 1,400 outlets. The expansion that would be necessary to the

Commission's Enforcement Division alone would eat into whatever added profits might accrue from having these additional outlets.

It is easy to say that spirits in grocery stores would be sold as "an accompaniment to food" but there is no question that many customers would enter for the sole purpose of purchasing liquor, unless the State enacted a regulation that said, for instance (similar to the regulation that requires bars to maintain food service) that alcohol could only be sold at a grocery store if accompanied with a minimum purchase of, say, \$35 in grocery products, and prohibited the sale of pints and nips which make it too convenient for problem drinkers to feed their habits multiple times in a day.

An outlet on every street corner would also lead to increased instances of "shoulder-tapping", the practice of underage persons loitering outside stores that sell spirits and attempting to persuade persons of legal drinking age to make purchases for them.

Currently, State Liquor and Wine Outlet Stores are strategically located up, down and across the State. The Commission is constantly looking at new locations. As they renovate our stores they focus on making them attractive, safe, pleasant shopping experiences for customers as well as enhancing security and minimizing the possibility of prohibited sales. The Commission recently undertook a study of the hours at its various stores to ensure that the stores are open during reasonable hours to accommodate the responsible consumer of alcohol without making them attractive targets for the over-imbiber.

Another proposal that has been presented to the Commission was to do an experimental "pilot project" in which 11 grocery stores of varying sizes and in varying locations was licensed to sell spirits, or in which all grocery stores would be allowed to sell a small variety of high-end spirits for a period of several months as a "test market." In my opinion this would simply result in the camel getting its proverbial head under the tent and a start down the slippery slope toward privatization of the liquor business, at the expense of the citizens of the State and to the sole benefit of the grocery and drug businesses. There are so many variables there is no practical way to design an experiment that could not be manipulated and that would tell us what we need to know before embarking on what could be a disastrous course.

The New Hampshire Retail Grocers' Association has estimated that the State would gain \$290,000 from the issuance of 1,000 licenses to stores to sell spirits and a one-time \$3,700,000 boost from the initial stocking of a liquor inventory at these stores. They anticipate \$1,000,000 to be realized from added volume of warehouse fees, however they fail to note that not all of these fees would go to the state, since not all sprits are

stored in the State warehouse – some are at the private Law warehouse. They estimate the State would receive \$11,310,000 a year from increased annual sales.

For this type of profit the grocery, drug and convenience stores would have to sell \$70,625,000 in product, an increase of about 26% above current spirits sales in the state, a figure that I do not feel is reachable while still promoting responsible drinking habits on the one hand or “bleeding” sales from the State Liquor and Wine Outlets on the other. To the extent that sales were bled from State stores, which they would be, the \$11,310,000 profit would soon begin to evaporate.

I predict the end result of allowing spirits sales in private outlets, best case scenario, would result in the eventual elimination of all but 11 State Liquor and Wine Outlet Stores. Those still standing would be the four Turnpike stores and six of the busiest Outlets located in border communities and along major State highways. Those stores would lose an estimated 20% of their sales volume to the grocery stores as people changed their shopping habits. Even after factoring in the savings in personnel costs, leases and other expenses that the Commission would save by closing 65 stores, if there was no change in the present sales volume the State’s General Fund would suffer \$25,881,707 a year in lost revenues. In order to just break even, the private outlets would have to increase spirits sales by \$132.8 million dollars a year, or 26%. To produce a significant increase in revenues to the General Fund, spirits sales would have to increase by an astronomical amount.

This is a very conservative figure because it does not take into account the fact that with the closure of 65 State outlets, the sale of wine would shift dramatically to the grocery stores, bleeding away even more of the State’s net profit.

If allowing the private sale of spirits led to the closure of all 76 Outlet Stores, after factoring in the savings from laying off personnel and store closures, with no increase in sales the net profit to the State from the sale of spirits would fall to \$134,006,681, based on current figures, a loss of \$121,000,000 to the General Fund plus another \$48,400,000 for a total loss of \$169,000,000. To make this amount up with the 20% discount the Grocers’ Association estimates they would have to receive on product in order to make an acceptable profit, the combined sales of sprits and wine would have to grow by about 500%, or 5 times the current sales, an unreachable amount – and this is merely to break even, without increasing the State’s revenues in any way.

The best way to evaluate this proposal is to look at New Hampshire in relation to other states. Our liquor business is the envy of everyone else including especially states that allow the sale of hard liquor at private outlets. If the proposed system worked so well,

one would expect that Maine and Vermont, both of whom like New Hampshire attract large numbers of tourists, and both of which, unlike New Hampshire, have privatized the sale of spirits, would make nearly the same net profit from the sale of alcohol as New Hampshire, but this is not the case.

The current State Store structure lends itself, with a few tweaks, to making even more profit for the State than it does now, without compromising the control of alcohol. Just as the State does not need slot machines and video poker machines in every Seven-Eleven and gas station in the State because of its deleterious effects on society, it also does not need to make hard liquor available on every street corner at every hour of day and night, if we are truly interested in controlling the abuse of the product.

The State must ask itself – do we want hard liquor to be available on all major street corners, which is where you find the convenience stores, grocery stores and combination gas station/convenience stores? The easy availability of hard liquor will lead to increased incidents of teenage drinking, and an increase in drunk driving and alcoholism because of the unlimited access and availability of the product from 6:30 a.m. until nearly midnight and in some cases, later.

The experience of foreign nations with the sale of alcohol has been similar. Great Britain is currently coping with increases in alcohol-influenced crime and disorder. According to the *London Daily Telegraph* of July 21, 2010, the Home Secretary is looking to clamp down on shops selling alcohol at below cost prices as “loss leaders” to attract persons to their shops and increase bulk sales. The government proposes to increase the license fees for selling alcohol beyond a certain hour, to deter late-night crime and disorder. The Department of Culture, Media and Sport has been stripped of its authority to control alcohol; and full responsibility for licensing and enforcement has been given to the Home Office.

The United Kingdom’s Association of Chief Police Officers claims that disorder related to alcohol there is one of the biggest challenges facing police forces, with almost 1 million violent crimes committed each year and alcohol linked to half. Within a year of allowing 24-hour sales of alcohol, drink-related assaults increased by 64,000 to a record total of 1.087 million and deaths caused by drivers over the alcohol limit rose to the highest level in 30 years (*Daily Mail Online*, July 23, 2010).

In Scotland, health officials report that adults drink 25% more alcohol than the United Kingdom average and the gap is widening, citing cheap drinks offers by supermarkets and off-premise licensees as the main reason for excess consumption (*NHS Scotland*

Today, July 21, 2010). Now Germany too is experiencing increased public disorder, crime and drunk driving attributed to an increase in the availability of liquor at all hours.

The reinstatement of a beer sales monopoly in Sweden saw the rates of alcohol psychosis, alcoholism and intoxication decreased by more than 20% among people 10-19 years old and by more than 5% among people older than 40. Motor vehicle crashes decreased by 14% across age categories, and suicides decreased by more than 11% among people ages 10-19 and older than 40-1/2 (*In the Red: Alcohol Revenue and State Budgets in Crisis*, Marin Institute study, May 2010). Where spirits have much higher proof levels than beer, one can only imagine the results if New Hampshire did away with the State monopoly on spirits.

States such as New Hampshire with retail monopolies over spirits have a lower prevalence of drinking and binge drinking among people ages 12 to 25 years. States that monopolize the sale of both spirits and wine report 14.5% fewer high school students reporting drinking alcohol with the past 30 days, 16.7% fewer reporting binge drinking within the past 30 days, and a death rate for people under age 21 killed by alcohol-impaired driving that is 9.3% lower (Marin Institute study, *ibid.*).

Maintaining state monopolies over alcohol sales helps lower alcohol outlet density, overall consumption, underage drinking, and deaths from drunk driving. Any state considering changing its monopoly system must seriously consider the increased consumption and alcohol-related harm that will likely follow.

Eventually, I predict that with the addition of 1,400 more sources of spirits New Hampshire's competitive price advantage vs. other states will also disappear. If the lesson from other states holds true here, the State, then sharing its profits with 1,400 other outlets, would sooner or later be forced to place a tax on the sale of liquor to make up for lost General Fund revenues, and that will negatively impact the retail price of the product and cost the responsible drinker more to enjoy the product.

Recommendation: Rather than rolling the dice and taking a chance on destroying a system that has been successful both in terms of maximizing profits from and controlling the abuse of alcohol, the Legislature should shy away from experimentation with the sale of spirits in grocery, drug and convenience stores and allow the Commission to continue to modernize and update its stores, adjust its hours to the needs of the responsible buying public, and focus on closing underperforming stores and opening stores in new and potentially more profitable market areas. It makes no sense to

consider changes to a system that works well and raises revenue that would otherwise come only from increased taxation.

Instead of throwing a monkey wrench into a well oiled system which is poised to return over a billion dollars in revenues to the State's General Fund over the next 8 years, the State Liquor Commission should be allowed to continue to go forward with its strategic plan to modernize its retailing model without siphoning off the profits to private corporations.¹⁰¹¹

Privatization of the Liquor Business

Another idea that has been floated around for some time is that the State should sell off its liquor business to some private concern, pocket a large, one-time windfall and get out of the business. A variation on this is to issue a long-term lease to some private corporation, who would manage the liquor business for 30 years, then return the business to the State, supposedly much stronger and more profitable than ever because of the great expertise of this private firm in running it and the lessons that we could learn from them.

The facts belie this argument. New Hampshire and the 17 other state liquor monopolies generate far more cash than is produced in the 32 states in which the private sector sells alcoholic beverages. In fact, control states generate on average nearly twice the revenue as license jurisdictions, an average of \$53.07 per gallon vs. \$15.47 (Study by William Kerr of the Alcohol Research Group, a noted think tank on alcohol). That money comes in every year forever into the future.

The employees at New Hampshire's State Liquor Commission are mostly old hands at the business and have every bit as much knowledge and ability about buying, marketing and selling wine and spirits as those who would come from a private concern.

The state of Maine was the most recent victim to succumb to the privatization idea, and by all accounts it has been a disaster in terms of not living up to the promise of greatly increased revenues. The private entity that took over the business is doing well; not so the State. Once the dog was let out of the yard and the State realized the mistake they

¹⁰ Photos of the tasteful interior design of these new stores are available upon request.

¹¹ A map of current store locations is available from the Commission.

had made, it was too late. It is unlikely that any proposal to privatize New Hampshire's liquor stores would fare any better.

A year after privatization in Maine, the *Portland Herald* reported that the dollar loss to the State was between \$175 and \$275 million after obtaining a quick \$125 million to fill a \$1 billion-plus hole in the State budget. "The worst mistake we ever made", is the way one Maine official described it to the NH Liquor Commission. The idea of the sale came from a super-lobbyist who promptly began angling to purchase the business for a Wall Street client.

Even after a \$125 million up-front payment, Maine was forgoing \$26 million a year in General Fund revenue. Even after subtracting the up-front money and the \$40 million a year the State expected to get from the management agreement under a formula for the sharing of revenues, the net loss after 10 years would be at least \$100 million, a figure that proved to underestimate the actual losses to the State.

Meantime, the private company running the stores has increased sales but pocketed the lion's share of the profits, enjoying the benefits of both capitalism and socialism, with the State required to set the price of liquor and guarantee the contractor a gross profit of 36.8% of sales. Two-thirds of ownership rests in an affiliate of the Wall Street investment firm the lobbyist represented. The other one-third is owned a liquor brokerage firm.

I believe that in time, if New Hampshire privatized its liquor stores, the Granite State would come to resemble Maryland and Washington DC, with a liquor store on every street corner.

The so-called "free market incentives" for privatization of the liquor business are just that – incentives to increase the sale of alcohol, with concerns for the control of alcohol left out of the equation. A comprehensive review and analysis by the U.S. Task Force on Preventive Medicine found that privatization leads to higher alcohol outlet density, greater physical availability of alcohol, and more deaths from drunk driving.

Recommendation: Long term financial return and public safety are the key benefits of New Hampshire's system. As tempting as it may be to look for a short-term solution to the State's fiscal woes, it is not worth the bigger social and financial woes that would occur over the long haul by auctioning this invaluable State asset to the highest bidder.

Authorization of Additional "Agency Stores"

I fail to see any compelling current need to increase the number of Agency Stores. There are currently three Agency Stores in the state – Greenville, Errol and Pittsburg, and together they account for less than .003% of the Liquor Commission's annual sales volume.

Our 76 State Liquor and Wine Outlet Stores provide very good coverage of all areas of New Hampshire. There are few communities in the state that are further than 10 miles from a State store and most of the State stores are located in towns and cities that are the central shopping locations for those areas. In addition, as part of the Commission's our Strategic Plan they intend to look at relocating certain stores when current leases expire, to be more central to their respective market areas; as well as opening new stores whenever and wherever it appears there is a considerable under-served market.

As with privatization and sale of spirits in grocery and drug stores, opening additional Agency Stores will only cause the State to diminish profits on the sale of alcohol by having to split it with the Agency Stores, and increase the density of hard liquor outlets, complicating enforcement and making the product overly susceptible to alcohol abuse.

Recommendation: If the current legislation authorizing Agency Stores is not allowed to lapse but is re-enacted it should contain substantially the same provisions including not opening such a store within 10 miles of an existing State store, requiring public hearings and local community approval, and leaving the decision of whether to open additional Agency Stores up to the Liquor Commission.

Appendix

List of Recommendations
Drafts of Recommended Legislation
Legislative Proposals

Adjusting Liquor Commission Salaries

The purpose of this legislation is to implement salaries for the three Directors at the Liquor Commission to coincide with the Liquor Modernization Act of 2009 which made them unclassified positions; to recognize the recommendations of the Hay Study and to adjust the salaries of the Liquor Commissioners so that there is a clear delineation of responsibilities within the organization.

1. Amend RSA 94: 1-a as follows:

Delete in grade GG Liquor Commission Commissioner.

Insert in grade II Liquor Commission Commissioner.

Delete in grade HH Liquor Commission Chairman.

Insert in grade JJ Liquor Commission Chairman.

Insert in grade GG Director of Marketing, Merchandising and Warehousing, Liquor Commission.

Insert in grade GG Director of Administration, Liquor Commission.

Insert in grade GG Director of Enforcement, Liquor Commission.

2. Effective date: This act shall take effect on July 1, 2011.

Qualifications and Appointment of Liquor Commissioners

The purpose of this legislation is to ensure that Liquor Commissioners have the requisite background and experience for the job, and to require that they pass a background investigation to further ensure their fitness.

1. Amend RSA 176:1 to read as follows:

176:1 Commission.

- I. There shall be a state liquor commission consisting of 3 members appointed by the governor with the consent of the council. Not more than 2 members

shall belong to the same political party. Each member shall hold office for a term of 6 years. If a vacancy shall occur in the commission, it shall be filled for the remainder of the term. Any or all of the commissioners may be removed by the governor and council for cause.

- II. One of the commissioners shall have had prior experience in marketing or retailing, one shall have had prior experience in financial management, public administration or as a liquor licensee, and one shall have had prior experience in law enforcement or the legal field. The commissioners shall be of equal authority and shall operate by consensus and shall determine their respective roles and primary areas of concern by consensus unless a consensus cannot be reached, in which case the chairman shall determine the respective roles and areas of concern of the other members.
- III. Before an individual is appointed as a liquor commissioner, he or she shall undergo a background investigation at the direction of the attorney general. The investigation shall include a criminal and motor vehicle record check, a credit check, and an investigation of the individual's character and reputation in the community and among associates, present and former employers. The report of the background investigation shall not be a confidential personnel record and the governor shall review the report prior to presenting the nomination to the executive council.
- IV. The annual salary of each member of the commission shall be as specified in RSA 94:1-a.

2. Amend RSA 176:2 to read as follows:

176:2 Chairman; Compensation; Duties.

- I. The chairman of the commission shall be designated as such by the governor with the consent of the council, and his or her term shall be coterminous with each term of the governor unless the chairman's successor shall have been sooner appointed. The expiration of a chairman's term of office as chairman of the commission shall in no way affect the length of his or her term as a commission member as established under RSA 176:1
- II. The chairman of the commission shall preside at all commission meetings and hearings and shall serve as the state's representative to the National Alcoholic Beverage Control Association. In the event the chairman is incapacitated or otherwise unable to perform these duties they shall be performed by the next senior commissioner in terms of length of service.

3. Effective date: This act shall take effect upon its passage.

Reversal of the transfer of the Division of Enforcement, Licensing and Education of the State Liquor Commission to the Department of Safety.

The purpose of this legislation is to reverse the pending transfer of the Enforcement, Licensing and Education operations of the State Liquor Commission to the Department of Safety and to ensure that they remain with the Liquor Commission.

Be it enacted as follows:

1. Chapter 144:301, VIII, laws of 2009, section 163-175 are hereby repealed. Section 1 of SB 181-FN-A is also repealed.
2. Effective date: This act shall take effect upon its passage.

Providing for Criminal History Checks of Liquor Commission Employees

The purpose of this legislation is to allow the State Liquor Commission to require criminal record checks on employees that handle confidential information or cash, and all employees of the Division of Enforcement.

1. Amend RSA 176:8 by inserting after said section the following new section:

176: 8-a Criminal Record Checks of Liquor Commission Employees. The liquor commission shall conduct pre-employment FBI criminal history checks through the state police criminal records unit of any and all employees who will be responsible for the handling of confidential information or cash and all employees of its division of enforcement. The commission may establish an application fee sufficient to cover the cost of the checks.

2. Effective date: This act shall take effect on July 1, 2011.

Establishing Further Controls on the Dispensation of Liquor Product Samples

The purpose of this legislation is to limit the number of samples of liquor and wine products provided to members and employees of the State Liquor Commission for evaluation purposes.

1. Amend RSA 179:31 by inserting after RSA 179:31, II the following new paragraph II-a:

II-a: Notwithstanding other provisions of law to the contrary, manufacturers, wholesale distributors or wine and liquor vendors or their salespersons may distribute samples of new products or packaging being proposed for listing at state liquor stores to members of the state liquor commission and not more than 4 employees of the division of merchandising, marketing and warehousing charged with making liquor and wine purchases for purposes of tasting and evaluation of the product and its packaging and labeling. The following restrictions shall apply:

- (a) Samples shall not exceed one 1.75 ml. of each product per individual.

- (b) Beer or wine samples shall not exceed one 6-pack or the product's normal retail marketing unit.
- (c) Samples shall be for personal use. If the product is subsequently listed for sale in state liquor stores unused samples not retained for display purposes at the commission's offices shall be placed on sale in a state liquor store or if not listed for sale in state liquor stores or if the packages are marked as samples not to be sold, shall be destroyed.

2. Effective date: This act shall take effect on July 1, 2011.

Providing an Appeal to Superior Court from Liquor Commission Licensing Decisions.

The purpose of this legislation is to provide an appeal from licensing decisions of the State Liquor Commission to the Superior Court.

1. Amend RSA 179:56 by inserting after paragraph III the following new paragraph:

- IV. Decisions of the commission relative to the suspension or revocation of license and the imposition of administrative fines shall be appealable to the superior court of Merrimack County. The filing of an appeal shall not stay the action unless the court specifically grants a stay.

2. Effective date: This act shall take effect on July 1, 2011.

2010 Study Committee

SB 181, Chapter 248:2, Laws of 2010

Meeting Report

TO: Members of the Committee

FROM: Shannon Whitehead, *Legislative Aide*

RE: Meeting report on **SB 181, Chapter 248:2 Laws of 2010** –*Committee to study the administrative structure and adjudicative process at the Liquor Commission*

MEETING DATE: August 12, 2010: 10am SH 100

Committee members Present: Senator D'Allesandro, Senator Hassan, Rep. Butler, Rep. Kidder, and Rep. Shurtleff.

Committee members Absent: Senator Bradley

Others Present: (from sign in sheet) Amy Pepin (New Futures) Susan Paschell (Dupont Group, Stuart Trachy (NH Grocers) Mike Somers (NH Lodging and Restaurant Association)

Spoke/Testified: Commissioner Earl Sweeney

Organizational Meeting:

Welcome and Introduction of Committee members

Election of Chair person:

Senator Hassan nominated Senator D'Allesandro Chair of the study committee, seconded by Rep. Kidder followed by Rep. Shurtleff and Butler. 5-0 vote. Senator D'Allesandro stated that he was the prime sponsor of the original bill (from SB 181) and Senator Hassan had chaired the last entry.

Senator D'Allesandro reviewed the duties of the commission as outlined in the legislation. The Senator also suggested having a possible extension to the study committee for its' findings. If needed be, we would have to write to the House Speaker and Senate President for that extension.

Senator D'Allesandro spoke about the scope of the study committee and the items of concern regarding the SB 181 study.

(a) Whether the liquor commission should have an executive director rather than a full-time 3-member commission;

(b) How best to ensure impartial review of appeals of licensing and enforcement decisions; and

(c) How best to ensure that the enforcement division is properly supervised, contains its function to that of a regulatory authority, and guards against overly broad interpretation of its function.

VI. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the House of Representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2010.

*Senator D'Allesandro noted that he would like this study committee wrapped up before the legislative session starts.

Also highlighted by Senator D'Allesandro were the following:

1. The scrutiny in the past, impartial review, license functions of regulatory authority.
2. Create appropriate recommendations through the legislative process

Senator Hassan suggested the committee look over the questions and concerns of the Department of Safety. Senator Hassan also suggested the committee to review The Final Report on HB 2, pursuant to Chapter 144:162, Laws of 2009 which was the committee to study the organizational structure of the Liquor Commission. Dated December 9, 2009.

Commissioner Earl Sweeney:

The Liquor Commission has performance has been spectacular.

.5 Billion in revenue. A net of 24% and well over 100 million on to the general fund. There is a grand opening of a new store in Manchester, NH and a new store in Merrimack that is being revised; as well as a store in Lebanon. The Liquor Commission has a certain amount of modernization into these stores. There is as chain of 76 stores. The largest retail stores in NH. The team of classified employees has worked well, but there is a great deal of concern with employee privatization and its' future.

Commissioner Sweeney stated that there will be a survey going to the employees on how they feel about the commission and how it has been running. Commissioner Sweeney continued to say that the task is not to max sales, but to optimize, reduce underage drinking and driving, those rates have been good. There has been long distinguished service in the state, public servant and we appreciate the trust.

Commissioner Sweeney talked about the refurbishing of the liquor commission and profit margin, in NH within the overview and improvements, but there are fears with any foolish moves in the future.

Senator D'Allesandro stated to Commissioner Sweeney that the committee would like to talk more about the process by which you get a license and the enforcement that takes place. (Operator, who operates commission)

In closing:

Rep. Butler suggested to the committee that we should look into having 2 to 3 hour meetings to cover ground, and fairly select a group of people to inform us, such as the Restaurant Association with the Liquor Commission. Rep. Butler also suggested to the committee that Rep. Mary Beth Walz should come and speak.

The committee agreed to hear the structure from Commissioner Sweeney's Office on how licenses given and how the renewal process goes. The committee also would like to look at how the enforcement works. Senator D'Allesandro wanted Eddy Edwards to come in to discuss the guidelines.

Senator Hassan also wanted to discuss in future meetings on revamping the appeal process in sight of impartiality.

Next Meeting date and outline of the next presentation:

1. Restaurant Association with Mark Somers and Alex Ray and their perspective: September 7, 2010
2. Stuart Trachy asked the committee to have the retail perspective to come in (John Dumas). September 7, 2010
3. Liz Sargeant lobbyist for the NH Chiefs of Police to come in and discuss the enforcement perspective. September 7, 2010

Meeting Closed at 10:36 a.m.

Future meeting dates:

September 7, 12-3pm SH Room 100

sgw 8-12-10



Stakeholder's opinion regarding the transferring of Enforcement to Department of Safety

Virtually all major stakeholders oppose transferring NHLC Enforcement	YES	NO
NH Restaurant and Lodging Association		X
NH Grocers Association		X
NH Associated Grocers		X
NH Chiefs of Police Association		X
Governor's Highway Agency		X
Wine Institute		X
New Futures		X
Wholesale Beer Distributors		X
NH Wine & Spirits Broker Association		X
NH Prevention Coalitions		X
Tobacco-Free NH Coalition <i>American Cancer Society, American Lung Assoc., American Heart Assoc., Breathe NH, March of Dimes and NH Public Health Assoc.</i>		X
MADD (Mother's Against Drunk Driving)		X
State Liquor Commission		X

NH Public Opinion – A University of New Hampshire Survey Center study of NH public opinions regard the New Hampshire Liquor Commission retail stores and enforcement indicated that 75% of NH legal drinking age adults believe that *“the NH Liquor Commission is doing a good job overall enforcing laws and regulations regarding alcoholic beverages”*.





The chart below illustrates single state agency responsible for alcohol enforcement and licensing in comparison to state with dispersed responsibility for enforcement and licensing.

	Single state agency	Multiple agencies
1	Alabama	North Carolina (Dept. of Safety and Alcoholic Beverage Control Commission)
2	Montgomery Co.	Ohio (Dept. of Commerce/Dept. of Safety)
3	Michigan	Pennsylvania (Dept. of Safety/ Liquor Commission)
4	Mississippi	Utah (Dept. of Safety/ Alcoholic Beverage Control)
5	New Hampshire	Iowa (State Police/Liquor Commission)
6	Oregon	Nebraska (State Police/Liquor Commission)
7	Vermont	Wyoming (local/Liquor Commission)
8	Virginia	Nevada (local/Dept. of Taxation)
9	Washington	North Dakota (AG/Tax Commission)
10	West Virginia	Idaho (Dept. of Safety/Liquor Dispensary)
11	Arizona	
12	California	
13	Hawaii	
14	Illinois	
15	Massachusetts	
16	New York	
17	Oklahoma	
18	South Carolina	
19	Tennessee	
20	Texas	
21	District of Columbia	
22	Kentucky	
23	Montana	
24	Arkansas	
25	Colorado	
26	Connecticut	
27	Florida	
28	Georgia	
29	Maine	
30	Louisiana	
31	Maryland	
32	Rhode Island	
33	South Dakota	
34	Wisconsin	
35	Kansas	
36	Puerto Rico	
37	Minnesota	
38	Alaska	
39	Missouri	
40	New Mexico	
41	New Jersey	
42	Indiana	
43	Delaware	
	Total Single State 43	Total Multiple State 10

Lower Revenue
 Higher underage drinking rates



REGULAR CALENDAR

LOCAL AND REGULATED REVENUES

SB181-FN-A, (New title) repealing the transfer of liquor enforcement to the department of safety and establishing a committee to study the administrative structure and adjudicative process at the liquor commission. **OUGHT TO PASS.**

Rep. Timothy Butterworth for LOCAL AND REGULATED REVENUES. SB 181-FN-A repealing the transfer of liquor enforcement to the department of safety and establishing a committee to study the administrative structure and adjudicative process at the liquor commission. **OUGHT TO PASS.** Rep. Timothy Butterworth for local and Regulated Revenues: This bill repeals a plan to transfer the enforcement of liquor laws from the Liquor Commission to the Department of Safety. The decision was made during budget negotiations last year and most committee members felt this is not the way to pass a policy bill. In our hearing on SB181 we heard no testimony in favor of the transfer. We did hear evidence that under the current structure we have made a lot of progress with controlling DUI and underage drinking compliance. We are among the top in the nation and recognized by the National Liquor Enforcement Association and the Federal Office of Juvenile Justice and Delinquency Protection.

The committee also received testimony about Maine, where the legislature did transfer enforcement to the Department of Safety where they felt there would be greater structure and control. We heard that since the change the Liquor enforcement Bureau has become the neglected step child of the Department of Safety, and that the Maine Department of Safety has entered into Letters of Understanding with most of the local Police and Sherriff's departments where the local police now handle all sting operations. The transfer has resulted in inconsistent enforcement activity and discrepancies across jurisdictions. We heard of a great deal of angst within the licensed community in Maine. Maine legislators are now working to undo the move by disentangling Liquor Enforcement from the Department of Safety and moving it back to the Bureau of Alcoholic Beverages.

This bill also resurrects last summer's study committee to continue to look at the structural issues relating to the Liquor Commission. Specifically, the committee is charged with examining the possibility of a single executive director, reviewing the appeals of licensing and enforcement decisions and evaluating the supervision of the Enforcement Division. The latter is significant since there are rumors that the Enforcement Division suffers from "mission creep", although there was no testimony about this at the hearing where it could have been rebutted. The majority believes that if the Liquor Commission has a personnel issue they need to address it through the normal human resource means. We owe our employees a fair evaluation based on their merits, not a political process wrapped up in a policy decision. The committee heard testimony that enforcement, training and compliance need to be kept together. All evidence suggests that keeping the enforcement division at the Liquor Commission is the best means for maintaining the quality of enforcement we now enjoy here in New Hampshire. **Vote 18-1.**

Original: House Clerk
Cc: Committee Bill File

Confidentially, I can tell you is that since Liquor Licensing and Enforcement was moved out from under the jurisdiction of our SLC, things have gone to hell. There is virtually no liquor enforcement left in the state of Maine other than sting type operations in which local PDs and Sheriff's departments try to catch licensees selling to underage kids. Maine now has just five state liquor inspectors with responsibility for around 4500 licensees, and these "inspectors" are really just that. They are no longer the type of enforcement agents we once thought of them as being. Most of their time is now spent conducting physical inspections of premises as a part of license renewals and original license issuance. The Bureau of Licensing, which also collects our alcohol excise taxes and supposedly audits excise tax filings is a year behind in their audits. This latter fact was just attested to earlier this week by the chief of the Bureau of Licensing, State Police Lt. David Bowler, in testimony before the Legal & Veterans Affairs Committee on Wednesday. I was present and can verify the testimony.

As a sad example of the enforcement difficulties, I discovered a serious violation in Camden in the fall of 2008. I brought the facts of the matter to the attention of Public Safety, and showed them magazine ads that verified the infraction. I was present when they directed an inspector, by telephone, to investigate the matter first-hand and issue a citation if indeed he found the violation to be continuing. As of November of 2009, the inspector had still not yet followed up on the case!

In short, there is currently movement here in Maine to consider moving the Bureau of Licensing out from under the Dept. of Public Safety and the State Police, and return it to the SLC/Bureau of Alcoholic Beverages & Lottery Operations (BABLO), under the Dept. of Administrative & Financial Services (DAFS). The idea has been promoted by the chairmen of the Legislature's Legal & Veterans Affairs Committee, which has oversight of all alcohol beverage related legislation. In all likelihood, we will see legislation introduced next session to move the Bureau of Licensing back to the SLC/BABLO.

All of this information may be of help to you as you consider whether or not there is wisdom in moving NH SLC's Licensing and Enforcement arm over to the DOS. It probably makes far greater sense for it to stay under the SLC. However, I'm aware of the debacle that has brought all of this to the forefront in Concord, and there are clearly some lessons to be learned from the situation relative to the Keene Licensee investigation and some of the screw-up surrounding it.



PROMOTE. PROTECT EDUCATE.

March 24, 2010
Representative Mary Beth Walz
House Local and Regulated Revenues Committee
Room 303, LOB
Concord, NH 03301

Dear Representative Walz,

In an effort to provide you and your committee with pertinent information as you weigh the pros and cons of moving the Bureau of Liquor Enforcement to the Department of Safety I reached out to some individuals in Maine where this precedent has been set and hoped some historical insight might be helpful. I had a discussion with a gentleman in Maine by the name of Ralph Pears who has represented the Distilled Spirits Council of the United States (DISCUS) for 20+ years in both Maine and New Hampshire. Because of his role and cross border activities he has a unique understanding and perspective of the ramifications of what took place in Maine and how we might expect a similar outcome if we pursue the move. Below are the points that I gleaned from my discussion with Ralph and I would urge you to not only consider my notes but to contact a couple of your counterparts in Maine that are currently working to undo their move by disentangling Liquor Enforcement away from the Department of Safety and move it back into the Bureau of Alcoholic Beverages and Lottery Operations (BABLO). I have provided contact information for Mr. Ralph Pears along with Senator Nancy Sullivan and Representative Pam Trinward who are co-chairs of the Legal and Veterans Affairs Committee that is working on this issue.

- The Maine Liquor Enforcement Bureau was transferred into the Department of Safety some 15+ years ago. Since the move, Liquor Enforcement has gradually and consistently become the 'neglected step-child' of the Department of Safety - presumably because it is not a 'core' function of the Department of Public Safety.
- Liquor Enforcement has literally become 'all or nothing' enforcement - compliance checks are essentially non-existent and generally the only time enforcement action takes place is after an egregious incident that results in public outcry.
- The reason for the move at the time was that legislators felt that there was greater structure and control at the Department of Safety and that all Police functions could be consolidated for cost saving purposes - but that control has eroded and the savings were not realized. It was interesting to note that the Investigators were in favor of the move because the benefit package was better under the Department of Safety.
- About 10 years ago Liquor Enforcement was merged with a number of other administrative Bureaus under the Department of Safety. This new division oversees a hodge-podge of functions (Ralph specifically mentioned fire arm licensing), but Liquor Enforcement has increasingly become an afterthought with the long list of responsibilities handled by this department.
- Ralph also mentioned that the Enforcement and Licensing functions were separated at the time of the move so that BABLO continued to be responsible for licensing and the Department of Public Safety assumed responsibility for Enforcement. The 5 Liquor



PROMOTE. PROTECT. EDUCATE.

Enforcement Inspectors in Maine handle 4500 licensees with almost all of their time spent doing physical inspections for new licenses and license renewal. In testimony heard Wednesday March 3rd the Department of Public Safety admitted that they are a not only a year behind in audits of excise tax collections but also in issuing new licenses.

- In the last year or so the Department of Safety has entered into Letters of Understanding with most of the local Police and Sherriff's Departments in Maine where the local Police now handle all Sting operations. It has resulted in inconsistent enforcement activity and discrepancies across jurisdictions and has lead to a great deal of angst within the licensed community.

Contact Information:

Ralph Pears (pronounced Peers)
207-389-1590
E-mail: rbpears@gwi.net

Senator Nancy Sullivan
207-282-5594

Representative Pam Trinward
Home: 207-872-7545
Office: 207877-8867
E-Mail: pjtrin@roadrunner.com

Thank you for taking the time to consider this information and I am happy to answer questions or concerns – and I would be happy to offer my assistance to the committee to provide information that will help in a decision to keep Liquor Enforcement with the NHLC. With that being said, we are still very much in favor of a disinterested third party to hear appeals. We are also open to the concept of Commission and/or Enforcement oversight.

Sincerely,

Mike Somers
President & C.E.O.
New Hampshire Lodging & Restaurant Association
14 Dixon Ave.
Concord, NH 03301
Office: 603.228.9585
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2010 Study Committee

SB 181, Chapter 248:2, Laws of 2010

Meeting Report

TO: Members of the Committee

FROM: Shannon Whitehead, *Legislative Aide*

RE: Meeting report on **SB 181, Chapter 248:2 Laws of 2010** –*Committee to study the administrative structure and adjudicative process at the Liquor Commission*

MEETING DATE: August 23, 2010: Time: 1pm Where: SH 100

Committee members Present: Senator D’Allesandro, Senator Hassan, Rep. Butler, Rep. Kidder, and Rep. Shurtleff.

Committee members Absent: All members were present.

Others Present: (from sign in sheet) Commissioner Earl Sweeney (Liquor Commission) Commissioner Joseph Mollica (Liquor Commission) David Cahill (NH Chiefs of Police)

Spoke: Commissioner Earl Sweeney, Commissioner Joseph Mollica, Chief Eddie Edwards

Handouts:

- NH State Liquor: Overview by Commissioners Earl Sweeney/ Joe Mollica
- NH State Liquor Strategic Plan FY 2011 and onward (DRAFT)
- Pre-view of Liquor store appearance
- Uniform samples

Regular Meeting: Senator D’Allesandro opened the meeting at 1pm.

Commissioner Sweeney: presentation overview

NH is a controlled state. 18 states and one country in the U.S and distribution of alcohol at with regulatory agencies.

- The commission enters its 77th year. The legislature put considerable thought behind the legislation that organized the commission. It achieved the proper balance between profitability and control. It established 3 commissioners.

- Alcohol is a unique commodity. There are evils associated with immoderate use of alcohol. The production and sale of alcohol is a highly competitive industry and can be susceptible to corruption and improper political interference.
- The purpose of a controlled state is to optimize profit from the sale of alcohol while minimizing the ill effects to society. Some states restrict the sale of wine and spirits to state stores. NH and 3 other states allow wine to be sold at both state stores and private retail outlets. Some states control only the sale of spirits and some control at the wholesale level only

NH as a success story: NH is the envy of the other control states, both in terms of the amount of revenue and it returns to the General Fund and in terms of its system of enforcement and the resultant effect on New Hampshire's quality of living measures, such as the rates of alcoholism, alcohol-involved crimes and traffic crashes, teenage involvement with alcohol, and public health.

- It is not to maximize profits but to optimize profits.
- Some secrets to the success is the controlling the number of outlets and the house of sale to avoid the problems experienced in some other states and in Europe, some Canadian provinces and New Zealand with an over saturation of outlets and availability of spirits on the street at all hours. Emphasizing enforcement of upfront licensing requirements and a strong educational component.

The future holds great potential: The commission is on track to deliver a billion dollars in net profit to the General Fund over the next 8 years.

Fiscal Year 2010- a banner year! Sales topped the half billion dollar mark for the first time, with \$ 511.4 million, a 4.8% increase over 2009, and well ahead of national growth trends.

- Spirits sales were up to 5%, wine
- Wine Sales 4.5%

*which came from a 6% increase in State Liquor and Wine outlet store sales, a 2.6% increase in grocery store wine sales and a 1% increase in restaurant sales.

Profitable picture: Gross profits increased by 10% over the prior year. Revenues from liquor and wine brought in \$2.9 million over plan. Revenues from beer have been relatively flat over the past several years and were \$100,000 over plan, or 1%

Net Profits increased by +10%: This represents a net profit of greater than 20% which would be the envy of any business. This kind of net profit is only achievable in a monopoly state where state stores are the major source for alcohol purchases.

Components of revenues:

- Retail wine and spirits sales at State Outlet Stores-71%
- Wholesale wine sales to grocery and convenience stores-17%
- On-Premise sales to restaurants-11%
- Miscellaneous (license fees, fines etc)-1%

The Broker System: Licensed Liquor Brokers are treated as the statutorily required "primary source" of alcohol and the commission procures its stocks from them. All stated mandate the separation of the production tier from retailing. Reasons for the broker system include efficiency (not having to deal with multiple suppliers) familiarity with federal requirements, product expertise and marketing assistance.

Producers vs. broker: Why the middle man? With Brokers we would deal with hundred of alcohol producers which required a larger staff than we can deal with. We need to maintain price perception.

The Distribution System: Spirits are retailed exclusively by state stores and restaurants are supplied from the two warehouses. Wine is sold at state stores, licensed grocery and drug stores and wine specialty shops who purchase their wines from the SLC. Beer is sold at licensed on and off premise retailers and taxed by the gallon.

State liquor stores: SLC maintains a chain of 76 stores and wine outlets located throughout the state, plus 3 agency stores in remote areas- Errol, Pittsburg and Greenville. 11 of the stores are in state owned buildings, 65 are in leased premises. Most of the states store's population is situated 10 miles from an outlet and most are located in the communities that are the dominant shopping locations for the given area.

Licensees: On premise (restaurants) 2,799 (there are no bars in NH) about \$52 million annual revenue. Off premise (beer and wine) 1,306 about \$95 million in annual revenue.

Organization of the commission: 3 Commissioners. 3 Division Directors (Administration, Marketing and Enforcement). The law requiring Directors to be unclassified has never been implemented because the Hay Study recommended salary levels that would exceed those of their bosses, the commissioners.

Staffing picture: There are 218 full time and 400 part time employees. Vacancies remaining unfilled due to requirement to increase net profit by \$10 million if the warehouse/store/HQ complex is not sold. Selling complex, 300,000 if leased property. In this economy would we get that kind of money

Oont 93 n and s bond stores. Appraisal of concred property alternative. Ont 95 n and s. DOT too much on the plate expeditiously.

Test waters and see what can bring in.

Developments in employees' relations: Formation of a joint labor/management committee with the SEA. Development and initiation of an employee questionnaire to determine the state of morale and solicit suggestions for more efficient and effective operational practices.

Where the non retail revenues come from: total about \$ 5.8 million

- o Sweepstakes sales (5% of gross)
- o Direct Shipping permits (9% of other revenues)
- o Warehouse bailment (27% of other revenues)

- Liquor License fees (49% of other revenues)
- Administrative fine (3% of other revenues)
- Miscellaneous (3% of other revenues)

Where the retail sales come from: State stores account for approximately 60% of off premise wine sales. At restaurants wine accounts for about 38% of sales, spirits 62%

Sales by outlet store location: the top 15 stores account for 45% of sales the remaining 61 stores account for 55%. The I-95 Northbound store sells over \$28 million in product. None of the top 15 stores sells less than approximately \$7 million annually.

Where the retail customers come from:

- New Hampshire-50%
- Massachusetts-21%
- Maine-8%
- Connecticut-5%
- Vermont-4%
- New York-4%
- Rhode Island-3%
- Other states and Canada-5%

Successful Strategies:

- Debit and credit cards sales
- Gift cards
- Monthly feature 10% and 15% off sales
- Sales of accessories
- "Branding" of the outlet store concept
- Modernization and updating of stores-Manchester # 33, Merrimack, Lebanon

The image we are promoting:

- Best prices in the region (perceived value)
- Wide Selection
- Never a tax
- a pleasant, safe shopping experience
- For example, in September there is a promo on Italian wine sales.
- Image is to promote, we need a perceived value.
- We are also trying to educate our customers. For example, know your tax.

Enforcement: The legislature has repeatedly changed course on where enforcement should be situated. Rumors abound regarding investigators in SWAT uniforms. The commission has recently promulgated more definitive policies on investigator attire and exercise of enforcement authority.

- The commission is giving "them" an expanded role in loss prevention. We regard enforcement as "individual security for commission operators.
- The primary function of enforcement, education and licensing belong with the commission not with another state agency.

- Changes like this should not be based on the popularity or lack thereof of individuals, but on system considerations.
- Local law enforcement and license support the Division of Enforcement remaining where it is.

To ensure fairness in hearings: Very few hearings are held—most licensees agree to negotiated dispositions. Commission rules control the range of sanctions that the commission may impose. There is no reason the Commission is any less able to conduct fair hearings on its rules than the Insurance Commission, the Department of Safety or other state and federal agencies.

Does the Commission need an Ombudsman?

The 3 Commissioner should be ensuring maintenance of high ethical standards, customer relations and fair hearings. A Deputy Commissioner position would only be needed if a CEO system replaced the 3 Commissioner system.

How to ensure fairness in hearings: There are very few hearings within. Most regulators conduct the rules.

Statutory changes if enforcement transfers to safety 7/1/10: At least 27 current statutory references would have to be deleted, amended or added in order for the transfer to be successfully implemented.

A CAUTION! The state should be extremely careful about falling prey to various sirens regarding the short-term money to plug temporary General Fund budget gaps by Sale of valuable SLC assets and various privatization schemes. What happened in neighboring Maine should serve as a horrible example and warning sign for New Hampshire.

Overview of the Strategic plan:

- Policy and procedure development
- Legislative initiatives
- Advertising, marketing and merchandising
- Employee relations, selection and training
- Management of liquor and wine outlet stores
- Management of real estate
- Reduction of energy costs
- Loss prevention, safety and security
- Streamlining of procedures for cost reduction
- Data processing improvements

*For further information on the above overview, please refer to the hand-out from Commissioner Sweeney: NH State Liquor Commission Strategic plan FY 2011 and onward DRAFT: Policy and procedure development

Commissioner Malicka: We want to update and revitalize our chain of stores; they are as many as 15-18 years old. There are lots of areas of improvements for additional sales.

What we have in place is working. In a very short period of time the continued profits are there. We take it seriously with education and enforcement. The system works.

Senator D'Allesandro to Commissioner Sweeney: Bailment is a storage fee for the storage of alcohol- they pay to keep product in stock. Simple relief distribution system. It provides in adequate supply and doesn't have stock outs. There is a fee for that is specific, a case charge. Bailment increases the longer that it is on-sold. There is Inventory cost: labeling charges, transportation charge.

Senator Hassan asked how many bailments there were and Commissioner Sweeney answered 2. Storre Street in Concord and Nashua which are on contracts and operating with the extension now.

There is \$5 million out of the Nashua. Senator D'Allesandro stated that this had been an issue that has been discussed; do we do more or less?

Senator D'Allesandro asked about the refurbishing of the stores. There is an upgrade in order to keep products viable. What about square footage cost? We pay less than market rates, the owners of the plazas work with us. We do play more than some locations today. We do get added value.

Senator D'Allesandro is looking at modernization control, to keep the control looking for revenues. There is a committee that is looking into that.

Rep. Butler asked what is relative to the Commissioner's job, besides oversight responsibility. Commissioner Sweeney stated to provide the stores with visiting, oversight enforcement, Commission meetings, issuance licenses, plea bargains. It is generally a lot of work. There is certainly enough work.

Senator D'Allesandro talked about the State of Pennsylvania having 1.3 billion many more outlets. The Senator continued to say that the State of Pennsylvania looks up to us that even although we are a smaller state that we are better off. Marketing in sales, management in and out, IT work and inventory, we have become a long way. This was a cash business until the seventies.

Senator D'Allesandro asked Commissioner Sweeney about enforcement: The Commissioner stated that there are going to be complaints out there no matter what. We do not go out looking for trouble. When resolving issues especially when individuals are leaving the establishments such as: urinating, DUI etc When these situations arise typically we will contact the manager of the establishments and ask them to clean up the operation and provide them with assistance We are looking at the image they project. We have a premise check. With local option-complaints, we try to work with them-we have an obligation.

Rep. Butler Stated he was a license holder in the North Country. There have been complaints have lessened, but some behavior is threatening. How is enforcement perceived? And how is relationship established with restaurant and bars? Commissioner Sweeney stated that it is better, not just the places that are dangerous, but with general local establishments and serving the issue. Commissioner Sweeney continued stated that the commission is aware of the perception and are sensitive to it.

Rep. Shurtleff asked about facing the possibility of a higher fine (\$250 for a violation) and then accumulating a certain number of points. Chief Edwards responded with the typical citation process. Licensing Code 200 is in the RSA 178-179.

Rep. Kidder: Stated that the process with Chief Edwards is professional. The enforcement is educational based. The Communication between licenses and enforcement agency establishment has come a long way.

Rep. Butler asked about the consumer licensee and from their perspective. Response from Commissioner Mollica. The business field, you need to understand the pros and cons of the field. One should be involved in licensing, one in enforcement and one in business/running a large chain of stores. If someone has concerns we respond.

Commissioner Sweeney added that most other state agencies have somebody there that fulfills a role. Not sure we need to spend another 150 grand in salaries and benefits. Rep Butler added the he didn't want departments to be personality driven.

Senator Hassan asked about the backgrounds of appointees: What is the obligation from the commissioners to the commission and if an Ombudsman is based could it be interference? Scared to be retaliated, with out fearing reprisal, a very particular role. The Liquor Commission is small in a small state, the best intended person can be perceived as bias.

In closing:

Rep. Kidder suggested to the committee to see the warehouse.

Senator D'Allesandro would also like to visit the warehouse and the current situation where the activities take place, as well as seeing a new store. Retain in retro fit it. The re is more money retaining it.

Senator D'Allesandro would like to look more into the Licensing and Enforcement of the process, as they are intertwined.

Rep. Butler suggested that the committee needs to sit down, timeline appropriation, or transfers.

Senator D'Allesandro asked what happened with the Executive Director who was appointed from the 1970's and how was that affected to this commission?

This matter came to the Governor and Council. This subject will be talked about in future meeting.

Clark Corson will be added into the list of presenters in the September 7th meeting on how beer is distributed, what takes place and with commission.

Senator D'Allesandro would also like to look at local products how they are placed within state. Statutes that governed and how they are featured in the store.

Senator D'Allesandro talked about the State of Maine and how they moved a semi privatization and try to renegotiate. We are looked upon as a good operation and a good relationship.

Rep. Butler would like Maine to come and talk to us about their experience. Senator D'Allesandro said yes and would contact them to present to the committee.

Hearing closed at 2:45pm

Next Meeting date and outline of the next presentation:

Clark Corson Representative (Beverage Distributors of New Hampshire Inc) Mike Somers (Restaurant/Lodging Association) and Alex Ray, Jon Dumais (NH Grocer's Association) Representative Mary Beth Walz, Chief David Cahill (NH Chiefs of Police) Joe La Rocca (NH Wine and Spirit Broker Association)

Future meeting dates:

September 7, 12-3pm SH Room 100

sgw 8-23-10

2010 Study Committee

SB 181, Chapter 248:2, Laws of 2010

Meeting Report

TO: Members of the Committee

FROM: Shannon Whitehead, *Legislative Aide*

RE: Meeting report on **SB 181, Chapter 248:2 Laws of 2010** –*Committee to study the administrative structure and adjudicative process at the Liquor Commission*

MEETING DATE: September 7, 2010 **Time:** 12 Noon **Where:** SH 100

Committee members Present: Senator D'Allesandro, Senator Hassan, Senator Bradley, Rep. Butler, Rep. Kidder, and Rep. Shurtleff.

Committee members Absent: All members were present.

Regular Meeting: Small presentations scheduled

Senator D'Allesandro opened the meeting at 11: 57 am.

Clark Corson: NH Beverage Association

- Beer is assessed in all states in a gallon basis. 31 gallons in a barrel. A barrel today is 15 half gallons.

.36 cents a gallon tax (Maine)

.10 (11) (Massachusetts)

.30 (New Hampshire)
- Cross border sales. It is essential that the State of NH, to never consider tax on beer... especially with the economic ramifications.
- Reverse distribution cost is deadly. We are a tourist state. Sold to non residents.
- 68 % all beer sold in a 10 mile radius and from our bordering states. Beer tax increase in 1976, 18 cents to 33 cents.
- "The Bottle Bill." 29 attempts to enact a bottle bill. Every chair has been a co-sponsor to the "Bottle bill."

- Why do we sell so much beer? We have reached a saturation point. 42 gallons of beer are sold to every person over 21. Sales per capita of beer are the highest in the nation. State of Montana the largest 4th in size over 800,000 people. Then Nevada. NH enjoys the distinctions.
- NH is the number one in sales with distilled spirit and 2nd to the District of Columbia and generally a tourist state.
- 1983 bottle bill came effective. Feb 15th increased 18 percent. At 30 cents a gallon and leveled off to 13 percent.
- Commission has 3 Auditors. Premise accounts, coming out of state and coming in. and off premise. Those three audits (monthly basis) 69-90 brewers supply brewers and/or importers. 10 million a year, distributors.
- Beer is a perishable product to be sold in 120 days. (Refer to chapter 180, Territory and Franchise).
- 230,000 work for distributors in NH alone. There are about 700 trucks. Operates quasi independent. We are judges and competent. Beer exercise taxes, limited credit laws, a complex industry. NH can be proud of its laws. With licensing and enforcement. 70 and 90 different suppliers to distribute to this state.
- A net contribution. How important is beer? People come to NH to drink beer. When tobacco is increased, they come here for beer. The State of the State we have created for ourselves.
- Counterpart Ralph Pears fro the State of Maine: Sent Clark Corson an email responding to Maine's experience moving alcohol beverage enforcement and licensing its version of Department of Safety. (Letter from Mr. Pears read by Clark Corson handed in to committee members)
- Rep. Butler asked about the bottle bill, reverse distribution and what the cost is with bottle bill? Clark Corson responded that he didn't know, an opportunity that Delaware receded. That might be something that John Dumais may know.

Mike Somers and Alex Ray: NH Lodging and Restaurant Association

- NHLRA is opposed to the pending transfer of Liquor Enforcement to the Department of Safety and encourages this committee to act on legislation that would repeal the move. We feel that enforcement should remain at the Liquor Commission, but feel there needs to be some checks and balances added to the system.
- The industry is very concerned that should Liquor Enforcement be allowed to move to the Department of Safety a change in mission would take place.

- Currently, the mission of the enforcement division is to keep licensees open for business in a safe and responsible manner through appropriate checks and regular training seminars. The industry worries that within the Department of Safety a less business friendly culture would develop- one where success could be measured by the number of violations.
- There is a different mind set with the Liquor Commission, not just pro business. We want licensing, safety and responsibility, which is what NH, is about. Department of Safety issues most violations (concern of livelihood).
- The Liquor Commission has been responsive. The Association and the board of directors would like to see it with 3 Commissioners. There needs to be a breaking up, there is a lot to handle.
- Historically the Commission always functioned best when there were three commissioners in place that were engaged and active. The issues that have risen seem to stem from a breakdown in the commissioners structure.
- Does it make sense to have criteria for Liquor Commission candidates? This would determine the allocation of responsibilities and strengthen the Commission. The most likely breakdown would be a commissioner with a background in Sales and Marketing, a commissioner with a business background with some experience in the licensed community and a commissioner with experience in regulatory oversight.
- With a 6 year terms staggered by 2 years it allows for an institutional memory that ensures a smooth transition and continuity from one administration to the next. The Liquor Commission is too important of a revenue source for the state to risk turmoil and upheaval that could rise during the transition from one Executive Director to another. A single Executive Director who would hear appeals could well lead to personality conflicts between a licensee and the Director- with only recourse currently being an appeal to the courts; this would be an exorbitantly expensive option for licensees.
- Potentially with Liquor Enforcement, it would be overwhelming to just one individual. The revenue stream is very valuable. Looking at the adjudicatory issue and personality issue, we should look at refreshing the independent appeals process and consider a panel.
- There is clearly a need for an independent third party to hear panels. The industry has long felt that the deck is always stacked against you- with the Commissioners and the Chief of Enforcement being on one of a hearing and the licensees on the other. A third party appeals process would eliminate any perceived conflicts of interest. We support the idea of an ombudsman provided the function of that position is to hear appeals as an impartial third party and appointed by someone outside the Liquor Commission.
- In 2009 the NHLRA worked with the Liquor Commission to adjust the standard uniform for Liquor Enforcement officers to one of a business casual uniform.

- Alex Ray stated that he was proud of the Liquor Commission on purchasing to retail, and enforcement. It is clean and not too commercial. For Economic aide it is 150 million to our state. Mr. Ray added that he was opposed to movement with enforcement to the Department of Safety. What we have in place now is fair and transparent, public, with on-site professionalism, quality and education.
- There is a fear in moving on to the “other side.” ~Mr. Ray stated the he just doesn’t see the kind of culture with Department of Safety. Culturally civil. Its legal forces, with too much of the forces.
- NH way of living may be threatened with its way of living. Maybe looking at a private public sector or maybe to consider another body for an appeal process as Mike Somers stated.
- Rep. Kidder asked Mr. Somers his thoughts over the last 10- 15 years from the enforcement which has gone from an intimidation type to an education part. Mr. Somers said yes, but with cycles up and down. There has been a shift of culture and licensees of education and operating responsibly. Keeping licensed places open.
- Senator D’Allesandro asked about the appeal board suggestions to Mike Somers. How would we operate outside the venue to be responsible in a positive fashion where we wouldn’t get a lot of pressure? The response was that the member would be appointed independently or by Governor.
- Mr. Ray added the example of how the Department of Environmental Science operates. It is not enforcement enforcing enforcement~ it’s a wider breath in the field, it is the knowledgeable and not embedded.
- Senator Hassan stated to Mike Somers, when everyone is in charge no one is in charge. A concern is that with an organization, it’s not clear where the accountability rests. Mike Somers responded that there should be criteria for the three commissioners. A regulatory back ground, sales and marketing, a licensing community. A model to define each commissioner.
- Rep. Butler stated that Mike Somers mentioned “cycles” of a better relationship with the commission on enforcement. Rep. Butlers put out that question of, are there ways that can be less personality driven and better managed so the “cycles” don’t happen as often?
- Alex Ray stated that enforcement has been pretty consistent. The operation has become more of a business relationship. With either party, it has worked well keeping things local.
- Alex Ray and Mike Somers wanted to recognize the hard work for our current commissioners- Mollica and Sweeney, they have done an excellent job of stepping up to the plate and keeping the commission on track this year.

John Dumais: NH Grocers Association.

- The Grocers Association was established in 1933, after probation ended specifically to give grocers a voice on alcoholic beverage issues. We have a proud heritage of working along with the Liquor Commission ever since. Through the years we have worked with the Commission and the Legislature to develop open licensing; the expansion into table wines, fortified and desert wines, During this time, those who have represented the association have always provided frank and accurate information to the Commission and Legislature.
- Careful analysis carefully shows that the area with the greatest level of achievement has been in the Enforcement Division~ particularly under the administration of Chief Edwards, enforcement transparency has been substantially increased. In addition, the lines of communication and understanding have been significantly enhanced. Today the Enforcement Division is not perfect, but than again neither are licensees always 100% correct? Nevertheless with ongoing educational programs, grocers presently have a 93% compliance rate in not selling to underage or intoxicated individuals.
- Today the NHGA greatest concerns remain with the rest of the Liquor Commission and the Legislature. We are frustrated in our attempt to expand the agency stores concept. The Commission has always had the authority and in fact, in the past approved three food stores to sell spirits. However these were only located in very remote areas where the Liquor Commission never wanted to operate. The benefit to the retailer? A mere restricted 8% gross profit on spirit sales while they were averaging 20% on wines and over 25% on beer products. That controlled 8% is very minimal when you understand that their 'breakeven point' is about 18 to 20%.
- When we saw the state was going to be facing short falls in 2009, we offered several reasonable alternatives to increased business and commodity taxes. Because our state is so heavily dependent on cross border and tourism sales we understood the consequences greater taxes can bring-and have.
- As a replacement we offered a system to expand convenience and selection of spirit sales to these transient customers (which make up over 45% of our total sales) Instead the legislature with the collaboration of the Liquor Commission took the 15 highest volume off-premise licensees and increased their wholesale prices on wine 5% more than all other retailers. Why do this? At the time retailers were selling 51% of all wines in the state and state stores accounted for 49%. Today we predicted back then; these larger retailers would loose the incentive to feature more sales. The results as Commissioner Sweeney recently testified was that the state stores now account for 60% of those sales while food stores are only at 40%. Has it resulted in more bottles being sold? not really. All that has happened is that the reputation of all foods stores, large and small, has been tarnished just to make state stores look better.
- The outcome of the 2009 legislature was a bill that modernized the Liquor Commission. Part was to completely change and restrict the Commission's authority to open agency

stores. It restricted the commission to opening only 8 more agency stores in 2 years and then complicated this process to the point where nothing could happen. This past summer our organization has had several meetings with Governor Lynch. He is convinced that allowing the expansion of agency store is necessary for the continued growth of the Liquor Commission revenues. Our follow up meeting with the Commissioners provided to be just the opposite where, we were told they would not consider at all.

- The rhetoric was the same as we have heard before. They want to ‘optimize than maximize’ revenue. We agree. To maximize means to generate the most revenue possible with out consideration of the consequences. We believe optimization can be achieved by opening a few additional agency stores and monitoring their sales. It would prove that we can sell it responsibly; will not increase non compliance; would assist many smaller, “Mom and Pop” on premise licensees with easier access to inventory and would generate more sales for the state.
- Our association has stood ready for several years to assist the state with its revenue needs. Our membership has the resources of manpower, locations, tie promotional products and hours of operation unmatched by state stores. It never has been our intent to close any state stores, but rather substantially supplement their sales with a continued high level of competence and compliance.
- Mr. Dumais talked about the recourse of the repeal process. That is appropriate. Mr. Dumais stated that he liked the 3 commissioners and each of their own responsibility.

NH House of Representative, Mary Beth Walz

- Rep. Walz stated that for only chairing for one year, somebody came to her about enforcement and there were complaints. People were afraid to come forward at that time.
- On the issue of Enforcement staying at the Liquor Commission. It was being dealt with by Finance at one point. The House Local Regulated Revenue committee looked at this as a policy issue. Enforcement should stay with the Liquor Commission and with that maybe there needs to be some internal changes.
- When this issue came over to the issue- In the “House Blurb” the experience that the State of Maine went through was noted. The State of Maine and their transfer has resulted in inconsistent enforcement activity and discrepancies across jurisdiction. Maine Legislators are now working to undo the move by disentangling Liquor Enforcement from the Department of Safety and moving it back to the Bureau of Alcoholic Beverages.
- Rep. Walz stated that she will provide the committee with the record of correspondence from the State of Maine. Proving the Stakeholder’s opinion regarding the transferring of enforcement to Department of Safety.

Chief David Cahill: President of NH Association of Chiefs of police

- The Association believes that the New Hampshire Liquor Commission should obtain authority and supervision of the Enforcement section not the Department of Safety.
- There is no proponent to the transfer in fact the Department of Safety has stayed neutral in the proceedings and there have been representatives who also are in support of the appeal to SB 181.
- Currently there is a director who is in charge of the Enforcement Bureau at NH Liquor. He is a member of the NH Chiefs and attends many of our meeting and conferences. The Director has worked his way from being an investigator to Sergeant, Lieutenant and now Director. He has changed the structure of the organization along with the philosophy of the Enforcement Bureau. The NH Liquor Commission Bureau of Enforcement is the leading education and training organization in the State of NH for Law Enforcement.
- There are approximately 23 underage alcohol task forces in New Hampshire that receive federal money disburse through the Office of the Liquor Commission Bureau of Enforcement and is a partner in almost everyone of those task force.
- I am the Project Director for the Sullivan County Underage Alcohol Task Force which runs out of the Sullivan County Sheriffs Office. Each time we conduct compliance check through out the county (102) at each licensee NH Liquor Enforcement is there working with us in the enforcement capacity More importantly when there is a licensee who presents a problem of public safety NH Liquor Enforcement provides resources for presentation to the employees on site providing education and training through the police agency
- New Hampshire Law Enforcement conducts many sobriety checkpoints across the State each year and the NH Liquor Enforcement is at every one of those supplying its resources from the van to the DRE, intoxilyzers and operators. Through the efforts of the Liquor Enforcement they have provided a wealth of training for these sobriety checkpoints as well as the hands on resources during the event.
- Wanted to point out that the NH Liquor Commissioner Bureau of Enforcement has a positive relationship with Local, State and County agencies across the State that any transfer or separation of this organization many not only slow the process of cooperation as stated above, but also have a negative impact to the quality of life to all citizens of NH.
- Chief Cahill added that the training, point system, repetitiveness that with out Liquor Enforcement we couldn't imagine handling it all. They supply their resources and knowledge.
- Example: There was a licensee (bar) in the Town of Sunapee. There was cocaine/drug abuse, fights, sex in public, etc. Chief Cahill stated that they had to put a detail police officer at the specific license location. Since then there have been no issues with the

efforts within the NH Liquor Commission, training, and security, there has been a 100 degree turnaround in the center.

- Rep. Butler asked a question to the committee of what the training with the enforcement is and what are the qualifications and experience needed? Senator D'Allesandro stated that Chief Edwards could provide information for us.

Joe La Rocca: NH Wine and Spirit Broker Association

- Bob Blaisdell introduced Mr. Joe La Rocca to the committee.
- Mr. La Rocca has 30 years involvement. What we do as a broker are local marketing companies. We sell orders and goods. Services may include programs and consumer interests, Interest with marketing material, spirit products, recruit new customers, retail stores, all scale wine vs. spirit, and stock shelves for some retail accounts and lobbying.
- We are in support of a 3 Commission. We want this to remain intact as is. Self improvement. The three member commission expertise, we want to echo that.
- Mr. La Rocca added that it provides for checks and balances and institutional knowledge and memory. They have passed on knowledge and growth. Responsibility sales and marketing with responsible consumption.
- Responsible movement is very important, the chairman's position. It is has generally carried the direction of the chair to lead the commission.
- Mr, La Rocca added that the enhancement of the stores demonstrates convenience and attraction. "If you price it, if you build it they will come."
- Senator D'Allesandro expressed to the members that there was never intention to move enforcement.

Frank Reinhold; Flag Hill Winery and Distillery

- 18 years of wine making, has seen ups and downs with State Liquor Commission and the enforcement. Very satisfied and hopes nothing changes. The industry is healthy.
- Raised the question with how to market the wines better. What is the perception? There are California, European, and Italian wines. We need to motivate New Hampshire wines!
- We need help promoting agriculture products. We need an avenue. If they are not dollar value-We don't have store shelf space. We would like to make room for this new industry. The tourism benefits and agriculture benefits.

- New Hampshire Wine Festival. We need legislation so that we are authorized in the state to have one. We had to turn away thousands because we are not authorized.
- 90 percent is made in NH, but the agriculture of it comes from New York. It is 1300 a ton to grow. We would like to see a wine farm winery bill for giving the incentives for planting.
- Rep. Shurtleff asked if there are issues of getting their wine products into the stores. Mr. Reinhold's response was that, if he doesn't make the sales he gets thrown off the shelf. Mr. Reinhold also mentioned that he would like to see access to the restaurants.

Peter Oldak: NH Winery Association

- The promoting for our local wines is poor. It is the height of harvest. It is the beauty and glory to see these NH wineries/vineyards. They are really a beautiful site to see. The grapes are picked by volunteers. We are keeping NH green. We are providing a valuable product here
- To keeping farm wineries, there is a cost to the land and it is growing. We run into resistance. There three wine trails in the state. We are growing industry.

Per Garp

- Handed information to the committee members referring to Winemakers (NH Winery) in the State of NH)
- Wine products on State Liquor shelves. Factors considered in Selection of products
- Understanding Fair (Business) practice documents for committee members to review
- News articles referring to NH wineries and local products and NH Liquor Stores.

Next meetings and future dates

- Tour the warehouse and a few Liquor Stores
- In process: State of Maine, Tim Poulin to come in to discuss their experience.
- Senator D'Allesandro closed the meeting at 1:50pm

**2010 Study Committee
SB 181, Chapter 248:2, Laws of 2010**

TOUR MEMO

TO: SB 181 Study Committee members

FROM: Shannon Whitehead, Aide to the committee

RE: Fact-finding tour on NH liquor retail stores and City of Concord Warehouse (50 Storr Street, Concord NH)

DATE: Tour: September 27, 2010

Committee members present

- Senator D'Allesandro
- Senator Hassan
- Rep. Butler
- Rep. Shurtleff

-
- ABSENT: Senator Bradley
 - ABSENT: Rep. Kidder

NH Liquor Commission present

- Earl Sweeney, Acting Commissioner
- Joe Mollica, Commissioner
- Andrew Davis, Real Estate and Planning and Project Manager/Coordinator

Manchester #3 (closed) St. Mary's Plaza 122 McGregor Street

- Located in West, Manchester. It is right next to a Rite Aide Pharmacy, tucked in, resulting in weak visibility.
- Generated less than 1 million in sales. Had many break-ins.
- This store's location was 2 to 3 miles from 3 other stores.
- Opened in 1974.
- The NHSLC is working to find this particular store a new location.

Bedford #55, Bedford Grove Plaza, 5 Colby Court

- Created in 2004
- Generates 5.5 to 6 million annual
- The store is constrained for the amount of money it brings in
- Has lower shelves for sale and service and has the back loading shelf.
- Many of the stores that are right next to a Market Basket, or Hannaford; for example, work with one another to not cross products.

- Case drop vs. a pellet drop (saves) (30 cents a case)
- Rep. Butler stated that it is good to see that management in the stores have the background on wine, encourages the sale of the product, supports, and shares knowledge on the wine to the customer.

Merrimack #59, Merrimack Shopping Ctr. Dobson Way

- Was a million and five to upgrade, this is an example of a super outlet store that would like to be seen in all NH stores.
- Designed for vast movement for retail
- It was noted by our committee members and even store employees that for our NH Wine that they sell it is not coming from NH grapes (a concern that was also raised during committee meetings from our NH wineries)
- Labelle (NH wine product) does do a tasting every 2-3 weeks. Promoting the NH wines and other NH signature spirit products. NH vodka, brandy, Limón cello.
- Sales are 59% up to date.
- Has attractive flyers promoting their sales and events

Manchester #10, 333 Lincoln Street

- Huge licensee store. It is not in a great location, but brings in 5 million.
- Huge selection of licensees that comes from this particular store. Great for licensee traffic.
- The store has quite a few break-ins. Cameras are placed and there are police officers on duty that work next door at the grocery store.

Manchester #33, North Side Plaza, 1100 Bicentennial Drive

- Similar to outlet store in Merrimack. Store #59
- Almost double the square footage of the original space-is part of the NHLC's goal to modernize the facilities state wide.
- A multifunctional space for shopping and in-store events.
- Although the new store isn't far from its former site in the plaza its come along way in terms of design: increased sales space, improved store layout, a new wine room and tasting area, a colorful mix of wood and metal shelving, additional check-out registers, state of the art lighting and signage.
- Has wine tastings and marketing of NH Wines and Spirits. The new wine area is called the "Vineyard Collection" The room features 300 wines (fine wines) around the world, giving a different concept.
- The wine tasting center enhances Friday night from 5-7pm that also enables the Manchester store to partner with local restaurants.
- Increased shelf depth allows employees to keep more products on the shelves, increasing open floor space and creating wider aisles.

Warehouse-Concord, NH(50 Storr Street, Concord NH)

- 50,000 Square foot
- Warehouse bring in highest volume on a Monday of 40%
- About 160,000 cases in the warehouse

- Open space with rail spur in the warehouse has a huge impact on warehouse with space. Approximately 20,000 additional cases can be stored in RR spur area.

Railroad Spur-Fill and Level

- Railroad spur Fill and Level FY 12-13 biennium -198,500
- 2,600 additional square footage
- Approximately 2,600 additional square footage

Racking project

- Started February 12, 2008
- Work completed in less than three weeks, minimal disruption
- Bailment:
 - *FY07-\$1,086,924
 - *FY08-\$1,138,460
 - *FY09- \$1,547,772 (+409,312)
 - *FY10-\$1,758,735
- Racking \$162,980
- Consult Engineer \$36,573
- Stretch Wrap Machine \$14,600
- Total cost of racking project-\$224,000; project paid for itself in about 6.5 months.

Other:

Attraction signs: Merrimack is the pilot site for the (Exit 11) sign (on highway)

ATTRactions		
NH Liquor Store and Wine Outlets	OTHER	OTHER

- Two of the most popular reasons for shopping at New Hampshire Liquor store and wine outlets stores are value and selection.
- Visitors come to NH specifically to purchase their wine and spirits tax free at NH's conveniently located stores.
- Successful strategies-debit and credit card sales, gift card sales, monthly feature 10% and 15% off sales, sales of accessories, "Branding" of the Outlet store concept, and modernization and updating of the stores such as Manchester store #33, Merrimack and Lebanon.

- The image that is being promoted: Best prices in the region, wide selection, never a tax and a pleasant, safe shopping experience.
- There is a lot of education following these stores for the guests/customers. No your tax!
- On the 93 south bound, the store generates 14 million, 93 north bound generates 16 million.
- NH-DOT has bought both 93 north and south bound store locations and will be re-doing/upgrading to new rest areas. Hampton stores north and south brings in 23 million and 25 million.
- Most popular and money driven stores are Portsmouth traffic circle and 95 north and 95 South bound stores.
- 50% of revenue is out of state. NH is 1 of 18 controlled states. 18 states and one country in the U.S have chosen to control the sale and distribution of alcohol at with regulatory agencies. The purpose of a controlled state is to optimize profit from the sales of alcohol while minimizing the ill effects to society.
- NH and 3 other states allow wine to be sold at both State stores and private wine outlets.
- Rep. Butler asked when DOT starts construction on the 93 North and 93 South bound stores, what would happen for the shoppers. Commissioner Sweeney responded that they will work with DOT and make sure there is communication to our shoppers. There was a thought of having a temporary store in the vicinity of the 93 North or South bound stores as the new ones are being built.
- Rep. Shurtleff asked if there would need to be additional warehouse space, where would that process start. Commissioner Earl Sweeney responded that it would have to be within the Capital Budget legislative process.
- NH Hampshire Liquor Commissions visions for the future website...go to: LiquorandWineOutlets.com

**NH State Liquor Commission
Strategic Plan
FY 2011 and Onward**

Goals, Objectives, Means and Measures***Policy and Procedure Development***

To adopt a system and protocols for the adoption and approval of formal written policies by the Commission and its Divisions, and to provide for the availability of those policies online at the Commission's intranet site and hard copies in binders for archival purposes.

To identify areas of the Commission's operations and practices that require additional controls through formal written policies, prepare those policies and check them with the Attorney General's Office and/or the State Ethics Commission, as applicable. This will include policies on the receipt and disposal of alcohol samples from brokers, wine tastings and business meetings with brokers.

To review and update policies of the Enforcement Division to align with national law enforcement accreditation standards, and to review appropriate standards of attire for Liquor Investigators when performing various tasks, and restrictions on involvement of Enforcement personnel in the enforcement of any laws outside Title XIII of the Revised Statutes Annotated.

To adopt a formal written policy regarding the involvement of the Commission in enforcement activities, including ensuring that there are no ex parte communications between Commissioners and Enforcement personnel regarding matters likely to come before the Commissioners for a hearing, and regarding conflict of interest and recusals.

Legislative Initiatives

To introduce legislation requiring that candidates for appointment as Liquor Commissioners pass a formal background investigation.

To introduce legislation requiring applicants to permit the Commission to check criminal history records, and to check driver history records with regard to any alcohol-involved driving offenses, and authorizing the Commission to develop standards for when these records would affect employability, depending on the position applied for and other relevant criteria.

To support legislation that would provide for dedicating a certain percent of net profit each year to the modernization and updating of Outlet Stores.

To determine the legal and labor issues and therefore the feasibility of repealing current statutory provisions that require payment of time and one-half to employees working in

Outlet Stores on Sunday in circumstances where they are not exceeding 40 hours in that week.

To introduce legislation to simplify the licensing process by more utilization of the concept of combination licenses.

To resolve the outstanding issue regarding compensation of the 3 unclassified Directors' positions and ensure a proper spread in salaries between these individuals and their highest paid subordinates and between Commissioners and Directors.

To amend the current statute limiting the delivery of samples to licensees to include similar restrictions regarding submission of samples of new products to the Commission and proper disposal of samples of products when listed and when not listed.

Advertising, Marketing and Merchandising Strategies and Initiatives

To continue to aggressively market our New Hampshire Liquor and Wine Outlet brand in neighboring states with emphasis on value, selection, never a tax, and a pleasant, safe shopping experience.

To ensure that the perception of potential consumers is that New Hampshire state liquor stores are equally as competitive on wine prices vs. out of state stores as they are on spirits prices. To ensure this through collaboration with brokers to obtain the best prices on well known and popular items and to experiment with reducing gross profit requirements in order to increase sales volume and thereby net profit.

To focus on known value items (national brands, high velocity brands, and mid-level products) with pilot programs to ensure a favorable "everyday low price" perception and competitive position vis-à-vis neighboring states and through trial and error determine how much net profit can be increased through greater volume by reducing gross profit requirements on selected items.

To capitalize on price differences with competing states by aggressively promoting a "know your tax" advertising strategy that educates customers that the bottom line advertised price for a given product in their state does not take into consideration the 5% to 6.25% sales tax in that state.

To modify our existing Verifone point of sale cash register systems to facilitate the voluntary acquisition of customer email addresses to supplement the 30,000 that we now have, that enable the Commission to provide coupons, information about current bargains and other incentives to do business with us, and to target our or advertising strategies the most cost-effectively

To modify our email signup to include interest categories (skiing, camping, NASCAR, etc.) so that we can selectively market to these groups at key times.

To develop a rest area advertising presence at all major rest areas and particularly at I-95 in Seabrook.

To broaden our interaction with NH's Lottery Commission, Travel and Tourism, Fish and Game, and NH-made products, to leverage our collective advertising dollars in joint promotions at our high-volume highway locations.

To partner with the major Lakes Region, North Country and Monadnock area attractions during the summer months with the distribution of advertising materials and value coupons.

To refine our advertising strategies by measures such as marketing to tour groups, travel agents, travel website owners and tour bus travelers; inclusion in our advertising efforts of Central Vermont and coastal (Down East high-end second homes) areas as well as Central Maine areas that shop in our Eastern border stores (Conway, Gorham, Rochester, Somersworth, Dover, etc.).

To increase awareness at our State-run campgrounds by offering campers store information and coupons at check-in time or at the time of confirmation of their online reservations.

To expand ski area programs to distribute information on our Outlet Stores and increase awareness.

To expand advertising and participation with high volume tourist attractions including State fairs, the NH Motor Speedway, and unique opportunities such as boat shows, home shows (specifically kitchen-oriented ones) and other events that attract consumers that own high-end products.

To promote the convenience and time-saving (and increase incremental sales) to consumers ordering online for in-store product pickup.

To utilize electronic billboard advertising within Border States to increase awareness of the value and selection offered at our Outlets Stores and their locations.

To develop and execute a one-time use customer discount card to distribute to customers based on the dollar amount of their purchase during non-peak business periods, thus providing a New Hampshire advantage in areas where our out-of-state competition is inactive, and giving us the flexibility to use with specific product categories or our entire assortment.

To conduct a pilot program of renting a temporary location near the Massachusetts border each year for an annual "blow-out" sale to rid the inventory at stores and the warehouses of slow-moving items, providing a quick infusion of cash, reducing the in-store inventory carrying costs and reducing bailment costs to the brokers thereby enabling them to pass

along some of these savings to SLC and ultimately the customers in the form of lower pricing.

Employee Relations, Selection and Training

To distribute an employee opinion survey to all SLC employees, tally the results to determine the state of employee morale, and adopt as part of the Strategic Plan those employee suggestions that are feasible and have merit.

To form a joint Labor Management Committee with the two labor unions with regularly scheduled meetings.

To provide store managers with additional input into the hiring process for new personnel and the promotional process for existing personnel by having managers complete a structured questionnaire regarding the applicant's perceived strengths and weaknesses, and if already an employee, their job performance and initiative to date.

To increase the amount and quality of initial and ongoing training given to Commission employees with particular emphasis on low frequency, high risk areas, through the use of personal presentations and the "Moodle" system of computer-based training. Such training to include but not be limited to ethical issues, sexual harassment policy, cultural diversity, computer skills, safety and injury prevention, customer service and sales techniques.

To increase the knowledge base of store employees in the sale of wines and spirits, product and food pairings and up-selling techniques, through face to face and online training courses.

To provide formal employee succession planning to cope with the possibility of knowledge drain as an aging work force retires.

To finish the continuity of operations plan with the assistance of the Department of Safety's Division of Homeland Security and Emergency Management.

Management of Liquor and Wine Outlet Stores

To identify those stores where operating expenses exceed 8% of sales, and develop action plans to bring those operating expenses into line.

To develop a formal, multi-part inspection sheet for area managers and headquarters store management personnel to use when visiting liquor stores, with one copy to be left with the store manager, one for the area manager, and one for the Commission's files. Special attention should be paid to areas of cleanliness, cluttering and crowding, minimal amount of empty boxes at the front of the store for packing large orders, clutter at checkout counters, tripping hazards from bottles protruding from shelving units, and disorganization and lack of security in back rooms. The immediate prior report to be

referenced when making the next inspection, to determine if areas of concern have been rectified.

To investigate the cost and possibility of changing the delivery schedule of product to the liquor stores, and the feasibility of arranging for off-hours deliveries to some stores and a seven-day delivery schedule at our highest volume stores in the 2012 transportation contract. This will guard against out-of-stock situations and ensure that receipt of deliveries does not adversely impact customer wait time at the registers.

To prepare an RFP for the current warehousing and transportation contract that expires in 2012, constructing the RFP in such a way as to enable bidders to bid separately and in combination on warehousing and transportation, to enable bidding based both on the State continuing to maintain a warehouse and farming out all warehousing operations (to assist in decision making regarding the feasibility of continuing to maintain or expand the State-operated warehouse) and to provide that bidders must submit a continuity of operations plan to minimize the potential effects of the single point of failure that currently exists.

To reduce the currently high number of SKU's in low-volume stores by careful study of customer buying habits and promoting on-line ordering and the concept of exchange of inventory among stores.

To ensure that all stores are adhering to the concept of "value ladder" shelving where the highest priced items are on the top shelf and prices decline systematically toward the bottom shelves.

To expand special ordering capabilities for hard-to-find wines and spirits.

To work with the NH Sweepstakes Commission to reduce and streamline the paperwork involved with sweepstakes sales at liquor stores.

To modernize store shelving in all stores to include more accessible and practical wine racks and spirits shelving that is easier to stock, holds larger quantities and provides more facings.

To study wine selections to ensure that New Hampshire is noted for the widest selection in New England and yet does not carry so many brands that popular brands are crowded out of shelf space.

To enhance SKU optimization through conducting quarterly reviews of individual stock-keeping units' performance, removing from sale or relegating to special order basis those SKU items that do not produce an acceptable amount of gross profit, and adding selectively accessory items such as mixers and wine glasses.

To conduct customer surveys and survey store managers and personnel to determine the optimal opening and closing hours for each store and wherever it is cost-effective to

adjust those hours and with consideration to both sales enhancement and quality of life issues, to make those adjustments.

To program in-store computer systems to capture sales refusals to determine the rates at which customers are being refused for being under-age or intoxicated, as a quality control measure.

To analyze the feasibility of employing one or more full-time "floaters" to reduce costs of coverage for annual and sick leave in selected stores.

Real Estate Management

To proceed expeditiously with plans for maintaining operations while rebuilding or demolishing and building new Outlet Stores on I-93 north and south in Hooksett to coincide with DOT's issuance of ground leases for commercial development at those locations, so as to coincide the two efforts to minimize interruption to the traveling public and hasten the prospect of increased sales through increasing the sales space at those two locations.

To identify any environmental and other issues that might affect the development of the SLC-owned real estate adjacent to the I-95 northbound and southbound stores and if this feasibility study is favorable, to issue an RFP for a ground lease for commercial development at those locations to provide a one-time and ongoing infusion of cash to the General Fund.

To explore the possibility of providing a small "duty-free" type Outlet Store within the terminal at the Manchester/Boston Regional Airport.

To proceed as expeditiously as possible with plans to improve retail stores #2 in Chesterfield, #69 on Coliseum Avenue in Nashua, #21 in Peterborough, and #41 in Seabrook.

To develop and annually update a profile of each liquor store in the system, to include whether leased or owned, amount of lease payments, lease expiration date, number of full and part-time personnel assigned, annual sales, sales by month, operating costs as a percentage of sales, population served, hours of operation, condition of the building, accessibility for deliveries, space needs for the storage of product, leasehold improvements needed, other deficiencies and needs, and opportunities to relocate or consolidate, and make changes accordingly.

To use the above information to produce and annually update a prioritized list of stores in need of modernization and updating, based on the capabilities of in-house maintenance personnel and the availability and affordability of outside contractors, and provide in the biennial budget requests for the appropriation of a fixed percentage of each year's total revenues for the updating and/or relocation of stores based on need, years elapsed since the last update, and strategic location of the stores.

To select one or two stores near the border to develop and promote an image as “Super Stores” and evaluate the impact on sales.

To improve retail store highway signage with the assistance of the NHDOT as outlined in HB-2.

To develop a long-term strategy to address space requirements at headquarters including greater privacy for persons handling confidential matter such as employee relations, and more efficient work flows by grouping like functions together.

To obtain an independent valuation appraisal of the headquarters/warehouse and Store #1 complex in Concord and determine the whether it is economically feasible to sell or lease this property and relocate through the purchase or lease of other properties in the Concord area.

Strategies for Reduction of Energy Costs

To expand our current “green initiative” by acquiring additional energy-efficient lighting (LED interior lighting and exterior signage), eco-friendly paint and low-flow bathroom fixtures at more locations and installing energy-producing measures (photovoltaic, solar and wind driven power generation) at our two coastal I-95 Hampton stores.

To review and update policies on the Commission’s fleet, including types of vehicles purchased, phasing of replacement vehicles, use of synthetic oil and prolonged oil change intervals, training of employees in fuel-saving methods of vehicle operation, use of spare vehicles to avoid payment of mileage, and assignment of vehicles to individuals.

To implement a “receipt-less” option on our point of sale registers for our customers, many of whom refuse the receipt, thus saving paper and time.

Loss Prevention, Safety and Security

To determine the cost of staffing stores in a manner that ensures that a lone employee is never on duty in a liquor store, develop the most cost-effective means of doing this through creative scheduling where possible, and develop a prioritized list for addressing those stores in a phased manner in future budget requests.

To determine the cost and feasibility of providing armored car service to the liquor stores for bank deposits, prioritize those stores where the need is most critical, and address the need in a phased manner in future budget requests.

To develop a phased plan and budget for updating video monitoring equipment in stores where the equipment is missing or obsolete, with emphasis on web-based monitoring systems wherever feasible.

To provide additional training to members of the Enforcement Division in issues of industrial security, establish a departmental Security and Safety Committee, and increase the emphasis and involvement of the Enforcement Division in such issues as detection and investigation of shoplifting, employee fraud, breakage and industrial safety, with the Enforcement Division taking the lead as the Commission's industrial security arm.

To develop and implement a formal shoplifting prevention and detection program. starting with the highest-risk stores.

To analyze the cost to benefit ratio of using RFID bottle tags and door monitors for our high shoplifting border area stores.

To team Internal Audit with Enforcement and analyze the potential for employee theft and fraud, possible systemic weaknesses that would enable employee theft and fraud, and establish integrity testing and targeted surveillance methods to detect and deter theft and fraud.

To review storage space needs at liquor stores and determine means to ensure that product is not stored in such a manner that boxes are likely to tip over and cause injuries or breakage.

To review wine displays in the various stores and develop methods of display and storage of wines that are more attractive to customers and conducive to ease and safety of refilling by employees.

To review the store safety manual and procedures and the work of the Safety Committee in an effort to reduce or eliminate worker's compensation claims.

Procedure Streamlining and Cost Reduction Measures

To obtain the assistance of other State agencies experienced in the process (e.g. Health and Human Services, Safety, etc.) to train a cadre of SLC employees in the LEAN process improvement methodology, and institute at SLC.

To design and implement acceptable electronic versions of mileage statements, vehicle usage statements, fuel logs, and employee appraisals to streamline these processes and save time and materials, including the use of a personal computer screen as a display tool during the annual employee appraisal/discussion meeting.

To develop an agency-wide "customer first" policy where our customers needs (retail customers and wholesale "licensee" customers coming to our stores, offices and warehouse, and our internal customers -our store employees - are given the utmost priority, including solidification and expansion and support of our Customer Service Interaction program, reduced/combined emails to our stores, shipment of rollouts and new items on non-high volume load days, job exchanges which allow store employees to

spend a day as secret shoppers at other store locations, facilitation of more effective meetings and interactions between all departments and store personnel.

Data Processing Strategies

To develop statewide compatible systems to digitize information and increase operational efficiencies while dramatically reducing the number of paper documents and physical space devoted to archival storage requirements.

To replace the existing MAPPER and point-of-sale systems with a more modern and user-friendly system.

To streamline the inventory system through the procurement of additional next-generation Dolphin devices.

To implement an agency-wide Voice over Internet Protocol (VOIP) telephone system with attendant savings of toll call expenses.

To finish development of a new online licensee ordering system and a web-based customer ordering system.

To provide adequate bandwidth and development efforts to facilitate web-based training for Commission employees using the "Moodle" system and to enable streaming video from store security cameras to headquarters.

To deploy a system of electronic shelf labels for products to save time and labor costs in making frequent product price changes because of monthly sales, etc.

To evaluate the cost to benefit of providing laptop computers with remote access for the 10 store Supervisor/Managers to allow immediate entry of the results of their store visits (maintenance needs, store issues, etc.) and facilitate communication from headquarters when they are visiting their assigned stores.

To provide electricity generation capability in case of power outages in our busiest stores, perhaps through acquiring a single, large portable generation that could be quickly deployed to a location where a protracted power outage is in progress.



New Hampshire Liquor Commission

50 Storrs Street, P.O. Box 503
Concord, N.H. 03302-0503
(603) 271-3755

Mark M. Bodi
Chairman

Joseph W. Mollica
Commissioner

Earl M. Sweeney
Acting Commissioner

BAILMENT:

A legal relationship created when a person gives property to someone else for safekeeping. To create a bailment, the other party must knowingly have exclusive control over the property. The receiver must use reasonable care to protect the property.

This word is derived from the French, *bailier*, to deliver. It is a compendious expression, to signify a contract resulting from delivery. It has been defined to be a delivery of goods on a condition, express or implied, that they shall be restored by the bailee to the bailor, or according to his directions, as soon as the purposes for which they are bailed shall be answered. Or it is a delivery of goods in trust, on a contract either expressed or implied, that the trust shall be duly executed, and the goods redelivered, as soon as the time or use for which they are bailed shall have elapsed or be performed.

Part Liq 401 DEFINITIONS

Liq 401.01 Definition of Terms. For this chapter only, the following terms shall be construed as set forth below:

- (a) "Bailment" means a system providing for delivery of vendor owned liquor and wine by the vendor's agent at a NHSLC owned or licensed liquor and wine warehouse for transfer to state owned liquor stores or retail licensees.
- (b) "Bailment warehouse" means the holder of a NH liquor and wine warehouse license under contract to the NHSLC to provide bailment services, or the NHSLC or contracted agent providing such services at NHSLC owned warehouse facilities.
- (c) "Acceptable payment" means payment by cash, approved credit card, approved debit card, or pre-approved check.
- (d) "Approved credit" means a sale on terms pursuant to Liq 900.

Liq 401.02 Bailment Warehouse Fees.

- (a) Bailment warehouse fees shall be paid by vendors unless exempted by statute or rule. Vendor fees for bailment warehouse services shall be specified by contract between the NHSLC and the bailment warehouse(s).
- (b) Contracted fees shall be charged to all vendors equally by the bailment warehouse(s).
- (c) The NHSLC shall charge the same fees as contracted in (b) above at NHSLC owned warehouses except that no fee shall be charged on liquor and wine products manufactured in NH by any vendor who:
 - (1) Is licensed as a liquor manufacturer pursuant to RSA 178:6, a rectifier pursuant to RSA 178:7, or a wine manufacturer pursuant to RSA 178:8;
 - (2) Maintains a federally bonded liquor warehouse in the state; and
 - (3) Maintains an inventory equal to 30 days average sales for each brand code registered with the commission.
- (d) The NHSLC shall make available to vendors the contracted fees charged by bailment warehouses.

Liq 401.03 Vendor Inventory.

- (a) Liquor and wine vendors shall maintain at a bailment site designated by the commission inventory equal to 30 days average sales for each brand code registered with the commission.**
- (b) The NHSLC shall issue administrative notices of violation to vendors when inventory shortages cause out of stock situations.**

Liq 401.04 Inactive Brand Codes. Vendors shall remove all products which do not have an active NHSLC brand code from bailment within 60 days.

Liq 401.05 Damaged Products. Vendors shall remove or have destroyed all products that are damaged from bailment within 60 days.

Liq 401.06 Commission Control of Bailment Product. Products with active NHSLC brand codes shall not be removed from bailment except to be delivered to NHSLC control or for shipment out of state with written permission from the NHSLC, which shall be granted for stock in excess of NHSLC requirements.

Voting Sheets

Senate Ways & Means Committee

EXECUTIVE SESSION

Bill # 181-FN-A

Hearing date: 02/17/2009 + 03/03/09

Executive session date: 03/05/09

Motion of: RR

VOTE: 5-0

Made by Odell
Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Denley
 Downing

Seconded Odell
by Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Denley
 Downing

Reported Odell
by Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Denley
 Downing

Motion of: _____

VOTE: _____

Made by Odell
Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Denley
 Downing

Seconded Odell
by Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Denley
 Downing

Reported Odell
by Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Denley
 Downing

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Odell, Chairman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Senator D'Allesandro, Vice-Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Gilmour	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Janeway	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Reynolds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Denley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Downing	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Amendments: _____

Notes: _____

Senate Ways & Means Committee

EXECUTIVE SESSION

Bill # 181-FN-A

Hearing date: 03 / 17 / 09

Executive session date: 03 / 31 / 09

Motion of: RR

VOTE: 6-0

Made by
Senator:

Odell	<input type="checkbox"/>
D'Allesandro	<input type="checkbox"/>
Gilmour	<input type="checkbox"/>
Janeway	<input type="checkbox"/>
Reynolds	<input checked="" type="checkbox"/>
Denley	<input type="checkbox"/>
Downing	<input type="checkbox"/>

Seconded
by Senator:

Odell	<input type="checkbox"/>
D'Allesandro	<input checked="" type="checkbox"/>
Gilmour	<input type="checkbox"/>
Janeway	<input type="checkbox"/>
Reynolds	<input type="checkbox"/>
Denley	<input type="checkbox"/>
Downing	<input type="checkbox"/>

Reported
by Senator:

Odell	<input checked="" type="checkbox"/>
D'Allesandro	<input type="checkbox"/>
Gilmour	<input type="checkbox"/>
Janeway	<input type="checkbox"/>
Reynolds	<input type="checkbox"/>
Denley	<input type="checkbox"/>
Downing	<input type="checkbox"/>

Motion of: _____

VOTE: _____

Made by
Senator:

Odell	<input type="checkbox"/>
D'Allesandro	<input type="checkbox"/>
Gilmour	<input type="checkbox"/>
Janeway	<input type="checkbox"/>
Reynolds	<input type="checkbox"/>
Denley	<input type="checkbox"/>
Downing	<input type="checkbox"/>

Seconded
by Senator:

Odell	<input type="checkbox"/>
D'Allesandro	<input type="checkbox"/>
Gilmour	<input type="checkbox"/>
Janeway	<input type="checkbox"/>
Reynolds	<input type="checkbox"/>
Denley	<input type="checkbox"/>
Downing	<input type="checkbox"/>

Reported
by Senator:

Odell	<input type="checkbox"/>
D'Allesandro	<input type="checkbox"/>
Gilmour	<input type="checkbox"/>
Janeway	<input type="checkbox"/>
Reynolds	<input type="checkbox"/>
Denley	<input type="checkbox"/>
Downing	<input type="checkbox"/>

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Odell, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator D'Allesandro, Vice-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Gilmour	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Janeway	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Reynolds	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Denley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Downing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Amendments: _____

Notes: _____

Senate Ways & Means Committee

EXECUTIVE SESSION

Bill # 9B181

Hearing date: 3/3/09

Executive session date: 1/19/01

Motion of: Amendment 0113

VOTE: 4-0

<u>Made by</u> Odell <input type="checkbox"/>	<u>Seconded</u> Odell <input type="checkbox"/>	<u>Reported</u> Odell <input type="checkbox"/>
<u>Senator:</u> D'Allesandro <input checked="" type="checkbox"/>	<u>by Senator:</u> D'Allesandro <input type="checkbox"/>	<u>by Senator:</u> D'Allesandro <input type="checkbox"/>
Gilmour <input type="checkbox"/>	Gilmour <input type="checkbox"/>	Gilmour <input type="checkbox"/>
Janeway <input type="checkbox"/>	Janeway <input checked="" type="checkbox"/>	Janeway <input type="checkbox"/>
Reynolds <input type="checkbox"/>	Reynolds <input type="checkbox"/>	Reynolds <input type="checkbox"/>
Bradley <input type="checkbox"/>	Bradley <input type="checkbox"/>	Bradley <input type="checkbox"/>
Downing <input type="checkbox"/>	Downing <input type="checkbox"/>	Downing <input type="checkbox"/>

Motion of: OTP/A

VOTE: _____

<u>Made by</u> Odell <input type="checkbox"/>	<u>Seconded</u> Odell <input type="checkbox"/>	<u>Reported</u> Odell <input checked="" type="checkbox"/>
<u>Senator:</u> D'Allesandro <input checked="" type="checkbox"/>	<u>by Senator:</u> D'Allesandro <input type="checkbox"/>	<u>by Senator:</u> D'Allesandro <input type="checkbox"/>
Gilmour <input type="checkbox"/>	Gilmour <input type="checkbox"/>	Gilmour <input type="checkbox"/>
Janeway <input type="checkbox"/>	Janeway <input checked="" type="checkbox"/>	Janeway <input type="checkbox"/>
Reynolds <input type="checkbox"/>	Reynolds <input type="checkbox"/>	Reynolds <input type="checkbox"/>
Bradley <input type="checkbox"/>	Bradley <input type="checkbox"/>	Bradley <input type="checkbox"/>
Downing <input type="checkbox"/>	Downing <input type="checkbox"/>	Downing <input type="checkbox"/>

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Odell, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator D'Allesandro, Vice-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Gilmour	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Janeway	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Reynolds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Bradley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Downing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Amendments: _____

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: 03/05/2009

THE COMMITTEE ON Ways and Means

to which was referred Senate Bill 181-FN-A

AN ACT relative to the liquor commission and alcoholic beverages.

Having considered the same, the committee recommends that the Bill:

BE RE-REFERRED TO COMMITTEE

BY A VOTE OF: 5-0

AMENDMENT # s

Senator Bob Odell
For the Committee

Laurette Joppie 271-3067

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: 03/31/2009

THE COMMITTEE ON Ways and Means
to which was referred Senate Bill 181-FN-A

AN ACT relative to the liquor commission and alcoholic beverages.

Having considered the same, the committee recommends that the Bill:

BE RE-REFERRED TO COMMITTEE

BY A VOTE OF: 6-0

AMENDMENT # s

Senator Bob Odell
For the Committee

Laurette Joppie 271-3067

New Hampshire General Court - Bill Status System

Docket of SB181

Docket Abbreviations

Bill Title: relative to the liquor commission and alcoholic beverages.*Official Docket of SB181:*

Date	Body	Description
02/04/2009	S	Introduced and Referred to Ways & Means
02/11/2009	S	Hearing; === RECESSED === February 17, 2009, Room 100, State House, 11:15 a.m.; SC11
02/17/2009	S	Hearing; === CANCELLED === RECONVENE === March 3, 2009, Room 100, State House, 10:40 a.m.; SC12
02/26/2009	S	Hearing; === TIME CHANGE === RECONVENE === March 3, 2009, Room 100, State House, 10:30 a.m.; SC13
03/05/2009	S	Committee Report; Rereferred To Committee [03/11/09]; SC14
03/11/2009	S	Rereferred to Committee, MF, VV; SJ7, Pg.114
03/11/2009	S	Sen. Odell Moved Recommit to Ways & Means, MA, VV; SJ7, Pg.114
03/12/2009	S	Hearing; March 17, 2009, Room 100, State House, 10:45 a.m.; SC15
03/31/2009	S	Committee Report; Rereferred to Committee [04/08/09]; SC18
04/08/2009	S	Without Objection, Chair moved to Special Order to front of calendar; SJ11 , Pg.178
04/08/2009	S	Rereferred to Committee, MA, VV; SJ 11 , Pg.179

NH House

NH Senate

Contact Us

New Hampshire General Court Information Systems
 107 North Main Street - State House Room 31, Concord NH 03301

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: January 19, 2010

THE COMMITTEE ON Ways and Means
to which was referred Senate Bill 181-FN-A

AN ACT relative to the liquor commission and alcoholic beverages.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 4-0

AMENDMENT # 0181s

Senator Bob Odell
For the Committee

L. Gail Brown 271-3076

New Hampshire General Court - Bill Status System

Docket of SB181

Docket Abbreviations

Bill Title: relative to the liquor commission and alcoholic beverages.*Official Docket of SB181:*

Date	Body	Description
02/04/2009	S	Introduced and Referred to Ways & Means
02/11/2009	S	Hearing; === RECESSED === February 17, 2009, Room 100, State House, 11:15 a.m.; SC11
02/17/2009	S	Hearing; === CANCELLED === RECONVENE === March 3, 2009, Room 100, State House, 10:40 a.m.; SC12
02/26/2009	S	Hearing; === TIME CHANGE === RECONVENE === March 3, 2009, Room 100, State House, 10:30 a.m.; SC13
03/05/2009	S	Committee Report; Rereferred To Committee [03/11/09]; SC14
03/11/2009	S	Rereferred to Committee, MF, VV; SJ7, Pg.114
03/11/2009	S	Sen. Odell Moved Recommit to Ways & Means, MA, VV; SJ7, Pg.114
03/12/2009	S	Hearing; March 17, 2009, Room 100, State House, 10:45 a.m.; SC15
03/31/2009	S	Committee Report; Rereferred to Committee [04/08/09]; SC18
04/08/2009	S	Without Objection, Chair moved to Special Order to front of calendar; SJ11 , Pg.178
04/08/2009	S	Rereferred to Committee, MA, VV; SJ 11 , Pg.179

NH House

NH Senate

Contact Us

New Hampshire General Court Information Systems
 107 North Main Street - State House Room 31, Concord NH 03301

Other Referrals

COMMITTEE REPORT FILE INVENTORY

SB 181 ORIGINAL REFERRAL

✓ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE SECRETARY AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

✓ DOCKET (Submit only the latest docket found in Bill Status)

✓ COMMITTEE REPORT

✓ CALENDAR NOTICE on which you have taken attendance

✓ HEARING REPORT (written summary of hearing testimony)

✓ HEARING TRANSCRIPT (verbatim transcript of hearing)

List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: 1, 2, 3, 4, 5

✓ SIGN-UP SHEET

1, 2, 3, 4, 5, 6

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

✓ - AMENDMENT # 044 _____ - AMENDMENT # _____
_____ - AMENDMENT # _____ _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

✓ AS INTRODUCED _____ AS AMENDED BY THE HOUSE
_____ FINAL VERSION _____ AS AMENDED BY THE SENATE

✓ PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [a thru g or a, b, c, d] here: a, b, c, d

✓ EXECUTIVE SESSION REPORT

_____ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK 04/22/09

[Signature]
COMMITTEE SECRETARY

COMMITTEE REPORT FILE INVENTORY

 ORIGINAL REFERRAL SB181 RE-REFERRAL

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SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 0181 - AMENDMENT # _____
 - AMENDMENT # 0113 - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED AS AMENDED BY THE HOUSE
 FINAL VERSION AS AMENDED BY THE SENATE

PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [a thru g or a, b, c, d] here: _____

EXECUTIVE SESSION REPORT

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

New Futures correspondence

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK 1/19/10

D. Gail Brown
COMMITTEE SECRETARY