

Bill as Introduced

HB 276-FN - AS INTRODUCED

2011 SESSION

11-0327
03/01

HOUSE BILL **276-FN**

AN ACT relative to wine manufacturers.

SPONSORS: Rep. S. Palmer, Hills 6; Rep. Kappler, Rock 2; Rep. Willette, Hills 6; Rep. Sad,
 Ches 2

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill permits wine manufacturers to sell wine at annual fairs or similar events. This bill also eliminates the requirement that wine provided as samples by a wine manufacturer be purchased from the liquor commission.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to wine manufacturers.

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

1 Wine Manufacturer License; Retail Sales. Amend RSA 178:8, III to read as follows:

III. Each wine manufacturer shall have the right to sell at retail or wholesale at its winery for off-premises consumption any of its wines. Visitors at said premises may be provided with reasonable samples of wine for tasting. Pursuant to rules adopted by the commission, a wine manufacturer may transport its products to a farmers' market *or a wine festival licensed under RSA 178:31*, and may sell such products at retail in the original container.

2 Fees; Wine Festival License. Amend RSA 178:29, I to read as follows:

I. On-premises licensees shall pay the following applicable fees annually:

	Supplemental Only	Beverages and Wine	Beverages and Liquor	Cocktail Lounge
Airport				\$1,200
Ballroom	\$ 45			\$1,200
Bed and Breakfast		\$ 480	\$ 840	
Beer Festival				
One-day	\$ 250			
Two-day	\$ 300			
Three-day	\$ 350			
Catering (all)				\$1,200
Catering (off-site only)				\$ 840
Catering (on-site only)				
18 events-	\$ 5			
36 events-	\$ 5			
52 events-	\$ 5			
Club Military				\$ 100
Club Social				
9 events	\$ 250			
18 events	\$ 450			
36 events	\$ 750			
52 events	\$1,200			
Club Private				\$1,200
Club Veterans				
9 events	\$ 250			
18 events	\$ 450			
36 events	\$ 750			
52 events	\$1,200			
College Club				\$1,200
Convention Center				\$2,400
Dining Car		\$ 480		\$ 840
Fairs		\$ 112		
Hotel		\$ 840		\$1,200
One day License				\$ 100

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Performing Arts			\$ 360
Racetrack/Motor Vehicle			\$1,800
Racetrack/Pari-Mutuel			\$3,000
Rail Cars			\$1,200
Restaurant	\$ 480	\$ 840	\$1,200
Special License		\$ 25	
Sports/Entertainment Complex			\$1,800
9 events	\$ 250		
18 events	\$ 450		
36 events	\$ 750		
52 events	\$1,200		
Sports Recreation Facility			\$1,200
Tobacco Retailer		\$ 840	
Vessel	\$ 480	\$ 840	\$1,200
Wine Festival			
One-day	\$ 250		
Two-day	\$ 300		
Three-day	\$ 350		

3 New Section; Wine Festival Licenses. Amend RSA 178 by inserting after section 30 the following new section:

178:31 Wine Festival Licenses.

I. The commission may issue a supplemental wine festival license to the holder of a wine manufacturer license. The commission may also issue a wine festival license to a responsible person representing a voluntary nonprofit group or such group's designee. Notwithstanding any other provisions of law, the holder of a license under this section shall be allowed to organize, advertise, and hold an event not exceeding 3 days in length, promoting the products of the beverage industry. The provisions of RSA 178:22, I, III, and IV shall apply to any license issued under this section. The sales and services of alcoholic beverages shall be in a clearly defined area. Applications for a license under this section shall be filed with the commission 15 working days before the date on which the license is needed.

II. For purposes of regulation, any person issued a license under paragraph I shall be subject to all applicable statutory provisions and rules adopted under this title, except as directed by this section. Any violations committed by a supplemental licensee shall be considered violations against the applicant's annual or seasonal license.

III. No alcohol other than wine shall be served under this license.

IV.(a) No license shall be issued under paragraph I unless the applicant obtains:

(1) Official approval of the chief of the local fire department as to the safety of the location; and

(2) Official approval of the local health department concerning sanitary conditions; and

(3) Official approval of the local police department as to the accessibility and public safety of the location and the event.

(b) Written statements from such officials shall accompany the application for a license

issued under paragraph I. The selectmen, city council, city manager, or town administrator may at their discretion, assign police officers to the location of the event where alcoholic beverages are served.

V. Notwithstanding any other provision of law, the commission or its investigators may suspend, without warning, any license issued under paragraph I, if in their opinion, such continued sale or service of alcoholic beverages is contrary to the public interest.

4 Wine Samples. Amend RSA 179:44, III to read as follows:

III. Liquor, beverage, or wine samples shall be consumed on the premises, and, *except for wine samples provided by wine manufacturers*, liquor or wine for this purpose shall be purchased from the commission under conditions prescribed by this title. Beverage samples for a tasting shall only be obtained as prescribed by this title.

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

HB 276 FISCAL NOTE

AN ACT relative to wine manufacturers.

FISCAL IMPACT:

The Liquor Commission states this bill will have an indeterminable fiscal impact on state revenue in FY 2012 and each year thereafter. There is no fiscal impact on county and local revenue or state, county and local expenditures.

METHODOLOGY:

The Liquor Commission states this bill permits wine manufacturers to sell wine at annual fairs or similar events and eliminates the requirement that wine provided as samples be purchased from the Commission. The Commission has no information to determine how many wine festival licenses would be issued or the amount of lost sales to determine the impact on revenue.

CHAPTER 165
HB 276-FN – FINAL VERSION

2011 SESSION

11-0327
03/01

HOUSE BILL **276-FN**

AN ACT relative to wine manufacturers.

SPONSORS: Rep. S. Palmer, Hills 6; Rep. Kappler, Rock 2; Rep. Willette, Hills 6; Rep. Sad,
Ches 2

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill permits wine manufacturers to sell wine at annual fairs or similar events. This bill also eliminates the requirement that wine provided as samples by a wine manufacturer be purchased from the liquor commission.

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

CHAPTER 165
HB 276-FN - FINAL VERSION
- Page 1 -

11-0327
03/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to wine manufacturers.

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

1 165:1 Wine Manufacturer License; Retail Sales. Amend RSA 178:8, III to read as follows:

2 III. Each wine manufacturer shall have the right to sell at retail or wholesale at its winery
3 for off-premises consumption any of its wines. Visitors at said premises may be provided with
4 reasonable samples of wine for tasting. Pursuant to rules adopted by the commission, a wine
5 manufacturer may transport its products to a farmers' market *or a wine festival licensed under*
6 *RSA 178:31*, and may sell such products at retail in the original container.

7 165:2 Fees; Wine Festival License. Amend RSA 178:29, I to read as follows:

8 I. On-premises licensees shall pay the following applicable fees annually:

	Supplemental Only	Beverages and Wine	Beverages and Liquor	Cocktail Lounge
11				
12 Airport				\$1,200
13 Ballroom	\$ 45			\$1,200
14 Bed and Breakfast		\$ 480	\$ 840	
15 Beer Festival				
16 One-day	\$ 250			
17 Two-day	\$ 300			
18 Three-day	\$ 350			
19 Catering (all)				\$1,200
20 Catering (off-site only)				\$ 840
21 Catering (on-site only)				
22 18 events-	\$ 5			
23 36 events-	\$ 5			
24 52 events-	\$ 5			
25 Club Military				\$ 100
26 Club Social				
27 9 events	\$ 250			
28 18 events	\$ 450			
29 36 events	\$ 750			
30 52 events	\$1,200			
31 Club Private				\$1,200
32 Club Veterans				
33 9 events	\$ 250			
34 18 events	\$ 450			
35 36 events	\$ 750			
36 52 events	\$1,200			
37 College Club				\$1,200
38 Convention Center				\$2,400
39 Dining Car		\$ 480		\$ 840

CHAPTER 165
HB 276-FN - FINAL VERSION
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1	Fairs		\$ 112		
2	Hotel		\$ 840		\$1,200
3	One day License				\$ 100
4	Performing Arts				\$ 360
5	Racetrack/Motor Vehicle				\$1,800
6	Racetrack/Pari-Mutuel				\$3,000
7	Rail Cars				\$1,200
8	Restaurant		\$ 480	\$ 840	\$1,200
9	Special License			\$ 25	
10	Sports/Entertainment Complex				\$1,800
11	9 events	\$ 250			
12	18 events	\$ 450			
13	36 events	\$ 750			
14	52 events	\$1,200			
15	Sports Recreation Facility				\$1,200
16	Tobacco Retailer			\$ 840	
17	Vessel		\$ 480	\$ 840	\$1,200
18	<i>Wine Festival</i>				
19	<i>One-day</i>	\$ 250			
20	<i>Two-day</i>	\$ 300			
21	<i>Three-day</i>	\$ 350			

22 165:3 New Section; Wine Festival Licenses. Amend RSA 178 by inserting after section 30 the
23 following new section:

24 178:31 Wine Festival Licenses.

25 I. The commission may issue a supplemental wine festival license to the holder of a wine
26 manufacturer license. The commission may also issue a wine festival license to a responsible person
27 representing a voluntary nonprofit group or such group's designee. Notwithstanding any other
28 provisions of law, the holder of a license under this section shall be allowed to organize, advertise,
29 and hold an event not exceeding 3 days in length, promoting the products of the beverage industry.
30 The provisions of RSA 178:22, I, III, and IV shall apply to any license issued under this section. The
31 sales and services of alcoholic beverages shall be in a clearly defined area. Applications for a license
32 under this section shall be filed with the commission 15 working days before the date on which the
33 license is needed.

34 II. For purposes of regulation, any person issued a license under paragraph I shall be subject
35 to all applicable statutory provisions and rules adopted under this title, except as directed by this
36 section. Any violations committed by a supplemental licensee shall be considered violations against
37 the applicant's annual or seasonal license.

38 III. No alcohol other than wine shall be served under this license.

39 IV.(a) No license shall be issued under paragraph I unless the applicant obtains:

40 (1) Official approval of the chief of the local fire department as to the safety of the
41 location; and

42 (2) Official approval of the local health department concerning sanitary conditions;
43 and

CHAPTER 165
HB 276-FN – FINAL VERSION
- Page 3 -

1 (3) Official approval of the local police department as to the accessibility and public
2 safety of the location and the event.

3 (b) Written statements from such officials shall accompany the application for a license
4 issued under paragraph I. The selectmen, city council, city manager, or town administrator may at
5 their discretion, assign police officers to the location of the event where alcoholic beverages are
6 served.

7 V. Notwithstanding any other provision of law, the commission or its investigators may
8 suspend, without warning, any license issued under paragraph I, if in their opinion, such continued
9 sale or service of alcoholic beverages is contrary to the public interest.

10 165:4 Wine Samples. Amend RSA 179:44, III to read as follows:

11 III. Liquor, beverage, or wine samples shall be consumed on the premises, and, *except for*
12 *wine samples provided by wine manufacturers*, liquor or wine for this purpose shall be
13 purchased from the commission under conditions prescribed by this title. Beverage samples for a
14 tasting shall only be obtained as prescribed by this title.

15 165:5 Effective Date. This act shall take effect 60 days after its passage.

16

17 Approved: June 14, 2011

18 Effective Date: August 13, 2011

Amendments

Sen. D'Allesandro, Dist. 20
May 12, 2011
2011-1888s
03/05

Amendment to HB 276-FN

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

2

3 AN ACT relative to wine manufacturers and relative to wine auctions.

4

5 Amend the bill by inserting after section 4 the following and renumbering the original section 5 to
6 read as 6:

7

8 5 New Section; Auction Permit. Amend RSA 178 by inserting after section 17-a the following
9 new section:

10 178:17-b Auction Permit.

11 I. The commission may issue a permit to any person currently licensed in its state of
12 domicile as a public auction house. The holder of any permit under this section shall be authorized
13 to auction wine owned by individuals to individuals. Auction permit applicants shall be subject to
14 the requirements of RSA 178:3.

15 II. An auction permit holder may ship directly to consumers over 21 years of age in packages
16 clearly marked "Alcoholic Beverages, adult signature (over 21 years of age) required." All shipments
17 shall be made by a licensed carrier and such carriers are required to obtain an adult signature. Any
18 person holding an auction permit under this section, who ships wine to a person under 21 years of
19 age, shall be guilty of a class B felony and shall have such permit permanently revoked. Auction
20 permit holders or carriers shall not ship to any New Hampshire city or town where alcoholic
21 beverages may not be lawfully sold or that prohibit direct shipments of wine.

22 III. No auction permit holder shall auction any wine that is currently approved for sale in
23 the state of New Hampshire.

24 IV. Except with written permission of the commission, no auction permit holder shall sell
25 more than 12 - 9 liter cases or the equivalent of wine to any one consumer in New Hampshire in any
26 calendar year.

27 V. The auction permit holder shall pay a fee of 8 percent of the net auction purchase price of
28 the wine in any single wine auction, not to exceed \$400.

29 VI. Auction permit holders shall file a report on or before the tenth day after each month in
30 which a shipment was made and pay the additional fees provided in paragraph V, covering all
31 shipments made by the permit holder during the preceding calendar month. Such reports shall be
32 made in the manner and form required by the commission. The permit holder shall maintain

Amendment to HB 276-FN

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1 shipping records for at least 3 years.

2 VII. The commission may assess a \$250 penalty for failure by an auction permit holder to

3 report any shipment to the commission.

2011-1888s

AMENDED ANALYSIS

This bill:

- I. Permits wine manufacturers to sell wine at annual fairs or similar events.
- II. Eliminates the requirement that wine provided as samples by a wine manufacturer be purchased from the liquor commission.
- III. Establishes an auction permit allowing the permit holder to ship wine sold at auction into this state.

Sen. D'Allesandro, Dist. 20
May 16, 2011
2011-1949s
03/09

Amendment to HB 276-FN

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

AN ACT relative to wine manufacturers and relative to auction houses.

Amend the bill by inserting after section 4 the following and renumbering the original section 5 to read as 6:

5 New Section; Auction Permit. Amend RSA 178 by inserting after section 17-a the following new section:

178:17-b Auction House.

I. The commission may issue a permit to any person authorized as an auction house in this state or any person currently licensed in its state of domicile as a public auction house. The holder of any permit under this section shall be authorized to auction wine to individuals and licensees. Auction shipment applicants shall be subject to all requirements under RSA 178:3.

II. An auction permit holder may ship directly to New Hampshire consumers over 21 years of age in packages clearly marked "Alcoholic Beverages, adult signature (over 21 years of age) required." All shipments shall be made by a licensed carrier or other carrier approved by the commission, and such carriers are required to obtain an adult signature. Any shipments made to a person less than 21 years of age, shall be guilty of a class B felony and shall have such permit revoked. No auction houses or carriers shall ship into any New Hampshire city or town where alcoholic beverages are not lawfully sold or prohibit direct shipments of wine.

III. No auction house shall ship any wine to a New Hampshire resident that is currently approved for sale within the state of New Hampshire. No licensee shall purchase or sell wine at an auction house without first obtaining written approval from the commission.

IV. Except with written permission from the commission, no auction house shall ship not more than 12, 9-liter cases or equivalent of wine to any one New Hampshire consumer in any calendar year.

V. For the purpose of this section, an in state auction house may obtain wine to be auctioned from within or outside of New Hampshire. All wine shall be shipped directly to or delivered to the auction house for auction.

VI. In addition, auction houses shall pay a fee of 8 percent of the auction hammer price of the wine shipped to any one New Hampshire consumer not to exceed \$400.

VII. Auction houses shall file a report on or before the tenth day of each month in which a shipment was made and pay the additional fees provided in section VI, covering all shipments by the auction house made during the preceding calendar month. Such reports shall be made in a manner and form required by the New Hampshire liquor commission division of enforcement and licensing. Shipping records shall be maintained for at least 3 years by the auction house.

VIII. The New Hampshire liquor commission may assess a \$250 penalty for failure to report to the commission any shipment.

IX Upon notification by authorities in another state which imposes a reciprocal enforcement policy, a New Hampshire permit holder making illegal direct shipments to consumers in said state shall be subject to action by the liquor commission.

2011-1949s

AMENDED ANALYSIS

This bill:

- I. Permits wine manufacturers to sell wine at annual fairs or similar events.
- II. Eliminates the requirement that wine provided as samples by a wine manufacturer be purchased from the liquor commission.
- III. Establishes an auction house permit.

Sen. D'Allesandro, Dist. 20
June 1, 2011
2011-2254s
06/05

Floor Amendment to HB 276-FN

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

AN ACT relative to wine manufacturers and relative to auction houses.

Amend the bill by inserting after section 4 the following and renumbering the original section 5 to read as 6:

5 New Section; Auction Permit. Amend RSA 178 by inserting after section 17-a the following new section:

178:17-b Auction House.

I. The commission may issue a permit to any person authorized as an auction house in this state or any person currently licensed in its state of domicile as a public auction house. The holder of any permit under this section shall be authorized to auction wine to individuals and licensees. Auction shipment applicants shall be subject to all requirements under RSA 178:3.

II. An auction permit holder may ship directly to New Hampshire consumers over 21 years of age in packages clearly marked "Alcoholic Beverages, adult signature (over 21 years of age) required." All shipments shall be made by a licensed carrier or other carrier approved by the commission, and such carriers are required to obtain an adult signature. Any shipments made to a person less than 21 years of age, shall be guilty of a class B felony and shall have such permit revoked. No auction houses or carriers shall ship into any New Hampshire city or town where alcoholic beverages are not lawfully sold or prohibit direct shipments of wine.

III. No auction house shall ship any wine to a New Hampshire resident that is currently approved for sale within the state of New Hampshire. No licensee shall purchase or sell wine at an auction house without first obtaining written approval from the commission.

IV. Except with written permission from the commission, no auction house shall ship not more than 12, 9-liter cases or equivalent of wine to any one New Hampshire consumer in any calendar year.

V. For the purpose of this section, an in state auction house may obtain wine to be auctioned from within or outside of New Hampshire. All wine shall be shipped directly to or delivered to the auction house for auction.

VI. In addition, auction houses shall pay a fee of 8 percent of the auction hammer price of the wine shipped to any one New Hampshire consumer not to exceed \$400.

VII. Auction houses shall file a report on or before the tenth day of each month in which a shipment was made and pay the additional fees provided in section VI, covering all shipments by the auction house made during the preceding calendar month. Such reports shall be made in a manner and form required by the New Hampshire liquor commission division of enforcement and licensing. Shipping records shall be maintained for at least 3 years by the auction house.

VIII. The New Hampshire liquor commission may assess a \$250 penalty for failure to report to

the commission any shipment.

IX Upon notification by authorities in another state which imposes a reciprocal enforcement policy, a New Hampshire permit holder making illegal direct shipments to consumers in said state shall be subject to action by the liquor commission.

2011-2254s

AMENDED ANALYSIS

This bill:

- I. Permits wine manufacturers to sell wine at annual fairs or similar events.
- II. Eliminates the requirement that wine provided as samples by a wine manufacturer be purchased from the liquor commission.
- III. Establishes an auction house permit.

Committee Minutes

**SENATE CALENDAR NOTICE
COMMERCE**

Senator Russell Prescott Chairman
 Senator Raymond White V Chairman
 Senator Tom De Blois
 Senator Matthew Houde
 Senator Andy Sanborn

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: April 7, 2011

HEARINGS

Tuesday

4/12/2011

COMMERCE

LOB 102

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

9:00 AM	HB143	relative to the sale of stove polish.
9:10 AM	HB617	repealing the prohibitions on Sunday business activities.
9:20 AM	HB276-FN	relative to wine manufacturers.
9:40 AM	HB489-FN	(New Title) establishing a health information organization corporation.

Sponsors:

HB143

Rep. Carol McGuire

HB617

Rep. Carol McGuire

HB276-FN

Rep. Stephen Palmer

HB489-FN

Rep. Alida Millham

Sen. Molly Kelly

Rep. Ronald Belanger

Rep. Lawrence Kappler

Rep. Cindy Rosenwald

Rep. Timothy Horrigan

Rep. Robert Willette

Rep. John Cebrowski

Rep. Tara Sad

Rep. Laurie Harding

Commerce Committee Hearing Report

To: Member of the Senate

From: Patrick Murphy, *Legislative Aide*

Re: Hearing Report on HOUSE BILL 276-FN relative to wine manufacturers.

Hearing Date: April 12, 2011

Members of the Committee Present:
Senator Prescott, Senator White, Senator De Blois, Senator Sanborn, Senator Houde

Members of the Committee Absent:
None

Sponsor(s):
Rep. S. Palmer, Hills 6; Rep. Kappler, Rock 2; Rep. Willette, Hills 6; Rep. Sad, Ches 2

What the bill does:
This bill permits wine manufacturers to sell wine at annual fairs or similar events. This bill also eliminates the requirement that wine provided as samples by a wine manufacturer be purchased from the liquor commission.

Supporters of the bill:
Rep. S. Palmer, Hills 6; Rep. Willette, Hills 6; Rep. Hardwick, Hills 2; Eddie Edwards (NH Liquor Commission), Robert Johnson (NH Farm Bureau), Dr. Peter Oldak (NH Winery Association)

Those in opposition to the bill:
None

Speaking to the bill (Neutral):
None

Summary of testimony received:

Hearing began at 9:31 a.m.

Rep. Palmer

- This bill supports NH winery owners and will help them build up their businesses. The wine industry is heavily controlled by large businesses out of the state. Wine manufactures in NH are small businesses that provide jobs and if we can assist them it would be good for job creation.
- In response to questions from the Committee, Rep. Palmer responded that the fee is based on the current fee for beer tasting which was passed in the last couple of years.

Rep. Willett

- This legislation puts small wine manufactures on the same playing field as small beer manufacturers. This would also allow wine manufactures to take their wine to state fairs, similar to small beer manufacturers.

Dr. Peter Oldak (NH Winery Association)

- The NH wine industry is young but growing quickly. In 2002 NH had 3 wine manufacturers, now we have 27. Each county is home to domestic wine manufacturers.
- Last calendar year, the domestic wine manufacturers contributed over \$104,000 as excise taxes to the general fund from the sale of locally made wine. This supports the local communities and will expand the tax base. This authorizes the transport of wine for local sale at places like farmers markets. Much of this bill is modeled after current statutes relative to local beer manufacturing. This is a revenue producer.

Eddie Edwards (NH Liquor Commission)

- The NH Liquor Commission supports HB 276-FN and he is available to answer any questions the committee may have.
- In response to questions from the Committee, the witness responded that the fee is modeled after the 2003 beer festival license. The revenue from the fee would pay for the processing licenses.

Hearing was closed at 9:44 a.m.

Funding:

FISCAL IMPACT:

The Liquor Commission states this bill will have an indeterminable fiscal impact on state revenue in FY 2012 and each year thereafter. There is no fiscal impact on county and local revenue or state, county and local expenditures.

METHODOLOGY:

The Liquor Commission states this bill permits wine manufacturers to sell wine at annual fairs or similar events and eliminates the requirement that wine provided as samples be purchased from the Commission. The Commission has no information to determine how many wine festival licenses would be issued or the amount of lost sales to determine the impact on revenue.

Action:

Pending

Senator Prescott (Chair)
Senator White
Senator De Blois
Senator Houde
Senator Sanborn

NOTICE

Date: May 12, 2011

Regular Meeting

Tuesday
(Day)

May 17, 2011
(Date)

**Senate Commerce
Committee**

Room 102, LOB

10:00 a.m.

(Name of Board)

(Place)

(Time)

**10:00 a.m. – Hearing on proposed amendment #1888s to HB 276-FN,
relative to wine manufacturers.**

Executive Session May Follow

Patrick Murphy 271-3067
Legislative Aide

Commerce Committee Hearing Report

To: Member of the Senate

From: Patrick Murphy, *Legislative Aide*

Re: Hearing Report on amendment 1888s to HOUSE BILL 276-FN
relative to wine manufacturers.

Hearing Date: May 17, 2011

Members of the Committee Present:
Senator Prescott, Senator White, Senator De Blois, Senator Sanborn, Senator Houde

Members of the Committee Absent:
None

Sponsor(s):
Rep. S. Palmer, Hills 6; Rep. Kappler, Rock 2; Rep. Willette, Hills 6; Rep. Sad, Ches 2

What the bill does:
This bill permits wine manufacturers to sell wine at annual fairs or similar events. This bill also eliminates the requirement that wine provided as samples by a wine manufacturer be purchased from the liquor commission.

Supporters of the amendment:
Commissioner Bodi and Eddie Edwards (NH Liquor Commission), Carol Martel (Wine Institute)

Those in opposition to the amendment:
Rep. S. Palmer (Hills 6), Peter Oldak (NH Winery Association)

Speaking to the amendment (Neutral):
None

Summary of testimony received:

Hearing began at 10:00 a.m.

Sen. D'Allesandro

- Introduced new amendment 1949s and described the amendment as permissive. Amendment 1949s will allow the NH Liquor Commission to issue permits and leaves the Commission in total control over the situation.

Commissioner Bodi and Eddie Edwards (NH Liquor Commission)

- Some members of the Committee expressed frustration over being given a new amendment just prior to the hearing and not having an opportunity to read through it first.
- The Commissioner regretted the timing of the amendment and apologized to the Committee for the inconvenience. The Commission has been working on this idea for a few years and proposal was presented several months ago. The Commissioner walked the Committee through the amendment section by section.
- The first section of the amendment addresses auction permits. No auction house would be permitted to ship any wine to a NH resident that is currently approved for sale within the state of NH. Unless an auction house has written permission they would not be permitted to ship more than 12, 9-liter cases or equivalent of wine to any one NH consumer in any calendar year.
- Auction houses would pay a fee of 8% of the auction hammer price of the wine shipped to any one NH consumer not to exceed \$400. The Liquor Commission would be able to assess a \$250 penalty for failure to report to the commission any shipment.
- The wine auction business has proliferated greatly over the last decade. There is a very significant amount of commerce undertaken all over the world. This amendment will allow consumers to obtain these fine wines at a much more reasonable price.
- We believe that currently consumers who are purchasing fine wines at auction are addressing shipments to out of state residences and then transporting the goods into the state thereby avoiding regulations.
- Suggested a small change to allow the commission itself to hold an auction. This is a very narrow market but this would allow us to better capitalize on the opportunity. Having this capacity could be a valuable tool especially in the fine wine market.
- Also suggested a change creating a provision that would allow restaurants who acquire wine at auction to be able to serve that wine at their restaurant. The restaurants would be supervised.
- In addressing the \$400 proposed cap on fees, the Commissioner explained that the highest amount that has ever been collected for this has been \$250, well under the proposed cap. This is designed specifically for individuals purchasing value wines.
- This amendment will bring better visibility to the NH liquor market. Existing law has prevented the sale of any bottle of wine over \$4,000.

- In response to questions from the Committee, the witnesses responded that there is no definition of fine wine in the amendment; that determination will be left to the Commission. There was some disagreement over how this legislation would impact the 3-tier system. It was the Commission's opinion that this would not violate the 3-tier system.
- The Committee expressed a desire to see information relative to what other states charge as a fee and if they have a cap, what that cap is set at.
- In response to further questions, the witnesses responded that this would allow the commission to conduct an auction if they choose to do that or they could work through a major auction house. The secondary market needs to be addressed as well.

Rep. S. Palmer (Prime Sponsor of the original bill - Hills 6)

- This would make a good stand alone bill rather than an amendment to a rather simple bill. Suggests voting ITL on the amendment and encourage the Commission to come back next year with a new bill. There is a wine tasting scheduled for August so we need the original bill to pass soon.

Peter Oldak (NH Winery Association)

- Opposed to the amendment because it may slow down the process to the point where it could hurt an event scheduled for August 6th. This would also create a real inequity between local industry and out of state auctions if the amendment were adopted. While auctions would have a cap of \$400, the local industry would still be taxed at 8% with no cap.
- There are issues that need to be addressed before this amendment is ready to be passed.

Carol Martel (Wine Institute)

- Supports the intent of the amendment but is concerned with the \$400 cap. There is an opportunity here to do something good, but not sure if this is the way to get there or not.

Hearing closed at 11:06 a.m.

Funding (HB 276-FN):

FISCAL IMPACT:

The Liquor Commission states this bill will have an indeterminable fiscal impact on state revenue in FY 2012 and each year thereafter. There is no fiscal impact on county and local revenue or state, county and local expenditures.

METHODOLOGY:

The Liquor Commission states this bill permits wine manufacturers to sell wine at annual fairs or similar events and eliminates the requirement that wine provided as samples be purchased from the Commission. The Commission has no information to determine how many wine festival licenses would be issued or the amount of lost sales to determine the impact on revenue.

Action:

Pending

Speakers

Testimony

**New Hampshire State Representative
Vice Chair Resources, Recreation, & Development
Committee
L. Mike Kappler**

April 12, 2011

Dear Committeeman and Committee members,

HB-276 is a golden opportunity, that is available in some states, for our "local wineries" to make awareness of their fine products, offering a small sample, and be able to sell their product at the same time. The more exposure that a small business can get, the better opportunity there is for that business to be a continued success.

Please remember, these local small winery businesses: pay local property taxes; employ local residents; purchase their supplies from other local small businesses such as, farms, stores, and gas stations. It's one small business supporting other small businesses. The wineries are an asset to their community and to the state, and we should support them by passing this legislation.

I am sure that the state Liquor Commission will welcome any license fee revenues they can get, a couple hundred here, and a couple hundred there add up.

Also profiting from this would be the wine festival sponsoring group or organization. It would be a good drawing card to an event.

I ask that you vote to recommend passage of HB-276 to the full Senate.

Thank you.

L. Mike Kappler

HB 276

Good morning Chairman Prescott and other members of the Commerce Committee.

My name is Dr. Peter Oldak. I am the owner and winemaker of Jewell Towne Vineyards in South Hampton. I am also President of the New Hampshire Winery Association.

The NH wine industry is still in its infancy but is one industry in NH which is growing rapidly. When I appeared before the Commerce Committee in 2002 to testify in favor of allowing the domestic wine manufacturers to sell wine at farmers' markets, there were 3 farm wineries in NH. We now have 27, with more on the way. There are domestic wine manufacturers in all 10 counties.

Last calendar year, the domestic wine manufacturers contributed over \$104,000 as excise taxes to the general fund from the sale of locally made wine.

As an industry, we are

1. Helping to keep NH green by keeping land in agriculture
2. Providing internships and jobs to our graduates, keeping our educated youth in the state.
3. We have been a magnet for tourism, drawing visitors from across the country and from around the world to visit us and thereafter support the economies of the local restaurants, resorts, hotels and motels, gift shops, service stations, grocery stores and the like.
4. Increase the State tax base.

The NHWA has proposed this piece of legislation to permit the holding of NH wine festivals. This particular bill combines 3 separate proposals:

1. The first authorizes the transport of wine to a festival for sale, as we already do at farmers' markets.
2. The second creates a Wine Festival License and Fee.
3. The third exempts the domestic wine manufacturers from having to buy their own wine from the commission for sampling purposes.

Let me start with the Wine Festival License.

A wine festival is a great way to market and introduce domestic wines to the public. Last June, we partnered with the Department of Tourism and the Department of Agriculture to hold the first annual NH wine festival. We had to overcome massive amounts of red tape and needed special permits from the SLC.

178:31 Wine Festival License is modeled after 178:30, the Beer Festival License and relates to domestic wineries holding a festival. It has the same safeguards as the beer festivals including approvals by the fire, police, health departments, town officials, and SLC. This bill will go a long way to promoting tourism and the domestic wine industry.

The first portion of this bill amends the domestic wine manufacturer's license allowing the transport and sale of wine at festivals, the same as is done at farmers' markets.

The third section addresses an inherent contradiction in the wine sampling statute. Many of the domestic manufacturers are quite small, producing less than 1000 cases/year. Their wines are not listed or sold by the SLC. Other wineries have chosen not to list some or all of their wine with the State. For all the wineries, the current statute requires a winery to buy back its own wine which is already in its own inventory, in order to sample it at a wine tasting event. This bill remedies this problem.

FN This is a revenue producer. Wines sampled produce multiples of sales yielding significant excise revenue

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: May 3, 2011

THE COMMITTEE ON Commerce
to which was referred House Bill 276-FN

AN ACT relative to wine manufacturers.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS

BY A VOTE OF: 5-0

AMENDMENT # s

Senator Tom De Blois
For the Committee

Patrick Murphy 271-3067

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: May 24, 2011

THE COMMITTEE ON Commerce

to which was referred House Bill 276-FN

AN ACT relative to wine manufacturers.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS

BY A VOTE OF: 4-0

AMENDMENT # s

Senator Russell Prescott
For the Committee

Patrick Murphy 271-3067

New Hampshire General Court - Bill Status System

Docket of HB276

Docket Abbreviations

Bill Title: relative to wine manufacturers.*Official Docket of HB276:*

Date	Body	Description
1/20/2011	H	Introduced 1/6/2011 and Referred to Commerce and Consumer Affairs; HJ 11 , PG. 180
1/25/2011	H	Public Hearing: 2/1/2011 2:30 PM LOB 302 ==RECESSED==
2/9/2011	H	Continued Public Hearing: 2/22/2011 3:45 PM LOB 302
2/16/2011	H	==CANCELLED== Executive Session: 2/25/2011 10:00 AM LOB 302
2/24/2011	H	Subcommittee Work Session: 2/28/2011 1:00 PM LOB 302
2/24/2011	H	Executive Session: 3/1/2011 3:00 PM LOB 302
3/9/2011	H	Committee Report: Ought to Pass for Mar 15 (Vote 16-0; RC); HC 22 , PG.547
3/15/2011	H	Ought to Pass: MA VV; HJ 26 , PG.754
3/23/2011	S	Introduced and Referred to Commerce; SJ 11 , Pg.191
4/7/2011	S	Hearing: 4/12/11, Room 102, LOB, 9:20 a.m.; SC19
5/4/2011	S	Committee Report: Ought to Pass, 5/11/11; SC23
5/11/2011	S	Ought to Pass Not Voted On
5/11/2011	S	Sen. De Blois Moved Recommit to Committee, MA, VV; SJ 16
5/12/2011	S	Hearing on proposed amendment #1888s to HB 276
5/26/2011	S	Committee Report: Ought to Pass, 6/1/11; SC26
6/1/2011	S	Sen. D'Allesandro Floor Amendment #2011-2254s, AF, VV; SJ 19 , Pg.510
6/1/2011	S	Ought to Pass, MA, VV; OT3rdg; SJ 19 , Pg.510
6/1/2011	S	Passed by Third Reading Resolution; SJ 19 , Pg.539
6/8/2011	S	Enrolled
6/8/2011	H	Enrolled; HJ 51 , PG.1726
6/14/2011	H	Signed By Governor 06/14/2011; Effective 08/13/2011; Chapter 0165

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

HB 276-FN ORIGINAL REFERRAL

RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE 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
- HEARING REPORT
- PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 1888s _____ - AMENDMENT # _____
 - AMENDMENT # 1949s _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED _____ AS AMENDED BY THE HOUSE
 FINAL VERSION _____ AS AMENDED BY THE SENATE

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): Revised Fiscal Note 0327, Floor Amendment 2254s

DATE DELIVERED TO SENATE CLERK

8-5-11

BY:

Patrick Murphy
COMMITTEE AIDE