

Bill as
Introduced

HB 637-FN-A - AS INTRODUCED

2013 SESSION

13-0267

03/09

HOUSE BILL

637-FN-A

AN ACT

transferring licensing for retail tobacco sales to the department of revenue administration from the liquor commission.

SPONSORS:

Rep. D. McGuire, Merr 21

COMMITTEE:

Executive Departments and Administration

ANALYSIS

This bill transfers licensing for retail tobacco sales to the department of revenue administration 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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Thirteen

AN ACT transferring licensing for retail tobacco sales to the department of revenue administration from the liquor commission.

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

1 Tobacco Tax; Licenses. RSA 78:2 is repealed and reenacted to read as follows:

2 78:2 Licenses.

3 I. Each manufacturer, wholesaler, sub-jobber, vending machine operator, retailer, and
4 sampler shall secure a license from the commissioner before engaging in the business of selling or
5 distributing tobacco products in this state or continuing to engage in such business. Each
6 wholesale, sub-job, and retail outlet shall have a separate license regardless of the fact that one or
7 more outlets may be owned or controlled by a single person. Each tobacco products vending
8 machine to be operated in this state shall be licensed by the commissioner and shall be
9 appropriately identified as being licensed. The commissioner shall adopt rules pursuant to RSA
10 541-A relative to the licensing and identification of each tobacco products vending machine, and
11 the information required in an application for a license. The commissioner shall issue a license
12 upon application stating such information necessary to identify the outlet and the character of
13 business transacted. The fees for licenses shall be: \$100 for a manufacturer's license; \$250 for a
14 wholesaler's license; \$150 for a sub-jobber's license; \$70 for a vending machine operator's license;
15 \$10 for a retailer's license; \$10 for a sampler's license; and \$10 for each vending machine location,
16 for the purpose of helping to pay the cost of administering this chapter. Each license shall be
17 prominently displayed on the premises described in it. Any person who shall sell, offer for sale or
18 possess with intent to sell any tobacco products without such license as provided in this section
19 shall be subject to the penalty provisions of RSA 21-J:39.

20 II. Notwithstanding RSA 21-J:14, information regarding licenses issued pursuant to this
21 section and information regarding enforcement actions taken pursuant to this chapter and RSA 126-
22 K shall be public records.

23 III. The commissioner, when issuing or renewing a retailer's license under RSA 78:2, shall
24 furnish a sign which shall read or be substantially similar to the following: "State Law prohibits the
25 sale of tobacco products to persons under age 18 and the purchase, possession, or use of tobacco
26 products by persons under age 18. Warning: violators of these provisions may be subject to a fine."
27 The sign shall be posted at any location where tobacco products are sold or distributed. The
28 commissioner shall adopt rules, under RSA 541-A, relative to placement of these warning signs in
29 areas where tobacco products are sold or distributed.

1 IV. Tobacco vending machine licensees shall register each vending machine with the
2 commissioner and obtain a permit for each machine. Such permit shall be displayed on the machine,
3 and each machine shall have a separate permit regardless of the fact that one or more machines may
4 be owned or controlled by a single licensee.

5 2 Unauthorized Sales. Amend RSA 78:12-a to read as follows:

6 78:12-a Unauthorized Sales. Manufacturers, wholesalers, and sub-jobbers shall not sell tobacco
7 products to any licensee who does not possess a valid or current license issued by the commissioner
8 [~~or issued by the liquor commission under RSA 178~~]. Any person who violates the provisions of this
9 section shall be subject to the penalty provisions of RSA 21-J:39.

10 3 Unstamped Tobacco Products. Amend RSA 78:14 to read as follows:

11 78:14 Unstamped Tobacco Products. No sub-jobber, vending machine operator, or retailer, and
12 no other person who is not licensed under the provisions of this chapter [~~or licensed under the~~
13 ~~provisions of RSA 178~~], shall sell, offer for sale, display for sale, ship, store, import, transport, carry,
14 or possess with or without intent to sell, any tobacco products not properly stamped under RSA 78:12
15 or 78:13, except as provided in RSA 78:12, II. This section shall not prevent any unlicensed person
16 able to purchase unstamped tobacco products by statute from possessing such products for his or her
17 own use or consumption, if the tax otherwise due under this chapter is paid by the unlicensed person
18 to the department directly. The provisions of this section shall not apply to common carriers
19 transporting unstamped tobacco products. Any person who violates the provisions of this section
20 shall be guilty of a felony.

21 4 Inspection Authorized. Amend RSA 78:26 to read as follows:

22 78:26 Inspection Authorized. The commissioner or any agent or employee of the department of
23 revenue administration, and any policeman, constable, sheriff or deputy sheriff, [~~or agent of the~~
24 ~~liquor commission~~] may enter in and upon any place or premises where tobacco products are held,
25 kept, located, or stored for the purpose of inspecting such products and ascertaining that the tobacco
26 products at such premises, or any portion thereof, shall not be sold, used, or consumed in this state
27 without the tobacco products tax first having been paid.

28 5 Definitions; License. Amend RSA 175:1, XXXIX to read as follows:

29 XXXIX. "License" means the authority granted by the commission to engage in the sale of
30 liquor, wine, *or* beverages, [~~or tobacco products~~] otherwise unlawful unless evidenced by such
31 document.

32 6 License Examinations. Amend RSA 176:9, III to read as follows:

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

37 7 Licenses Authorized. Amend RSA 178:2, I to read as follows:

1 I. The commission may issue licenses to individuals, partnerships, limited liability
 2 companies and partnerships, or corporations but not to unincorporated associations, on applications
 3 duly made therefor for the manufacture, warehousing, sale, offer for sale, or solicitation of orders for
 4 sale of liquor or beverages [~~and for retail sales of tobacco products~~] within the state, subject to the
 5 limitations and restrictions imposed by this title. The commission shall keep a full record of all
 6 applications for licenses, of all recommendations for and remonstrances against the granting of
 7 licenses, and of the action taken on such applications.

8 8 Combination and Retail Wine Licenses. Amend RSA 178:18 and RSA 178:19 to read as
 9 follows:

10 178:18 Combination License.

11 I. Off-premises licenses shall be issued only for grocery and drug stores not holding on-
 12 premises licenses. Such licenses shall authorize the licensees to sell fortified wine, table wine, and
 13 beverages for consumption only off the premises designated in the licenses and not to other licensees
 14 for resale. Such sale shall be made only in the immediate container in which the beverage, wine, or
 15 fortified wine was received by the off-premises combination licensee; except that in the case of the
 16 holder of a wholesale distributor license, beverages may be sold only in such barrels, bottles, or other
 17 containers as the commission may by rule prescribe. [~~Off-premises licenses may also authorize the~~
 18 ~~licensee to sell tobacco products.~~] There shall be no restriction on the number of combination
 19 licenses held by any person. The license shall authorize the licensee to transport and deliver
 20 beverages[, ~~tobacco products,~~] and table or fortified wines ordered from and sold by the licensee in
 21 vehicles operated under the licensee's control or an employee's control.

22 II. All sales of [~~tobacco,~~] beverages, fortified wines, and table wine shall be recorded on cash
 23 registers. No additional registers shall be added during the remainder of the year without prior
 24 approval of the commission. No rebate shall be allowed for cash registers discontinued during the
 25 license year.

26 [~~III. The commission may suspend the tobacco or alcohol sales portion of the license~~
 27 ~~separately under the provisions of RSA 179:57; any revocation shall revoke the entire license.~~]

28 178:19 Retail Wine License.

29 I. A retail wine license may be issued by the commission to any person operating a retail
 30 outlet in this state which shall allow the licensee to sell [~~tobacco products,~~] fortified wines[,]
 31 table wines directly to individuals at retail on the premises for consumption off the premises;
 32 provided, however, that persons holding any license authorizing the sale of liquor or wine by the
 33 glass under this chapter shall sell the wines authorized pursuant to this section in a separate area of
 34 the premises from the areas licensed for on-premises consumption. A separate license shall be
 35 required with respect to each place of business of an applicant. The license shall authorize the
 36 licensee to transport and deliver fortified and table wines ordered from and sold by the commission
 37 and sold by the licensee in vehicles operated under the licensee's control or an employee's control.

1 II. All sales of wine [~~and tobacco products~~] shall be recorded on cash registers. No additional
 2 registers shall be added during the remainder of the year without prior approval of the commission.
 3 No rebate shall be allowed for cash registers discontinued during the license year.

4 III. On-premises licensees licensed under this chapter shall maintain separate rooms for
 5 storage, shelving, display, and sale of [~~tobacco products and~~] fortified and table wine for consumption
 6 off the premises. Such rooms shall be equipped with at least one cash register which shall be capable
 7 of separately registering wine sales, and such rooms shall have an attendant at all times while open
 8 for business. Wine purchased for resale by virtue of the retail wine license shall be purchased on
 9 separate invoices from that wine intended for consumption in the dining room or lounge, and
 10 separate sales records shall be maintained for this purpose.

11 [~~IV. The commission may suspend the tobacco or alcohol sales portion of the license~~
 12 ~~separately under the provisions of RSA 179:57; any revocation shall revoke the entire license.]~~

13 9 Cigar Bar. Amend RSA 178:20-a, I to read as follows:

14 I. The commission may issue a license to a person who operates a cigar bar as defined in this
 15 section and who holds a tobacco retailers license under RSA [~~178:19-a~~] 78:2 in any town which has
 16 voted to accept the provisions of RSA 663:5, I(b), (c), and (d). The license shall entitle the licensee to
 17 serve beverages containing at least 1/2 percent and not more than 6 percent alcohol by volume at 60
 18 degrees Fahrenheit by the glass or other suitable container and by the bottle with the cork or cap
 19 removed; specialty beer in any suitable container; liquor containing more than 6 percent alcohol by
 20 volume at 60 degrees Fahrenheit, by the glass or other suitable container; and wines, by the glass, by
 21 the bottle with the cork or cap removed; or other suitable container, under rules adopted by the
 22 commission.

23 10 Fees; Wine Festival License. Amend RSA 178:29, I to read as follows:

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

	<u>Supplemental</u>	<u>Beverages</u>	<u>Beverages</u>	<u>Cocktail</u>
	<u>Only</u>	<u>and Wine</u>	<u>and Liquor</u>	<u>Lounge</u>
27 Airport				\$1,200
28 Ballroom	\$45			\$1,200
29 Bed and Breakfast	\$480	\$840		
30 Beer Festival				
31 One-day	\$250			
32 Two-day	\$300			
33 Three-day	\$350			
34 Catering (all)				\$1,200
35 Catering (off-site only)				\$ 840
36 Catering (on-site only)				
37 18 events-	\$5			

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1	36 events-	\$5			
2	52 events-	\$5			
3	Club Military				\$100
4	Club Social				
5	9 events	\$250			
6	18 events	\$450			
7	36 events	\$750			
8	52 events	\$1,200			
9	Club Private				\$1,200
10	Club Veterans				
11	9 events	\$250			
12	18 events	\$450			
13	36 events	\$750			
14	52 events	\$1,200			
15	College Club				\$1,200
16	Convention Center				\$2,400
17	Dining Car	\$480	\$840		
18	Fairs		\$112		
19	Hotel		\$840		\$1,200
20	One day License				\$100
21	Performing Arts				\$360
22	Racetrack/Motor Vehicle				\$1,800
23	Racetrack/Pari-Mutuel				\$3,000
24	Rail Cars				\$1,200
25	Restaurant		\$480	\$840	\$1,200
26	Special License			\$25	
27	Sports/Entertainment Complex				\$1,800
28	9 events	\$250			
29	18 events	\$450			
30	36 events	\$750			
31	52 events	\$1,200			
32	Sports Recreation Facility				\$1,200
33	Tobacco Retailer/ <i>Cigar Bar</i>				\$840
34	Vessel		\$480	\$840	\$1,200
35	Wine Festival				
36	One-day	\$250			
37	Two-day	\$300			

1 Three-day \$350

2 11 Youth Access to Tobacco Products. RSA 126-K:12, III is repealed and reenacted to read as
3 follows:

4 III. On or before April 1 of each even-numbered year, the commission shall provide the
5 department of revenue administration with a list of the names and addresses of all persons against
6 whom fines and penalties were assessed pursuant to this chapter and who have not paid said fines
7 and penalties in full by the date of the list. The commission shall update the information provided to
8 the department of revenue administration prior to June 30 of each even numbered year and
9 thereafter as requested by the department.

10 12 Repeal. The following are repealed:

11 I. RSA 175:1, LIX-a, relative to definition of retailer.

12 II. RSA 175:1, LX-b, relative to definition of sampling.

13 III. RSA 175:1, LXIV-d and LXIV-e, relative to relative to definitions of tobacco products and
14 vending machine.

15 IV. RSA 178:1, VI, relative to tobacco licenses.

16 V. RSA 178:19-a through RSA 178:19-c, relative to tobacco licenses.

17 VI. RSA 178:29, V-a, relative to tobacco license fees.

18 VII. RSA 179:57, III, relative to tobacco license suspension or revocation.

19 13 Effective Date. This act shall take effect July 1, 2013.

HB 637-FN-A - FISCAL NOTE

AN ACT transferring licensing for retail tobacco sales to the department of revenue administration from the liquor commission.

FISCAL IMPACT:

The Department of Revenue Administration states this bill, **as introduced**, will increase state general fund revenue and expenditures by an indeterminable amount in FY 2014 and each year thereafter. There will be no fiscal impact on county and local revenue and expenditures.

METHODOLOGY:

The Department of Revenue Administration states this bill transfers responsibility for licensing retail tobacco sales to the Department from the State Liquor Commission. In addition, the bill increases the license fee for tobacco vending machine operators from \$35 to \$70, and for individual vending machines, retailers, and samplers from \$6 to \$10 each. Prior to 2009, the Department was responsible for licensing retail tobacco operations. In 2008, RSA 78:2 was amended to transfer responsibility for these functions to the Liquor Commission, effective January 1, 2009; this bill proposes again establishing these functions within the Department. While the Department currently licenses tobacco manufacturers, sub-jobbers, and wholesalers, it states the addition of retail vendors will require modifying the existing tobacco license forms. The Department states it is able to absorb the costs of modifying the existing forms within its current budget. However, the Department states it is unable to absorb the cost of printing licenses, permits, and warning signs as required by the bill. Based on the cost of these materials when it was last responsible for licensing tobacco retailers, the Department estimates these costs at between \$3,000 and \$5,000 per year.

Prior to the transfer of retail licenses to the Liquor Commission, the Department had three employees dedicated to processing all tobacco licenses, including those for retailers as well as for wholesalers, manufacturers, and sub-jobbers. The Department states that one of those positions has since been eliminated and two have assumed other responsibilities within the Department that will make it difficult to perform additional functions. Consequently, the Department estimates it will need two additional labor grade 21 compliance officers in order to assume responsibilities for retailer licensing. The Department states the additional costs of these positions will be as follows:

	FY 2014	FY 2015	FY 2016	FY 2017
Compliance office salary (LG 21 * 2, with annual steps)	\$75,699	\$78,780	\$82,173	\$85,488
Benefits * 2	\$47,315	\$50,785	\$54,530	\$58,528
Total Salary and Benefits	\$123,014	\$129,565	\$136,703	\$144,016

Based on its prior licensing responsibilities, the Department estimates it will issue 25 vending machine licenses, and between 1,500 and 1,800 retail tobacco licenses every even-numbered year when licenses are required to be renewed. With the increase in license fees, the Department anticipates the bill will increase state revenue by an amount between \$6,875 (1,500 licenses * a \$4 increase, plus 25 vending machines * a \$35 increase), and \$8,075 (1,800 licenses * a \$4 increase, plus 25 vending machines * a \$35 increase) each even-numbered year. This revenue will be deposited into the general fund. Additional revenue will be earned from new licenses, but the Department states it does not have recent data on the number of new licenses issued each year.

The Liquor Commission states that when it assumed retail tobacco licensing responsibilities in 2009, it did not add positions or increase any other portion of its budget in order to fulfill the new responsibilities. As such, the Commission states it does not expect the bill to result in a reduction in personnel or other expenses. Accordingly, the Commission states it will not experience a fiscal impact as a result of the bill.

This bill does not contain an appropriation or authorization for additional positions.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 637-FN-A

BILL TITLE: transferring licensing for retail tobacco sales to the department of revenue administration from the liquor commission.

DATE: 2/7/13

LOB ROOM: 306 **Time Public Hearing Called to Order:** 10:05 am

Time Adjourned: 10:50 am

(please circle if present)

Committee Members: Reps. Weber, Schuett, P. Schmidt, D. Sullivan, Jeudy Goley, Gagnon, Booras, Moffett, M. Nelson, Hansberry, C. McGuire, Pratt, Hansen, S. Sweeney, Beaudoin, Bianca Rose Garcia, Sytek, Danais and Byron.

Bill Sponsors: Rep. D. McGuire, Merr 21

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Daniel McGuire, Prime Sponsor – There are businesses that sell tobacco but do not sell alcohol. Stores that sell tobacco only are held to a higher standard regarding licensing than seems reasonable. Tobacco tax generates a large source of revenue. DRA does not have power to arrest as the liquor commission does. DRA would need to add employees to take on this responsibility.

Eddie Edwards – Chief Enforcement and Licensing – Opposed to the bill. N.H. Liquor Commission has responsibility for enforcing tobacco regulations as they relate to the Food and Drug Administration. Enforcement officers are responsible for enforcement, education and licensing. Received grant from FDA to carry out their responsibilities in the state. Commission tries to streamline paper work so as to be business friendly. Commission has a focus on tobacco education. New Hampshire has led country in retailer compliance with tobacco and liquor regulations. Commission takes an educational approach in an effort to achieve compliance. There are 21 compliance officers. There were 26 in the last budget.

Stuart Trachy – N. H. Grocers Association – Opposed to the bill. Current system is working well. Vast majority of vendors have both a tobacco and liquor license. There is a good relationship between liquor commission and licensees. There are approximately 800 members in the organization.

Mindy Cyr – Tax Policy Analyst with DRA – DRA has responsibility for tobacco stamps. No position on the bill. Currently license manufacture and distribution of tobacco. Licensing is done in-house and education to retailer is provided. Employees go into field and check for stamping.

Respectfully submitted,

Daniel Hansberry

Daniel Hansberry, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

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Rep. Daniel McGuire, prime sponsor - There are businesses that sell tobacco but do not sell alcohol. Stores that sell tobacco only are held to a higher standard regarding licensing than seems reasonable. Tobacco tax generates a large source of revenue. DRA does not have power to arrest as the liquor commission does. DRA would need to add employees to take on this responsibility.

Eddie Edwards - Chief of Enforcement and Licensing - Opposed to the bill. R. H. Liquor Commission has responsibility for enforcing tobacco regulations as they relate to the Food and Drug Administration. Enforcement officers are responsible for enforcement, education and licensing. Received great from

The DA to carry out their responsibilities in the state. Commission tries to streamline paper work so as to be business friendly. Commission has a focus on tobacco education. N. H. has led country in retailer compliance with tobacco and liquor regulations. Commission takes an educational approach in an effort to achieve compliance. There are 21 compliance officers. There were 26 in the last budget.

Stuart Bachy - N. H. Grocers Assoc. - Opposed to the bill. Current system is working well. Most majority of vendors have both a tobacco and liquor license. There is a good relationship between liquor commission and licensees. There are approximately 800 members in the organization.

Mindy Lye - Tax Policy Analyst with DRA - DRA has responsibility for tobacco stamps. No position on the bill. Currently ~~over~~ license manufacture and distribution of tobacco. Licensing is done in house and educate retailer. Employees go into field and check for stamping.

Testimony

**FINAL REPORT
OF THE
SPECIAL COMMITTEE TO EVALUATE
THE NEW HAMPSHIRE LIQUOR COMMISSION
AND TO RECOMMEND STRUCTURAL AND OVERSIGHT REFORMS**

Prepared By:

Representative Lynne Ober
Chair of the Special Committee

Dated

November 13, 2012

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Purpose and Scope of Special Committee

The Special Committee was established in August 2012 by House Speaker William O'Brien after Liquor Commission Chief of Enforcement E. Edwards reported suspect activities of the Liquor Commission to the Attorney General, and local newspapers ran a number of articles about issues with the Liquor Commission. The reports and allegations encompassed topics of financial and management wrongdoing at the Liquor Commission. Included among the allegations were suggestions that the Commission had hired a lobbyist to oppose HB 1251 in violation of RSA 15:5; that over \$100,000 worth of wine was undocumented and missing from Store 6 in Portsmouth; that the Commission countenances self-described "bootlegging" activities related to large volume sales in its stores; that the Commission proposed the use of extra judicial activities to end an agency store relationship; that the Commissioners or a Commissioner allowed erroneous or misleading testimony before the House Commerce Committee to go uncorrected; a Commissioner removing government records from the offices of the Liquor Commission so that those records would no longer be available; and the Commission ignoring or circumventing the laws relative to the use of the State liquor warehouse by New Hampshire manufacturers of wines and spirits. The intent underlying the formation of the Special Committee was to document such incidents, and any other relevant issues, and to formulate recommendations for legislative reforms.

To that end, the Special Committee was directed to review documents, receive public testimony, solicit information, conduct research and evaluate the issues for the purposes of:

- understanding and documenting the extent to which the Liquor Commission in recent years may have engaged in activities at variance with applicable laws and regulations;

- understanding and documenting the history and potential systemic failures that resulted in, or contributed to, those activities;
- reporting the Special Committee's conclusions as to such activities and the related history and systemic failures;
- reporting the recommendations of the Special Committee for legislative reforms and responses that would address and resolve the systemic failures identified by the Committee;
- further reporting the recommendations of the Special Committee with regard to legislation that would promote ongoing legislative oversight of State agencies; and
- evaluating other State agencies to the extent necessary, to determine if those agencies failed in any oversight responsibilities to the Liquor Commission and New Hampshire taxpayers. (memo from Speaker O'Brien to Clerk Karen Wadsworth)

The Special Committee was afforded outside legal counsel from the firm Howard & Ruoff, PLLC, to conduct the factual investigation, including witness interviews and document review, and to assist the Committee in its fact-gathering process. Counsel has submitted their Final Report to the Special Committee.

Background Information on the Liquor Commission

The New Hampshire Liquor Commission controls the sale of liquor within the state. The Commission was established in 1933 pursuant to Chapter 99, NH Laws of 1933. New Hampshire State liquor laws are codified in RSAs 175 through 180 and cover the establishment of the Commission, liquor store operations, liquor licenses and fees, beverage distributor contracts, and enforcement. New Hampshire is one of 18 control states where the government directly controls the distribution of alcoholic beverages as well as being responsible for the regulation of alcoholic beverages. In its 79th year of operation, the Commission also focuses their efforts on education to reduce alcohol abuse, improve compliance of liquor sellers and the incidence of underage drinking by partnering with local communities and law enforcement

throughout New Hampshire. In FY2011, revenues from licensing and sale of liquor comprised 23 percent of all general fund revenues. An important part of this is that this revenue stream is not from taxes or fees. Their FY2011 report stated, "The Liquor Commission deposited \$553.9 million into the State's General Fund during fiscal year 2011. Net sales increased by \$23.2 million or 4.5% over the previous fiscal year to more than \$534.6 million. Liquor Commission operations earned net profits for the State of New Hampshire totaling \$138.1 million in fiscal year 2011, an increase of \$4.8 million or 3.6% over the previous fiscal year," and revenue has continued to grow in the months since then.

In 2009 when testifying before the Senate about SB181, a bill that proposed to re-organize the Commission, then Liquor Commissioner Earl Sweeney, who had been appointed to fill a temporary vacancy, gave the following report:

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 5%
- Wine Sales 4.5%

These increases 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 states 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. brokers: Why the middle man? Without Brokers we would deal with hundreds of alcohol producers, which would require 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 that 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.

Where the non-retail revenues come from: total at the time of the testimony was about \$ 5.8 million:

- Sweepstakes sales (5% of gross)
- Direct Shipping permits (9% of other revenues)
- 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 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.

At the time of Sweeney's testimony, the Commission wanted to be organized as an Enterprise Fund and that was done via an amendment to HB2 in 2009.

The New Hampshire brand is an important ingredient of the success of the Commission and a large part of what draws non-New Hampshire residents. People come from other states because of our brand and they spend their money not only on liquor, but also in communities. Gas stations, restaurants and other businesses benefit from this traffic generated by the Commission. The Commission is not just about business, but is also about licensing, safety and responsibility. While the Commission is charged with making money and returning its profits to the General Fund, it also trains off-premise licensees as well as its own employees.

The Commission has continued to increase sales, has been working with local wineries and micro brewers, continued to expand its brand and has returned an ever-growing amount of

money to the General Fund. It is important to remember that monies generated by the Commission are not from a tax or fee, but rather from a voluntary purchase.

Right-To-Know Requests under RSA 91-A

The Special Committee began its work by gathering documents from the Liquor Commission pursuant to the Right-to-Know law, RSA 91-A. Speaker O'Brien issued Right-To-Know requests under the provisions of RSA 91-A to the New Hampshire State Liquor Commission (NHSLC). These requests covered the following topics: possible illegal lobbying; investigations conducted at State liquor stores; "bootlegging" activities, also known as large-volume sales; contracted studies that may have been in conflict with the Commission's public stance on legislation and not presented to legislators; ancillary issues that may have affected the issuance of an RFP for warehouse operations; and discriminatory treatment of entities using the warehouse.

Committee Chair Lynne Ober issued a Right-to-Know request concerning the Moonlight Meadery reported incident.

Committee Meetings

The committee began meeting on September 5, 2012 and held meetings every week through October, 2012.

At the organizational meeting voluminous and expansive Right-To-Know requested information materials were disseminated to the Committee and the Committee established a website and posted all information in order to ensure transparency of its work. During

deliberations the Committee gathered additional data and heard testimony from numerous individuals and State officials regarding the recent history of the Liquor Commission.

The Committee began its deliberations by reviewing past legislation, study committee reports and performance audits. There was testimony regarding budgeting changes that were necessitated by the enactment of the companion bill to the budget in 2009, known as HB 2 (Chapter 144). In the past, the Liquor Commission has operated as an Enterprise Fund with funds budgeted via general funds, but the HB 2 changes afforded some flexibility and autonomy beyond the scope of other State agencies in pursuit of improved operations and profits. The Committee examined some of the budgetary and operational decisions that have resulted in public scrutiny and multiple media reports.

HB 1251 and The Lobbying Charge

Most notably, the Special Committee heavily scrutinized the issue surrounding the actions of the Commissioners in regards to the Commission's opposition to HB 1251 in the last legislative session. This legislation, introduced into the House Commerce and Consumer Affairs Committee, would have expanded the sale of spirits by allowing grocery and convenience stores to sell such items. The Liquor Commission opposed this legislation. Although the Liquor Commission could not legally hire a lobbyist to oppose this bill because State law forbids the hiring of lobbyists by State agencies (RSA 15:5), Chief Edwards reported that he suspected the Liquor Commission had hired a lobbyist. The Liquor Commission's opposition to this legislation and contemporaneous hiring of a beer-industry lobbyist to perform a contracted feasibility study for selling beer in State liquor stores were inextricably linked. Although the individual Commissioners deny the linkage of these events, in the opinion of the Special

Committee the evidence is highly weighted to drawing such a conclusion. Appendix A has a timeline related to this allegation.

The evidence relied on by the Special Committee can be summarized as follows. Chief Edwards reported illegal lobbying, bootlegging and other issues to the Attorney General in April, 2012, which resulted in an investigation conducted by Deputy Attorney General Ann Rice. Chief Edwards also contacted the Speaker's office with the same claims later in the summer.

Commission Chairman Joseph Mollica testified before the Special Committee that he had been asked to investigate ways of enhancing revenue by the Governor in 2010 when he interviewed for the Commission appointment. He said that the Governor talked about possibly adding beer to the inventory of State liquor stores. Chairman Mollica said this led to the Commissioners asking Rumbletree, their advertising agency, to find someone to conduct a beer study.

Lobbyist Clark Corson, who represented the beer wholesalers and was well known to the Liquor Commissioners, gave his resume to Chairman Joseph Mollica's administrative assistant and the Chairman subsequently ordered the resume given to Rumbletree, who, at the direction of the Commission, issued a contract to Corson without a competitive bid and without searching for qualified bidders.

Although the Commission did not request Rumbletree to manage the contract until January 25, 2012, and Corson's resume was not received until on or around January 30, 2012, Corson reportedly asked Rumbletree to have the contract begin as of January 1, 2012, because he had already been working on it. The contract was created by Rumbletree on February 2, 2012, and signed by Corson on February 3, 2012. In addition, Rumbletree personnel provided information that the scope of work outlined in the contract was in fact provided by Corson to

Rumbletree. It was not the same verbiage provided by Commission staff to Rumbletree. Thus, it is clear to the Committee that Corson had the scope of work before Commission staff asked Rumbletree to find a vendor to the study. The scope of work was written by Chairman Mollica and Chief Financial Officer George Tsiopras. This in itself, according to Commission staff, was unusual because such a scope of work would have ordinarily been prepared by staff in the merchandising and advertising division.

A \$30,000 payment was made to Mr. Corson for the beer study in 3 increments beginning in February, 2012 and ending in July, 2012 when the study was completed. In the opinion of the Committee, the study is rudimentary, not of a quality comparable to past studies prepared for the Liquor Commission by contracted vendors. Mr. Corson's qualifications to even perform the study are questionable. Corson acknowledged in an interview that he is not qualified to perform a feasibility study, but "he knows beer." Although he did not directly testify on HB 1251, Mr. Corson was openly and actively organizing the opposition to the legislation during the time in which he was preparing the beer study.

Representative John Hunt, who chaired the Commerce Committee when HB1251 was heard, testified that Lobbyist Corson told him he "was working for the Commission to make sure this bill did not pass." (Transcript of Committee Hearing, September 12, 2012, at 73-74). Chairman Hunt further testified that while he was not sure of Corson's exact wording, Corson made it "clear that he was working for them [the Commission]." Id. at 74. Chairman Hunt also testified that Corson's method is to work behind the scenes and not testify in committee.

Although there is insufficient proof beyond a shadow of a doubt, there is enough evidence to conclude that lobbyist Corson was hired through an unwitting "straw man", the

Rumbletree agency of the Liquor Commission, to organize and lobby to oppose HB 1251 on behalf of the Commission and in contravention of State law.

During the investigation done by Deputy AG Rice, neither Chief Edwards nor Chairman Hunt were contacted to provide evidence. Deputy AG Rice did interview Lobbyist Corson, who made several allegations about former Liquor Commissioner Mark Bodi, but AG Rice did not interview Bodi to verify those statements or to ask about the alleged illegal lobbying. It is clear also from her report that she did not review the relevant emails relating to this issue. The day before Deputy AG Rice's report was released, the Liquor Commissioners issued a press release (see Appendix A), which stated that they were aware they needed to improve their contracting procedures. Since then they have also developed forms that are used when choosing a vendor.

The Attorney General's report regarding the "Complaint from Chief Edwards on Illegal Lobbying by the Liquor Commission" found "no evidence that Corson was acting as a lobbyist for the Liquor Commission" and that Commissioner Bodi had essentially selected him by default by urging him to send his resume to the Commission for consideration as the consultant to perform the beer study and then ensure that it be passed along to Rumbletree with no further considerations or RFP. The Attorney General found no factual support for Chief Edwards's claims that the Corson study was a cover for illegal lobbying activities. Further, the Attorney General declined to pursue a criminal investigation or proceed with any ethics charges against former Commissioner Bodi, who had left State service effective two weeks prior to the issuance of the report.

This Committee has concluded that the investigation by the Attorney General's Office was woefully inadequate because several key witnesses were never interviewed, most notably former Commissioner Mark Bodi and Representative John Hunt. Former Commissioner Bodi

cooperated fully with the Special Committee's investigation and unequivocally denied the statements made by Lobbyist Corson about Bodi's involvement in the beer study contract.

The agency has a multi-million dollar contract with Rumbletree for advertising. The contract with Rumbletree and the SLC was amended by agreement on May 24, 2012 to increase the price limitation from \$2,490,000.00 to \$2,520,435.00. This was an increase of \$30,435.00. The amendment indicates it was for the period FY 2012 July 1, 2011 Thru June 30, 2012 but a prior amendment had extended the agreement's completion date to June 30, 2013. The Committee believed that this increase was to cover the cost of the Corson effort.

The Committee agreed to file legislation to strengthen RSA 15:5, which prohibits agencies from hiring a lobbyist because the Committee felt the Commission had acted in opposition to this RSA.

2009 NHSLC Reorganization as related to the Posting of Positions

The Special Committee became aware during deliberations that the positions of Director of Enforcement and Licensing and the Director of Administration had been posted in the Union Leader newspaper. The members were greatly concerned that the current Chiefs who expected to be promoted into positions, Eddie Edwards and Craig Bulkley, were somehow being retaliated against. In particular, the concern was Chief Edwards, as a whistleblower, was being punished for his testimony to the Attorney General and this Committee.

After testimony by Liquor Commission CFO George Tsiopras, the Committee questioned how many positions were available after the 2009 re-organization. The amendment that re-organized this agency, had a section on page 1 of the amendment that repealed three positions

and the following several lines reenacted the positions as Directors rather than Chiefs (the previous title). The Department of Administrative Services and the Liquor Commission maintain that three classified division chiefs were not automatically converted to unclassified status and thus, three classified and three unclassified positions were created, an addition of three positions.

However, testimony by Rep. Ben Baroody, who had been part of the Committee of Conference for HB 2 in 2009, was contrary to this position. Baroody said it had been the intent of the Legislature to repeal the three Chief positions while creating new Director positions, thus leaving the number of positions at three. DAS Commissioner Linda Hodgdon testified that because the three positions were "repealed" and not "abolished by position number" that she thought it was an increase in head count.

Prior to the 2009 amendment to HB 2, there had been SB181, which also addressed moving the three Chief positions to non-classified and in that bill, it was stated in section 24 that the Chief positions would be abolished. (Section 24 II line 37). That bill, within section 24, also discussed creating either 8 (Section 24 I line 31) or 5 (Section 24 II line 2) lower level unclassified positions and using the monies from the three abolished Chief positions to fund these new positions. However, by the time the amendment was added to HB 2, the request for the additional lower level positions was not mentioned.

DAS Director Karen Hutchins explained how a person transitions from classified to non-classified and explained that if a person has been in Group II retirement for five years, that the person (in this case E. Edwards) is allowed to retain Group II retirement even when no longer working in a position that would normally be classified as Group II.

The Commissioners explained that Chief Edwards had refused to accept the non-classified position and they had written to him and rescinded the offer. After Edwards was asked by the Committee to sign a release and allow the Committee to see both the offer letter and the withdrawal letter, he did so. The offer letter was signed by the Commissioners on April 25, 2012 and the job offered on April 27, 2012. According to the offer letter the new salary would be \$81,656, salary group GG, Step 3. On August 28, 2012 a letter withdrawing the offer was signed. That letter stated,

“... To date you have not accepted that offer. On July 2, 2012 you were again asked about the unclassified position. At a meeting held that day you requested additional time prior to making a final decision. Then on July 12, 2012 you informed the Commission of your plans for retirement and Chairman Mollica requested you put your proposal and timeline in writing. You agreed to do so but, as of the writing of this letter, you have not.”

The letter outlines Edwards' verbal statement about retirement in June of 2013. The letter also states, “You also requested that the Commission forego filling the unclassified division director's position until after your retirement from the Commission. The Commission made no such agreement.” The August 29, 2012 minutes of the Commissioners meeting show that the Commissioners entered into a non-public meeting to discuss personnel issues relating to the Enforcement Division. **(Appendix A)**.

When the letters were released, it was clear that the job postings on September 11 were because of two of the three offers to fill the newly created Director's positions had not been accepted.

Edwards, while not accepting the job, had “official” business cards printed at State expense with the title of Director and had changed the Enforcement page on the website to say “Director.” It is unknown when he took these actions. However, the minutes of the Liquor Commission meetings continue to show that “Chief Eddie Edwards” attended so there is a clear

difference between the title the Commissioners believe Edwards holds and the title that he uses to represent himself when acting on behalf of the State. When the Commissioners were asked about the website identifying Edwards as a Director, Commissioner Milligan explained that this was an effort to deal with staff personalities as the Commissioners tried to work through the process of changing from Chief to Director.

Edwards maintained that this issue was a dispute over salary and retirement. DAS Commissioner Hodgdon testified that Edwards had been notified that he would retain Group II retirement benefits. Because the Director position would have included a raise for Edwards per the completed Hay ranking, it was clear to the Committee that the dispute was not over salary or retirement, but it remains unclear what was the true nature of the dispute between Edwards and the Commissioners. When asked in hearing, Edwards spoke in generalities and would not outline his concerns. Edwards did say that he told the Commissioners that he planned to retire and confirmed that he gave them a potential retirement date.

Edwards also testified that he wanted to be treated as the HHS employees had been treated with the re-organization done in 1995. HB 32 (Chapter 310) that had the details of this re-organization is found in Appendix A. During this re-organization, the agency had been asked to cut \$5.3 million from their budget. The bill revoked bumping rights for three years. It made provisions for laid-off employees, re-organized positions and froze accrued time benefits for some employees who were transferred to non-classified status. None of the provisions, i.e. budget cuts, layoffs, etc., in that bill had been ordered for the Liquor Commission. Instead the top three positions of each of the divisions were being upgraded from Chief to Director to reflect their increased responsibilities. The change in title was done in the same manner as similar changes were done in other State agencies. The Commissioners maintained that after Chief

Edwards declined the Director position, they were obligated to advertise for it, and the position of Director of Administration.

Mr. Bulkley testified that he did decline his position because he would have to take a \$9,000 annual pay cut. It appears that when the job he currently holds was rated by the Hay Group, it was found that he was being over paid.

The Special Committee is perplexed by this seeming contravention of legislative intent to convert, not create, new positions, and intends to propose legislation to rectify the situation and has recommended that legislation be filed to ensure that previous legislative intent is achieved.

Contested Labor Contract

Committee members were provided a copy of a memo that Liquor Commission Human Resources Manager Mathews wrote to all Commission employees which said the Commission was not going to follow the requirements of the collective bargaining agreement for paying part-time employees who worked on Sundays or holidays because they are considered temporary employees. However, RSA-98:A-1 defines a Temporary Employee as "an appointment made to fill a temporary position on a full-time basis for the period of appointment." A part time employee is defined as an employee who works "less than 37-1/2 hours work in a normal calendar week or calling for less than 40 hours work in a normal calendar week with respect to positions for which 40 hours are customarily required." The Committee also heard testimony from the Commissioners and the State Employees Association that through the terms of the collective bargaining agreement, they would try to resolve their differences over the treatment of part-time staff in store operations on Sundays. The SEA is concerned that contract issuance and

recent spending on Commission operations have not been following the noted belt-tightening practices of other State agencies for the last few years.

NHSLC Commissioners were asked to report back to the Committee before the end of October on this issue, but did not.

Wine and Warehousing

The Committee heard testimony from Mr. William "Rufus" Boyett concerning storage of wine in the warehouses, and display and marketing issues for a shipment of Italian wines for a monthly promotion. Mr. Boyett's main contention was his treatment by then-Commissioner Bodi and his subsequent release by the Commission. Mr. Boyett alleges that he was hired as a wine consultant by then-Commissioner Bodi but was given the title of temporary Retail Store Clerk I. Mr. Boyett claimed that his relationship with the Commission soured after giving his recommendations and he was terminated. Mr. Boyett provided written documentation surrounding the incident.

The Committee also heard testimony from Mr. Michael Fairbrother, owner of Moonlight Meadery of Londonderry, regarding the distribution system for wines manufactured in New Hampshire. The State warehouse located in Concord and the Law Warehouse in Nashua are available but function on different terms. Mr. Fairbrother was given differing interpretations of the administrative rules relative to bailment charges at the State warehouse for his products. An email from the Liquor Commission was sent to him declining to waive bailment fees for product stored at the State warehouse that was not going to State liquor stores.

Mr. Fairbrother is currently delivering his product himself to private outlets statewide. He said that he was denied the right to use a third party wholesaler for such deliveries and other

work. He cites other states with which he does business are more streamlined and he would like to work cooperatively with the Commission to continue to promote his business. During his testimony he talked about confusing, conflicting rules and the inability to get consistent answers from Commission staff. He acknowledges that he is relatively new to this business and that a clear direction and consistent communication would be very helpful to assist him in his day-to-day operations.

Warehouse RFP

Counsel for the Special Committee Attorney Mark Howard provided an executive summary of the main points of the warehouse RFP to the committee. Attorneys Howard and Ruoff had attempted to interview the Commissioners about the contents of the RFP but the Commissioners refused to respond to their questions due to the pendency of the RFP process. It should be noted that the RFP was a public document that the Commission had posted on their website so questions about the document did not violate any confidentiality of that document as the Commission made it available for the public.

Chairman Mollica, Commissioner Milligan and Craig Bulkley answered questions about the RFP. Mr. Buckley took the lead and answered many of the questions. However, when asked about the provision in the RFP that asked bidders to bid on the combined capacity of both the State owned warehouse and the private warehouse, he refused to answer any questions. At one point Attorney General Mike Brown and Mr. Bulkley stepped into the hall to confer and when they came back Mr. Bulkley refused to answer a question about a section of the RFP. Several Committee members expressed frustration that questions relating solely to the contents of the RFP and not the bidding process were not answered.

HB 2, Chapter 144:267, Laws of 2009 had required that the Commission report back to the Fiscal Committee of the General Court by January 1, 2010 . The charge to the Commission was to:

"evaluate the efficiency and cost-effectiveness of its warehousing practices and procedures and investigate alternative practices and procedures to maximize the efficiency and cost-effectiveness of warehouse operations. The commission shall consider the role of the Concord warehouse in its evaluation and whether to sell, lease, or enter into a concession agreement or management contract for the warehouse and whether to transfer warehouse operations to another location. The liquor commission may implement a warehouse optimization plan based on its evaluation, provided the plan results in a minimum of \$5,000,000 of savings transferred to the general fund during fiscal year 2011, and provided that any plan developed pursuant to this section shall be approved by the fiscal committee of the general court and, if applicable, submitted for approval in accordance with RSA 4:40."

The Commission replied on February 19, 2010 that it was not in a position to either favorably recommend or implement a warehouse optimization plan that would reliably meet the stated statutory requirements, that it would continue to review and evaluate various options and that it would keep the Fiscal Committee apprised of its efforts.

The Commissioners were asked about this item and they responded that a consultant had been hired since the issuance of the 2010 letter and that the consultant's recommendations for warehouse efficiencies had been adopted. This included a new racking system.

Missing Wine

The Committee was unsuccessful in obtaining sufficient information regarding an alleged incident involving 300 cases of fine wine. The wine had an estimated value of \$100,000 and had been reported as missing from a State liquor store in Portsmouth. The missing wine incident has been widely reported in the press, but it is an ongoing investigation and during Committee

hearings a UNH student was murdered and all AG resources were assigned to the murder case. The Committee was told by the Commission and a representative of the Attorney General's Office that no information could be provided due to the status of the case. A published report indicates that the Governor and Executive Council were briefed on the matter in June but had not seen the investigatory report as of July 26th.

An article published in the Nashua Telegraph on Friday, July 7, 2012 outlined the events surrounding this incident and quoted extensively from an April 18, 2012 investigative report from the office of Liquor Enforcement Division Chief Eddie Edwards. The Committee requested a copy of this report from the reporter, who stated that the investigatory report had been shown to him, but he did not have a copy of it.

According to published news stories from the Nashua Telegraph, WMUR, the Union Leader and SeacoastOnline.com, the following events have occurred. A State liquor store operation was moved from one Islington Street location across a mall parking lot to another location late last year. Liquor Commission staff told investigators that an account executive with Constellation Wine had noticed "100 to 200" bottles of wine in the original store that were not on the inventory to be moved to the new location. The wine was moved to the back of the original store by the broker and a staff person. Several liquor store employees confirmed to investigators that they had seen the cases of wine at the back of the old store. Subsequently an inventory on November 30-December 1 revealed product codes associated with that wine which was not in the new location. A December 8th inventory of the new store confirmed that the wine cases were missing. Chief Edwards was asked by Commissioner Milligan to investigate the incident on December 9th.

The press has reported that the investigative report did not reach a conclusion regarding whether the wine was stolen or an accounting error had occurred. However, Chief Edwards was quoted as stating there was a "disturbing common thread" in liquor store operations. He is quoted as citing poor store management, lack of senior level accountability, inadequate supervision and retention of questionable employees. It was also reported that Chief Edward's report cites the human resources division for its mishandling of the administrative investigation. Former Commissioner Bodi is mentioned in the report as having been accused of moving product to Store 6 for him to purchase at a later time, at a sale price; a practice Chief Edwards states was not uncommon for Commissioners, licensees or customers. The Nashua Telegraph specifically reported that some employees involved in this matter have retired or been transferred, but no link to the event has been proven.

During the week of July 28th, Chairman Mollica was quoted as stating that Liquor Enforcement officers had turned the case over to the Rockingham County Attorney James Reams. He then stated that the case was eventually forwarded to the Attorney General, but not until mid-June. The County Attorney is quoted stating that a Liquor Enforcement officer had mentioned the incident and told him that the investigation was at an early stage. The County Attorney also indicated that he anticipated receiving more information but that his office never heard anything further. The incident was not reported to the local police and a spokesman for the Police Benevolent Association confirmed that this was not required to be done as Liquor Enforcement officers are certified to investigate alcohol-related crimes. The spokesman also claimed that the missing wine had come from a Massachusetts company and that Liquor Enforcement officers were told to stop their investigation because it had been forwarded to County Attorney Reams.

Large Volume Sales

Large volume sales are sometimes referred to in slang as “bootlegging” when the context involves or implies exceptionally large sales of alcohol to customers who may be purchasing or transporting products in circumvention of the applicable laws of the jurisdiction in which the alcohol is consumed or transported. The Commission defines a large volume sale as a sale by cash or check that is more than ten thousand dollars (\$10,000) at one time. The Internal Revenue Service (IRS) Form 8300 is used to track these transactions. Credit card sales, with appropriate identification, are not subject to the provisions of the IRS forms.

A cash sale not made to a registered licensee is subject to the requirements of the IRS form, which is filled out by the individual making the purchase and it is submitted to the IRS by the Commission. There were no large volume sales transactions requiring the forms “last year” according to paperwork provided to the Committee by the NHSLC. Moreover, Commission staff reported that the Form 8300 went into effect in 2006. In 2007, four (4) such forms were submitted to the IRS. There have been none in the last five (5) years. The Commission also provided emails addressing legal opinions given by the Attorney General as to the applicability of Form 8300. The AG had advised that Form 8300 was not required but that the Commission was free to file voluntary reports, but declined to give that opinion to the Committee because it was privileged client information.

The Commission provided the Committee with paperwork showing a revision to their large volume sales policy for sales of \$5,000.00 to \$9,999.00. These sales will require that a New Hampshire Internal Audit Form be completed for cash transactions only. The Committee obtained an internal email from Peter Engel, Director of Store Operations, dated December 1, 2011, in which employees are directed to disregard the previous requirement that related

transactions or a series of transactions be considered in accounting for the \$10,000 threshold for filing Form 8300. Likewise, the 24-hour waiting period to determine what is a related transaction was eliminated.

When interviewed by Howard and Ruoff, CFO George Tsiopras said he was unaware of the IRS Form 8300.

The Commission testified that large volume sales were entirely legal and that they had taken appropriate steps to report large cash transactions. Although Chief Edwards testified on this topic, he contradicted himself during testimony. First he stated that he knew of many cases where sales over \$10,000 had been made. Upon further Committee questioning, he back-tracked on that statement and explained that he knew of cases where it appeared that the purchaser was "structuring" transactions to avoid the reporting requirement. Finally he ended with the statement that this wasn't under his area of concern as Chief of Enforcement. The Committee asked Chief Edwards to provide data to back-up his structuring claim, but no data was provided.

During testimony Director Richard Gerrish said that more training was needed at the stores so that employees could comply with Liquor Commission policies as well as applicable state and federal laws. He stated that an RFP was out for bid and that this RFP was for needed training.

The Commission had been asked by Speaker O'Brien to provide information pursuant to RSA 91-A (Right-To-Know) relating to bootlegging activities in State liquor stores. A follow-up request for material relating to investigations by the Division of Enforcement and Licensing was also provided. Two large volumes of material were released to the Committee, including one centering on investigation dispatch logs and one of email and other correspondence. Internal and external criminal activity was included.

Several instances of what the Commission would term "large volume sales" were detailed, as follows:

Massachusetts State Police seized several State of New Hampshire Liquor gift cards and liquor from two defendants in Massachusetts. The defendants had gift cards worth approximately \$19,500 and roughly \$19,000 worth of liquor in their possession. The defendants were associated with Franklin De Kalb Liquors, Inc. 501 De Kalb Ave., Brooklyn, N.Y., and they were stopped while operating a vehicle on January 10, 2008. Investigatory correspondence indicates that there were no receipts for the gift cards but that the same store cashier rang out 3 of 4 purchases.

Another Massachusetts motor vehicle stop on February 17, 2011 in Chelmsford, MA uncovered 1,676 bottles of Hennessy VS cognac. Receipts from Stores 33 and 31 were found, as well as text messages suggesting that a Commission employee was assisting in the notification of the buyer as to product quantity and availability. Further investigation revealed that some stores permitted "large-volume out-of-state buyers" to purchase large quantities of product on a recurring basis (i.e. 30+/- cases a day, every day from July 2011 through September 2011) without an IRS Form 8300 being required. The investigator noted on October 24, 2011 that there were no discrepancies in store inventories. He wrote that it appeared that no criminal aspects were associated with the investigation and that the case was administrative in nature as it involved store policies and procedures. "IRS Form 8300 appears to be an issue again as it was at Store 49 in Plaistow". The case file shows the matter was resolved as follows:

Note from Division of Enforcement and Licensing: NH Liquor Commission agrees to purchase approximately \$40,000 of Hennessy from man convicted of bootlegging in MA (criminal evidence released from MA State Police). Suspect purchased product from NH stores prior to being arrested in MA. Enforcement recommended not purchasing product from convict, suspect has retained an attorney and has pending litigation with State of NH. (Case 11-125-OF)

Emails from August 21-24, 2012 regarding an audit at Store 76 refer to an order from an individual from Canada who has wine set aside in an office and picks it up when he “comes down from Canada” and pays with a credit card. It is not stored in a secure area of the warehouse. There is also a reference to other wine stored in the training room that had previously been at store 76 for more than 8 years.

The Regulated Industry:

The New Hampshire Grocers Association

John Dumais, President and CEO of the New Hampshire Grocers Association (NHGA), established in 1993, testified about his experiences and concerns involving the State Liquor Commission. He expressed confidence in the Enforcement Division and complimented Chief Edwards on his initiatives and openness when working with off-premise licensees to develop consistent policies and compliance training. On-line training is now available and the industry has achieved a 93% compliance rate for off-premise compliance checks. Dumais said the additional training has been a tool used by the grocers.

Mr. Dumais was highly critical of the Administrative Division of the Commission. He noted that a food store may be regulated by up to twelve different State agencies and that none were as difficult to work with as this Division. He stated that there has always been some friction between private sector NHGA and the Commission, and such friction has grown since the 2008 Legislative Session. Some examples cited included legislation which limited high volume wine retailer discounts to 15% rather than 20% off the regular store price which was, in his opinion, intended to hobble the most successful entities and boost State wine sales. The

December 2011 hiring of a “liaison” for on-premise licensees only, with an idea of offering special discounts to this class of licensee created an unfair special treatment for on-premise licensees and not his members.

Although the NHGA was encouraged by Gov. Lynch to work with the Commission to pursue the idea of selling spirits in food stores, the grocers claim to have again been rebuffed at the highest levels. Likewise, agency store operations have not expanded, despite being addressed in 2009 legislation.

According to Mr. Dumais, the McKinsey Report recommendations have been selectively addressed, to the detriment of the private sector. Furthermore, the SLC has unnecessarily restricted its efforts to consideration of liquor store operations in a vacuum. The SLC has been receptive to allowing State stores to carry non-liquor items and thus “optimize” State revenues. An example would be the recent approval by the Commission to sell cord wood at State stores. The optimization initiative has been carried to an extreme, at the expense of the tax-paying private sector, which cannot compete with a State monopoly for the sale of accessory items in State stores. The McKinsey Report had also cited underperforming State stores and the possible expansion of agency store operations to fill the voids in underserved regions of the State, but this pro-business private sector suggestion and the revision of the statutes in 2009 to address agency store operations has not led to any additional approvals. The closing and relocation of a liquor store in Manchester was highlighted as an example of an insensitive and unnecessary Commission decision not benefitting the community at-large. Existing private entities could have continued to provide the residential neighborhood with liquor products if an agency store could have been approved.

The lack of involvement and a true working relationship with the Commission is at the heart of Mr. Dumais' complaints. His organization has offered advice to improve store operations, develop co-marketing programs and streamline warehouse purchases and delivery programs, yet none of his suggestions have been adopted. He has asked the Commissioners to meet with the grocers and his requests have been denied. He stated that the Commission has the poorest communication relationship with the NHGA of any State agency.

The events surrounding HB 1251 last year have increased Mr. Dumais' frustration with the Commission. He outlined his objections to an inflated and unrealistic fiscal note, a lack of estimate of additional revenues and a complete disregard for the out-of-state market that makes up 60% of his customer base. He questioned the appropriateness of the coalition of entities aligned with the Commission against legislation that would have benefitted 1,400 off-premise, tax-paying licensees with over 40,000 employees. He claimed that the overall fiscal impact to the State from all sources was not a consideration.

Mr. Dumais made several suggestions to the Committee to improve the operations of the SLC. He suggested that the State should consider all sources of revenue in the definition of optimization. Oversight of the SLC should return to the Legislature. An advisory board to the SLC should be established and include every class of licensee. The rules governing agency stores should be revised to allow food stores to apply to be agency stores. The State should be restricted from selling non-related products in liquor stores, including ice, beer, food, beverages and cord wood. Large-volume retailers should regain the additional 5% wholesale discount that was taken from them. Standards should be developed to ensure equal promotions in State stores, off-premise and on-premise licensee locations.

Licenses and Fees

Licensing costs and the plethora of licenses available continue to concern the Committee. Fees based on number of registers and fees seeming to have no or little relationship to the costs of administration are puzzling to the Committee and seem unfair to the regulated community who must abide by those fees on an annual basis. The Committee also received testimony from Chief Edwards that the fee structure may be as old as twenty years without revision of cost. The Committee had also noted that a \$6 tobacco license seemed somewhat unrealistic and easy to lose track of for renewal purposes, but it also felt that the 50 page form to apply for a license was unrealistic and heard testimony that when smoking licenses were handled by DRA, the application form was 2 pages.

Constituent Issues

Rep. Laura Pantelakos testified before the Committee regarding two complaints from constituents and their licensing issues involving the Enforcement Division. She expressed concern that the Commissioners were being unfairly blamed for the actions of the "Rogue Agency" Enforcement Division. Rep. Pantelakos provided the Committee with information regarding the use of overtime by inspectors in the last biennium and stated that store and licensee hours made overtime unnecessary. Participation in DWI checks with local police were also unnecessary. The Enforcement Division has become less accountable over time. She explained that moving the Enforcement Division under the Department of Safety, as had been contemplated in the past, is an appropriate measure to ensure that law enforcement activity would be under the auspices of a law enforcement agency. The current setup where the Commission licenses, brings complaints and enforcement action, and then acts as a judge in such

matters is unfair to licensees. A separation of power is necessary, but she would keep licensing and hearings under the Commission, while transferring enforcement only.

Donald Manchester appeared before the Committee and testified regarding an enforcement raid at an establishment licensed to sell retail table wine and tobacco. Mr. Manchester had been a participant in a friendly poker game held on the premises of Top Shelf Cigar in Epping, New Hampshire. He stated that a few friends got together at that location for games with cigars as prizes. He noted that these were not "high-stakes cash games" and that all participants received a cigar from the establishment. A raid by SLC Enforcement on January 25, 2012 was detailed to the Committee. Mr. Manchester stated that he could not see a copy of the warrant, was told to put his hands up and empty his pockets. He claimed to have been subject to a body search by a female SLC inspector, even though male inspectors were present. Mr. Manchester testified that when he expressed concern about the female inspector performing the search, he was threatened to be "tazed". Although not arrested, Mr. Manchester was held at this location for two hours. He claimed that he was humiliated and terrified by this incident and later frustrated in his attempts to get copies of the affidavits and search warrant. He provided documentation of his requests to see the search warrant and complete file, which he still had not received, despite meeting directly with Chief Edwards and Deputy Chief Dunn. The Committee requested and promptly received the initial search warrant and return documentation directly from the Brentwood District Court and a copy of it was provided to Mr. Manchester.

The Committee questioned the involvement of the Enforcement Division into gambling activities. The Committee received a copy of RSA 179:19, VI stating that "licensees shall not allow gambling or wagering on their premises."

The Enforcement Division supplied their policies pertaining to Interviewing Witnesses and Victims (O-402), Interrogation of Suspects and Prisoners (O-403) and Search Warrants (O-410) (Appendix A). There is no policy in these documents regarding searches performed in consideration of the gender of the subject of the body search or pat-down and the official performing the search.

The Committee sought clarification of search warrant protocols and procedures and received testimony from Earl Sweeney, current Assistant Commissioner of Safety, former Liquor Commissioner, and former Director of Police Standards and Training. He explained court decisions governing the use and application of search warrants and the concept of "articulable suspicion". He discussed how he would train law enforcement officials to justify grounds for a warrant and actually perform a pat-down or body search. He indicated that the SLC Enforcement Division has as much knowledge as any entity of enforcement of gambling laws, since no one entity had a clear superior responsibility. A local Chief of Police might be the initial contact for a local gambling complaint, and that individual would use their judgment and knowledge of local residents to pursue any matters that gravitated to a serious nature.

Assistant Commissioner Sweeney also stated that the Enforcement Division should remain in the SLC and focus on retail and internal security. He noted that at one time they had no SOPs (Standard Operating Procedures) and had borrowed from other entities. He stated that the Division has recently achieved full national accreditation.

The Long Report

This report breaks down demographics in the State by county and Executive Council districts and assesses what it terms "liquor access points" as the baseline for its analysis. A "liquor access point" is either an on-premise or off-premises licensee or a retail liquor outlet store. The original study was conducted in 2009 and updated in 2011.

The methodology employed by the Long Group study was to look at the demographic breakdown of various geographic areas by county and by Executive Council district to determine the number of people that were among the age of 21. The report then compares that data to the number of liquor access points and also compares the data to the volume of sales in those geographic areas as well. By comparing those three different elements the report is able to compare the relative access of New Hampshire citizens to liquor access points. The report assesses what it terms "liquor access points" as the baseline for its analysis. A "liquor access point" is either an on-premise or off-premises licensee or a retail liquor outlet store. When that data is then compared to geographical sales data the report can conclude whether there are lost sales opportunities in specified geographical areas.

During an interview conducted by Howard and Ruoff with former Commissioner Mark Bodi, Bodi reported that Commissioner Mollica was afraid of the data contained in the Long Report because it showed that the ratio of underserved consumers in NH had increased in the years he had been a Commissioner. This meant that the Liquor Commission was not maximizing profits because there was a growing market that was not being tapped by the Commission. This was an issue that had been raised early in the deliberations on HB1251 by the Commerce Committee. At that time, the Commissioners responded that there were no geographical areas under serviced, but the Long report was not provided.

The report concluded that the southernmost counties in New Hampshire (the counties that have the largest populations) are responsible for most of the sales of the Liquor Commission and have the highest ratio of legal age consumers to liquor access points. However, this report also concludes that the most populated counties and Executive Council districts are underserved by the Commission.

Since that report a new large store has opened in Manchester and this store won the Nashua Telegraph's Best in New Hampshire popular vote for the Best Wine store. A new liquor store has also been opened at the Manchester airport. The Commission is also reviewing properties for other locations.

Other Issues

During testimony the Committee began to hear issues about Administrative Rules. Two of the Committee members also sit on the Joint Legislative Committee on Administrative Rules (RSA 541-A:2, I, also known as JLCAR) and they testified that the Liquor Commission had not appeared before JLCAR. As a result many of the Commission's rules are expired. Testimony was heard that some of the Commission rules also conflict with each other and as a result, people who call the Commission for help may be given conflicting information from different staff members. One constituent e-mailed the Committee about Commission rules that had "disappeared". The JLCAR members stated that might happen if the rules were very old and had never been renewed.

The Commissioners testified that they had never been "trained" or attended Commissioner Orientation and both felt that such a program would help all commissioners learn about their responsibilities. The Committee suggested that new Commissioners should also be briefed on applicable state laws so that all laws are obeyed and while this is not under the mission of this Special Committee, the Committee believed that legislation should be filed ensuring that such training was instituted.

The Committee discussed whether the Right-to-Know law was being violated by the Commission because minutes were not being kept at top level meetings. Chief Edwards had complained because minutes were not being kept and alleged that when he showed up with a staff member to take minutes at one meeting, the Chairman had cancelled the meeting.

Chairman Mollica reported they had an opinion from the Attorney General on this, but when Howard and Ruoff asked to see that opinion, they were again told that this was a privileged client communication.

The Committee reviewed past studies and legislation about changing from a three Commissioner to a one Commissioner format. After much discussion and debate, the Committee felt that legislation should be filed to change the structure.

There was also discussion about the need to change the culture and it was felt that culture could only be effectively changed if the overall management structure was changed. During testimony the Committee consistently heard that someone else was in charge or responsible for actions. As a result the Committee felt that there needed to be one person who was ultimately in charge and responsible for management of this State agency.

When the Commission was reorganized in 2009, three Director positions were established and each Director would head one of the three Commission areas (Warehouse and Marketing, Enforcement and Licensing, and Administration). The Committee felt that if a single Commissioner with a Deputy Commissioner were now added, there would be better accountability.

Appendix A has a summary of previous work in this area.

Conclusion

More detailed support for the Special Committee's conclusions regarding the foregoing issues is contained in the Final Report of counsel to the Committee. In addition, counsel's report contains their factual findings on other issues not addressed here.

Based on the foregoing, the Special Committee recommends that the Legislature consider legislative reform in the following areas. The list below is not prioritized.

1. Abolish 3 positions from HB 2 Hassan amendment. These positions are: position number 14237, Administrator IV, position number 14262, Chief of Licensing & Enforcement, and position number 14285, Chief of Administration, Liquor Commission.
 - Rep. Lynne Ober will be prime contact
2. RSA 15:5 – add a sentence that specifies that no agency may hire a “consultant” who has been a lobbyist within 5 years; directly/indirectly.
 - Rep. Lynne Ober will be prime contact
3. Put Liquor Fund back into general funds.
 - Rep. Lynne Ober will be prime contact
4. Smoking license move to DRA with appropriate personnel.
 - Rep. Dan McGuire will be prime contact
5. Transfers – eliminate “the provisions of this section shall not be subject to RSA 9:16-a, RSA 9:17-a, and RSA 9:17-c”.
 - Rep. Dan McGuire will be prime contact
6. When budget transfers are reported to the Fiscal Committee, the transfers shall show purpose of transfer line item(s) from and line item(s) to.
 - Rep. Dan McGuire will be prime contact
7. Suggest rationalizing the discount for off-premise licensees found in RSA 178:28.
 - Rep. Jordan Ulery will be prime contact.

8. Re-write RSA 176:14 to bring rule-making authority in-line with RSAs.
 - Rep. Carol McGuire will be prime contact

9. Develop mechanism whereby on and off-premise licensees can obtain wine from non-NH producers not available through the Liquor Commission and may sell wine plus pay applicable wine tax. This would add a section to RSA 178:27.
 - Rep. Carol McGuire will be prime contact.

10. Review and streamline all license categories and fees under RSA 178 to make them easier to follow, ensure fairness, and create a positive business environment for New Hampshire businesses.

11. Create a commission to study the promotion of NH wineries and to propose any necessary legislation, particularly with regard to their ability to sell to on and off-premises licensees, and with regard to distribution within the state either via the liquor commission's warehouses or other means.

The Committee recommends that the commission will consist of:

- Four members of the House chosen by the Speaker, one each from the Commerce, Environment and Agriculture, Ways and Means, and Finance Committees.
- Two members of the Senate chosen by the Senate President.
- One liquor commissioner or designee.
- One person chosen by the board of the NH Grocer's Association.
- One person chosen by the board of the NH Lodging and Restaurant Association.

- One person chosen by the board of the NH Winery Association.
- One person chosen by the NH Wine and Spirits Brokers Association
- Two members chosen by the Governor, one a licensed carrier and one a NH wine manufacturer who is not a member of the NH Winery Association.

It is further recommended that the first-named House member will call the first meeting of the commission within 30 days of passage, and the commission will choose its own chair with a final report is due on November 01, 2013.

- Rep. Tara Sad will be prime contact with Rep. Dan McGuire.

12. Ensure legislatively that Enforcement, if a licensee fails a compliance check the first time, will first warn, provide adequate training before the licensee is fined or loses the license.

13. Reorganize the Commission structure. The Commission structure should be shifted from three equal Commissioners to one Commissioner and a Deputy Commissioner with appropriate changes to administrative structure as required. The designees should undergo a background check and should have significant experience in upper management of a large retail organization.

- Rep. Tara Sad will be prime contact with Rep. Marilinda Garcia.

Appendix A

Timeline of Specific Events Involving HB 1251, Rumbletree Contract, Attorney General Report and Right-to-Know Requests

DATE	ACTIVITY
May 25, 2011	Legislative Service Request 2021 (to be HB 1251) is filed; entered into LSR tracking system on May 31 st .
Thanksgiving 2011	Clark Corson stated that Commissioner Bodi told him that the Liquor Commission would be doing a feasibility study regarding the sale of beer at liquor stores and asked Corson if he was interested in doing the study. Corson stated that Bodi encouraged Corson to submit his resume if he was interested and followed up with Corson on a couple of occasions.
January 4, 2012	HB 1251, permitting off-premises licensees to sell liquor, is introduced in the House and referred to House Commerce and Consumer Affairs Committee.
Some date prior to contract preparation	Clark Corson gives his resume to the Liquor Commissioners Admin Assistant.
Some date prior to contract preparation	Admin Assistant was told to give resume to Mary Sartwell, who works in the Liquor Commission. Unknown who approved forwarding the resume to Ms. Sartwell.
January 25, 2012	Ms. Sartwell submits scope of work to Rumbletree (Jessica Kellogg) and inquires if they know anyone who could perform this study for the Commission.
January 27, 2012	Ms. Sartwell follows up with Rumbletree (Ms. Kellogg) and Ms. Kellogg replies that RKM or Sentient Decision Science could both possibly handle the contract and asks if she should contact either.
January 30, 2012	Ms. Sartwell gives Corson resume to Rumbletree (Ms. Kellogg).
January 31, 2012	Public hearing held on HB 1251 before House Commerce and Consumer Affairs Banking Division.
February 2, 2012	No competitive bid is done for scope of work by Rumbletree. Instead a contract for Lobbyist Corson is prepared by Rumbletree (Vivian Lefebvre) for approval by Ms. Sartwell. Ms. Lefebvre notes in her email that Mr. Corson had advised her "that the project is already underway and he has been working on it since January 1, which is reflected in the contract."
February 3, 2012	Commissioner Mollica approves compensation, scope of work and contract execution.
February 6, 2012	Rumbletree signs contract with Clark Corson for a fixed fee of \$30,000 in

	three installments of \$10,000 each. Corson signs, dated March 2 (mistakenly) with a notation of (Feb '12)
February 9, 2012	Subcommittee work session held on HB 1251.
February 16, 2012	Subcommittee work session held on HB 1251.
February 18, 2012	Clark Corson letter to House Commerce and Consumer Affairs Committee members outlining his opposition to HB 1251 is mailed to committee members and emailed to Earl Sweeney, Commissioners Mollica, Bodi, Milligan and CFO Tsiopras
February 21, 2012	Subcommittee work session and executive session held on HB 1251. Clark Corson letter to Speaker O'Brien outlining his opposition to HB 1251 is emailed to Speaker O'Brien.
February 23, 2012	Subcommittee work session and executive session held on HB 1251. Majority report: Ought to Pass with Amendment is approved, vote 10-8. Minority report: Inexpedient to Legislate. Amendment replaced the bill and created a study committee to study requiring that all sales of alcoholic beverages for off-premises consumption be made at state liquor stores.
February 25, 2012	HB 1251 Editorial Draft emailed from Clark Corson to Commissioners Mollica, Bodi, Milligan, Director Edwards, CFO Tsiopras Rep. Hunt, Earl Sweeney, Tricia Lucas, Henry Veilleux, Mike Somers, Bob Blaisdell
March 8, 2012	House approves Ought to Pass with Amendment on HB 1251 by voice vote.
March 28, 2012	HB 1251 is introduced in the Senate and referred to Senate Ways and Means Committee.
April 24, 2012	Public hearing held on HB 1251 before Senate Ways and Means Committee
April 25, 2012	Senate Public Affairs Committee votes ITL 6-0.
May 2, 2012	Senate adopts 6-0 recommendation of Ways and Means Committee of Inexpedient to Legislate by voice vote.
May 7, 2012	Letter from Director Edwards to AG Delaney relative to possible violations of RSA 15:5 and RSA 643:1, involving the construction of a beer study contract to shield the illegal practice of using public funds to lobby the New Hampshire Legislature and to structure the study to hire a professional lobbyist for the purposes of opposing HB 1251 under the pretext of studying beer to be sold in State Liquor Stores. NHLC Bureau of Enforcement Incident Report #12-147-OF
June 4, 2012	Letter from Commissioner Michael Milligan to AG Delaney outlining Corson hiring and interactions with Director Edwards.
June 20, 2012	Commissioner Bodi resigns from the Liquor Commission, effective July 18, 2012.
July 16, 2012	Clark Corson submits report, "Beer Feasibility Study July 2012 Hampton/Hooksett Interstate Outlet Stores" to Rumbletree (agency of record for the NH Liquor Commission
July 31, 2012	Letter from Deputy Attorney General Ann Rice to Attorney General Michael Delaney finding no support for an assertion that Clark Corson was being paid to lobby for the Liquor Commission, and thus no basis upon which to open a criminal investigation.
August 1, 2012	First Right-To-Know Request Letter from Speaker William O'Brien is sent to Chairman Joseph Mollica, regarding lobbying and contacts with the Liquor Commission.
August 7, 2012	Letter from Attorney General Delaney to Joseph Mollica, Chairman, New Hampshire Liquor Commission, regarding Clark Corson lobbying complaint; Ann Rice preliminary investigation found allegations were

	unfounded and given Bodi's departure from state government, additional review of his compliance with the ethics law will not be undertaken and case was closed.
August 8, 2012	Press Statement of Chairman Mollica and Commissioner Milligan issued regarding the Attorney General's review of sub-contracts. Commission to implement full commission oversight of all Marketing and Advertising contracts going forward.

HB 32:



HOUSE COMMITTEE RESEARCH OFFICE

New Hampshire House of Representatives
4th Floor, Legislative Office Building
Concord, NH 03301
Tel: (603) 271-3600
Fax: (603) 271-6689

Nancy LeVinus, Committee Researcher
(603) 271-3385
Nancy.LeVinus@leg.state.nh.us

TO: Representative Lynne Ober, Chair
Special Committee to Evaluate the New Hampshire State Liquor Commission

FROM: Nancy LeVinus, Committee Researcher
House Committee Research Office

DATE: September 11, 2012

RE: Overview of HB 32, Chapter 310, Laws of 1995, the reorganization of the Department of Health and Human Services and the related personnel provisions

HB 55, Chapter 81, Laws of 1995 required the Department of Health and Human Services to present a plan for reorganization and to devise savings of \$32 million and report to the Legislature by October 1st. The Legislature was required to meet in special session by November 1st to consider the plan, which effectively became HB 32, Chapter 310.

HB 32, Chapter 310, Laws of 1995

Joint House and Senate Finance Committees on the Health and Human Services Reorganization Plan on Tuesday, October 3, 1995.

Governor Stephen Merrill testified:

"The Administrative Changes includes \$5,300,000 from vacant positions that are not going to be filled; we aren't going to fill them because we're going to continue the hiring freeze in Health and Human Services that all of state government had from last January when I signed the Executive Order and the Fiscal Committee agreed with me. But the reorganization of Health and Human Services is going to bring about other savings, and we're going to do some changes over there.

Right now, as a matter of course, salaried employees can get overtime; that's going to change. Right now if you're a salaried employee, you can get overtime as a matter of course; it's going to be the reverse, it's going to be unusual to get overtime if you're a salaried employee. Very frankly, it ought to be unusual. The reason you're on salary is that you have reached a level of professionalism where you are paid for everything that you contribute. I don't know a single business where a salaried employee says, "It's five o'clock, I'm going home; and if I stay, I want overtime." [Pages 5-6]

Deputy Commissioner Kathleen Sgambati testified there were 28 elements to the plan to save \$32 million. As part of that, the department was proposing that all services at New Hampshire Hospital would be part of an outside contract and that by June 30, 1997, all 45 affected positions at the state hospital would be absorbed by the contract, which would mean that those positions at the state hospital would be reduced by that time. She projected \$1.5 million in savings in this area and stated that for those positions that still remained filled by that point, they would work with employees to place them within the department or within state government and provide training where feasible. The department would ask the contractor to guarantee interviews for current employees, provide out-placement services and counseling. She also asked that employees laid off receive health care for up to 3 months. [Pages 24-25]

Donald Shumway, Director, Health and Human Services, Mental Health and Developmental Services, testified that "bumping rights" needed to be suspended for the period that jobs and assignments changed over the 3 years to carry out the reorganization. He stated that it was "very important to provide that the salaries of the persons who are reassigned as a result of the reorganization are not reduced." [Page 33]

Commissioner Terry Morton testified that there were approximately \$4.7 million for the biennium that was anticipated from current positions that were vacant and an additional \$600,000 in the second year of the biennium for positions that would become vacant and continue to be vacant in the second year. That would amount to \$5.3 million in personnel savings and he stated that he hoped all of that would be through vacancies and attrition.

Joint House/Senate Finance Committees Public Hearing on HB 32, October 11, 1995

Commissioner Morton's testimony described a "new class of senior management personnel who would not be eligible for overtime compensation nor would they be subject to the political appointment process."

Donald Shumway, Director of Special Projects, Department of Health and Human Services, characterized the new unclassified positions to be a "hybrid between the unclassified and classified systems of today, in that they have hiring and termination procedures unlike the current unclassified structure. For example, different unclassifieds today serve either at the pleasure of, for a term, or can only be removed for cause. These unclassified are part of what is more like a senior management

group, they can be removed for cause, or for lack of work, insufficient funds, etc..They have a right of appeal to the Commissioner.”

Denis Parker, Executive Director of the State Employees Association cited his previous characterization of HB 55, the precursor to HB 32, as “creating martial law on state personnel rules.” “Worse yet” was the added language in HB 32 that allowed the commissioner “to abolish just about everything in sight while only having to notify the Governor and Council and the Fiscal Committee of its actions”. As it eliminated certain job rights for classified employees, new job rights were being created for unclassified employees. Classified employees who were required to meet specific job requirements lost their long-standing job rights without appeal, while unclassified political appointments who had no job descriptions could appeal their termination. He cited the pay raises that unclassified employees might receive when they are moved into a higher pay scale and compared that situation to others who could be downgraded.

An inventory of items in the bill showed RSA 126-A:9, II, as new and “creates a new class of senior management positions”. The changes in RSA 94:1-a as “insertions/deletions” “realigns positions to meet new reorganization structure.” **The “Freeze of leave for move from classified to unclassified position” was “new: required to effect reorganization”.**

General Fund budget reduction for SFY 1996 was \$2,277,225 and for SFY 1997 it was \$3,022,777 for a total over the biennium of \$5,300,000.

Minutes of the HB 32 Work Session on October 17, 1995

Charles Connor, LBA reviewed the legislation section-by-section. He stated that RSA 126-A:9 Positions established, was already in law, RSA 94 and 135-C were the process of establishing positions. A question was raised about the cost of the unclassified plan and he answered that there was none yet but that the Commissioner would set the salaries. Commissioner Morton stated that there was protection for unclassified as well as classified employees. **The Commissioner suggested not putting abolished positions in the back of the budget.** There was discussion of a budget line change for positions, the salary adjustment fund, and the \$5.3 million in savings from eliminating positions to not go into the Health Care Transition Fund but into the General Fund. The Commissioner stated that bumping rights were an executive division matter and he could not do the reorganization without eliminating bumping rights. **Section 46 was later amended (Section 44) to require reports to the Fiscal Committee, Department of Administrative Services and Governor and Council a list of general fund reductions for permanent, temporary and unclassified personnel services and related fringe benefits on December 31, 1995, June 30, 1996 and for whatever period is necessary to result in a total general fund appropriations reduction of \$5.3 million for the biennium ending June 30, 1997. Upon receipt of the commissioner’s list, the commissioner of the department of administrative services shall make the appropriate reductions.**

October 19, 1995 Letter from the Executive Councilor Bernard Streeter, Jr. on behalf of Executive Councilors Raymond Burton, Peter Spaulding, Ruth Griffin and Earl Rinker, to the Honorable Channing Brown, Chairman, House Finance Committee and the Honorable David Currier, Chairman, Senate Finance Committee

The correspondence states that the Executive Council had “serious reservations” and concerns with HB 32, including creating new positions, reclassifying positions and treating classified employees of the department differently than classified employees in other departments. **Pertaining to classified employees transferred to unclassified positions, the letter stated the Council’s concern about this provision allowing for preferential treatment compared to other state agencies and affecting future appointments:**

“This section allows all employees appointed to an unclassified position in Health and Human Services to maintain all their leave time (annual, sick, bonus, etc.). Again this would treat Health and Human Services employees differently from other departments’ employees. This provision is not limited but would effect all future appointments. Thus Health and Human Services employees would receive preferential treatment.”

Looking Back

According to the SEIU¹, the passage of HB 32 (Chapter 310) on November 1, 1995 at a special session allowed Department of Health and Human Service Commissioner Terry Morton “to bypass state laws and the personnel rules to reorganize the department” and it also included a suspension of bumping rights. At the same time the Legislature authorized contracting out the supervision of New Hampshire Hospital’s dietary, housekeeping, maintenance, grounds and laundry services. The contract was awarded, without competitive bidding to the French company Sodexho. In May of 1997, the union and state negotiators agreed to a restoration of bumping rights in a new tentative contract, but the provision was ultimately removed after the Legislature threatened to withhold funding. The new agreement did not include the restoration of bumping rights but did include 9 months of health and dental insurance for any employee laid off between July 1, 1997 and December 31, 1998. In the first week of October, 1997 Commissioner Morton announced that 58 employees would be laid off effective November 30th. Picketing and legal actions commenced.

Commissioner Morton was accused of “creating new, high-salary, non-union managerial positions at the highest levels of the department”. He was not reappointed by Gov. Shaheen when his term ended in January, 1999. Union efforts and reports of mistreatment of workers by Sodexho led the Executive Council to return the management functions at the hospital to state workers effective July 1, 2002. The reinstatement of the 58 workers eventually went to arbitration in the spring of 2002 and the remaining 4 grievants won reinstatement to their prior position or equivalent position.

Former House Speaker Donna Sytek (1996-2000) stated in an interview in 2010² that the move to grant such broad budgetary authority to a state agency turned out to be “the darkest day of my Legislative career. It was when the House just gave it’s [sic] responsibility away and said ‘Let Terry Morton figure out how to do it.’”

¹ <http://www.seiu1984.org/files/2012/06/SEA-History.pdf>



Memo to Chair Smith:
New Hampshire Liquor Commission

50 Storrs Street, P.O. Box 503
Concord, N.H. 03302-0503
(603) 271-3755

Mark M. Bodi
Chairman

Richard E. Simard
Commissioner

Joseph W. Monica
Commissioner

February 19, 2010

The Honorable Marjorie K. Smith, Chair
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

INFORMATIONAL ITEM

In accordance with Chapter 144:267 Laws of 2009, Liquor Commission, Concord Warehouse:

The liquor commission shall evaluate the efficiency and cost-effectiveness of its warehousing practices and procedures and investigate alternative practices and procedures to maximize the efficiency and cost-effectiveness of warehouse operations. The commission shall consider the role of the Concord warehouse in its evaluation and whether to sell, lease, or enter into a concession agreement or management contract for the warehouse and whether to transfer warehouse operations to another location. The liquor commission may implement a warehouse optimization plan based on its evaluation, provided the plan results in a minimum of \$5,000,000 of savings transferred to the general fund during fiscal year 2011, and provided, that any plan developed pursuant to this section shall be approved by the fiscal committee of the general court and, if applicable, submitted for approval in accordance with RSA 4:40. The liquor commission shall submit a report on the implementation of its plan to the fiscal committee of the general court on or before January 1, 2010.

The Liquor Commission reports that in accordance with Chapter 144:267, as noted above, it has conducted a preliminary evaluation of the efficiency and cost-effectiveness of its warehousing practices and procedures and investigated alternative practices and procedures to maximize the efficiency and cost-effectiveness of warehouse operations. In this review the commission, as required by law, has also considered the role of the Concord warehouse in its evaluation and whether to sell, lease, or enter into a concession agreement or management contract for the warehouse and whether to transfer warehouse operations to another location.

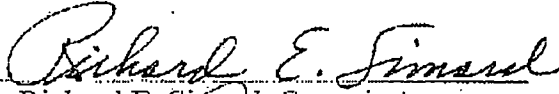
However, based on the current analysis and information available to the Commission at this time, our agency is not in a position to either favorably recommend or implement a warehouse optimization plan that would reliably meet the stated statutory requirements of achieving " a minimum of \$5,000,000 of savings transferred. to the general fund during fiscal year. 2011 "

The Commission is continuing to review and evaluate various options that would possibly result in material financial and logistical variances from our analysis thus far. We will keep you apprised of those efforts and would be happy to answer any questions you may have as a result of this transmittal or as the review process continues:

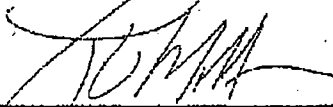
Respectfully submitted,



Mark M. Bodi, Chairman



Richard E. Simard, Commissioner



Joseph W. Mollica, Commissioner

Memo to Chair Brown:



Terry L. Morton
Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF THE COMMISSIONER
6 HAZEN DRIVE, CONCORD, NH 03301-6505
603-271-4688

FIS 96 133
Informational
RECEIVED
JUL 3 4 38 PM '96
ADMINISTRATIVE SERVICES
Subject: Sgambati
Dep't Commissioner

July 2, 1996

Donald S. Hill
Commissioner
Department of Administrative Services
State House Annex,

The Honorable Channing T. Brown
Chairperson
Fiscal Committee of the General Court, and

His Excellency, Governor Stephen E. Merrill
and the Honorable Executive Council
State House
Concord, NH 03301

FISCAL COMMITTEE	
Received	7/10/96
Filing Date	7/10/96

INFORMATION

1) Attached, in accordance with the provisions of Chapter 310:44, Laws of 1995, Personnel Appropriations and Reductions (HB 32), is the list of general fund reductions totaling \$ 577,198 for personnel and related fringe benefit accounts in the Department of Health and Human Services for the biennium ending June 30, 1997.

EXPLANATION

The attached list is forwarded to you in accordance with the requirements of Chapter 310:44, Laws of 1995, Personnel Appropriations and Reductions (HB 32). This law requires the Department of Health and Human Services identify reductions totaling \$5,300,000 general funds for personnel and related fringe benefits for the biennium ending June 30, 1997. The Department has previously identified reductions of \$4,737,474 general funds on January 19, 1996.

The Department has achieved these, further reductions by maintaining a hiring freeze on personnel since July 1, 1995. These reductions result from 27 positions partially or wholly supported by general funds remaining vacant through June 30, 1997. These are in addition to the 86 positions which were identified in the first installment of reductions. These combined reductions total \$ 5,314,672 general funds for the biennium.

Respectfully submitted,

Terry L. Morton

Ref: OCOM96/HB32/POS1A

TDD Access: Relay NH 1-800-735-2964
(Agency Tel. No.) 603-271-4688

August 8, 2012 Press Release:



John H. Lynch
Governor

New Hampshire Liquor Commission

50 Storms Street, P.O. Box 603
Concord, N.H. 03302-0503
(603) 230-7026

Joseph W. Mollica
Chairman

Michael R. Milligan
Commissioner

Press Statement of New Hampshire Liquor Commission Chairman Joseph W. Mollica Commissioner Michael R. Milligan August 8, 2012

Chairman Mollica and Commissioner Milligan issued the following statement today regarding the Attorney General's review of sub-contracts.

"Through the Attorney General's review, it became clear the New Hampshire Liquor Commission realizes it needs to institute tighter controls over the oversight of our Advertising and Marketing contracting practices.

Through concerns that have risen from this Attorney General's review, going forward we are implementing full Commission oversight of all Marketing and Advertising initiatives.

We have entered into discussions with the Attorney General's office on how to improve our business practices as it relates to our Advertising and Marketing requirements.

All service contracts will be reviewed at the Attorney General's office for any possible conflicts. We have appointed a team to review the upcoming Advertising and Marketing contracts for any possible areas where financial controls and efficiencies can be enhanced and oversight increased.

The Commission pledges to continue its commitment to maintaining proper oversight in all areas of our business that serve the people in an open, honest and productive manner."

August 29, 2012 Meeting Minutes:
NEW HAMPSHIRE LIQUOR COMMISSION
Minutes of August 29, 2012 Meeting

Page 5

V) LATE ITEMS
No Late Items

VI) ENFORCEMENT AND LICENSING REPORT No Agenda
Enforcement minutes are reported on the Liquor Commission website under the Enforcement section.

VII) EXECUTIVE SESSION Executive Session Items from Enforcement regarding personnel.

At 1:40 PM Chairman Mollica made a motion to go into non-public session under RSA 91-a:3 for the purpose of Enforcement personnel. Commissioner Milligan seconded the motion, which was unanimously adopted.

At 1:50 PM the meeting emerged from Executive Session and the Commission Meeting was adjourned.

Minutes prepared and submitted by:
Anne Bogart, Administrative Assistant
Office of the Commissioners

History of Attempts to Reduce Number of Liquor Commissioners

History of Attempts to Reduce Number of Liquor Commissioners				
1994	HB1196 – Changing the composition of the liquor commission	Prime Sponsor – Peter Burling	<p>Interestingly, the fiscal note prepared by the LBAO predicted that this reduction would result in an <i>increase</i> in GF expenditures by \$14,043. The justification for this was the need to hire a new Executive Director and Facilities Manager, plus upgrade the positions of five directors and chiefs. Two pieces of testimony in the file – one from Commissioner Luce of the SLC and one from Richard Bouley, lobbyist for the Granite State Wine & Spirits Association – both in opposition to the bill.</p> <p>The only people in favor of the bill were Reps. Burling and Cote, sponsors</p> <p>(Clark Corson, lobbyist for NH Wholesale Beverages, signed in in opposition to the bill.)</p> <p>The majority blurb referred to the LBA comprehensive evaluation of the SLC in progress at the time. They also cited that consolidating the management to one commissioner would give the person too much power</p>	Referred to Regulated Revenue Committee – One hearing, ITL out of committee (13-6 vote). Burling attempted to amend it to a study committee on the floor, ITL Roll Call vote (153-197).
1996	HB 1213 – Changing the composition of the liquor commission	Prime: H. Williams	<p>This time the fiscal note showed a first-year increase in budget, for the same personnel increases as in 1196 above, of \$68,128, but a savings in the second FY budget of \$19,194.</p> <p>The prime sponsor spoke in favor, and passed out copies of excerpts from the LBA 7/94 Study of the State Liquor Commission which recommended reducing the commissioners from three to one. The LBA study claimed the three-member commission is ‘inefficient, unnecessary and outdated..... multi-headed boards ...too often result in divided authority and</p>	Referred to Regulated Revenue Committee – One hearing, ITL out of committee (9-2 vote)

			<p>indecision where efficient and effective coordination and implementation of policy are needed'.</p> <p>Commissioner Luce was the only person who spoke against the bill.</p>	
1996	SB 569	Sen. J. King, Sen. Cohen, Sen. Blaisdell, Sen. Pignatelli, Sen. Shaheen, Rep. Trombly, Rep. Dwyer,	<p>Even though this Senate bill had more support than the House bill that was heard the same year, the result was the same. The prime introduced the bill to the Senate ED&A Committee. Peter Burling spoke in favor. Commissioner Maiola spoke in opposition. Clark Corson, lobbying this time for the NH Beer Distributors, spoke in opposition. Comm. Luce did as well. Then Director Bunnell spoke in opposition, citing the 'delicate liquor operation' of the state, and that the timing was not right to do this. Dick Colbroth, a liquor broker, said 'it would be very, very dangerous' to change the liquor commission.</p>	<p>The Senate ED&A Committee had one hearing, and voted unanimously (4-0) ITL. It was tabled on the Senate floor by Sen. Stawacz, but a week later taken from the table and the ITL recommendation was approved by a voice vote.</p>
1998	HB 1506 – Changing the composition of the liquor commission	Prime: Rep. Burling	<p>This bill suggested change from three commissioners to one 'executive director'. The fiscal note in this instance was a reduction the first FY of \$72,016, and \$155,332 each year thereafter.</p> <p>This time, surprisingly, there were thirteen people who signed in, all in favor of the bill. Two commissioners (Maiola and Byrne) submitted testimony in opposition.</p> <p>The majority blurb, written by Rep. Dyer, suggested that we should keep the changes made by passage of a bill three years before that changed the structure of the department 'should stay in place for a while before we make sweeping changes.... There appeared to be little support from the public on this subject.'</p> <p>The minority blurb, written by Rep. Tim Robertson, said, 'There are very few organizations having three managers that</p>	<p>The House ED&A Committee heard the bill, and voted in executive session ITL (12-3)</p>

			are managed well. The liquor commission is no exception. It is past time that this issue is studied and actions taken.'	
1999	HB 533-FN- Changing the composition of the liquor commission	Prime: P. Burling	<p>This bill proposed one full-time chairman of the commission and two part-time commissioners, resulting in a net savings of \$150,164 per year.</p> <p>Peter Burling spoke in favor, followed by Commissioners Maiola, Luce and former Commissioner Acorace who spoke in opposition. Acorace testified that the SLC is 'BIG BUSINESS'. The three-member commission allows the commissioners to have close scrutiny of each other. He also said that 'the bill did not recognize the constitutional separation of powers in that it in effect nominates and restricts the governor's ability to chose the very best person for the Chairman position..., rather than someone she may have more confidence in and may prefer. Traditionally the governor nominates and the Council approves. Not so in this case.'</p> <p>Commissioner Byrne submitted written testimony in opposition, citing the strong revenue production of the SLC</p> <p>The 1991-1992 Task Force on New Hampshire State Government Operations Report and Recommendations was included in the bill file. The findings regarding the Liquor Commission (page 21 of the report) recommended 'The three-member SLC should be eliminated and replaced by a single commissioner responsible for management of the liquor sales operation. If deemed necessary, a part-time advisory/oversight board should be established in place of the current structure.'</p> <p>The report findings showed that the 'three full-time Commissioners sharing administrative duties is unwieldy and inefficient.' The auditee response to the recommendations of the Task Force was 'We do not concur'. The LBA rebutted the auditee's response.</p> <p>The majority blurb stated '...the present system of checks and</p>	The ED&A Committee heard the bill and voted in Executive Session ITL by a vote of 13-4.

			balances enhance the effective operation of the Liquor Commission and that there is no compelling reason to change this structure. The minority wrote ‘ The time has come to restructure the senior management of the liquor commission.We need a business-like management plan ...that places control of the commission in the capable hands of a single commissioner. Two recent studies have recommended this...?’	
2008	HB 1552 – relative to establishing a single liquor commissioner	Prime – McEachern, Co: M. Quandt	<p>This bill simply reduces the liquor commission to one person – and doesn’t promote existing or hire new employees of the commission to take over the duties of the two commissioners who will be removed. The LBAO anticipates savings in expenditures of \$122.807 in FY 2012.</p> <p>Rep. Gene Chandler signed up in opposition, and Howard Wilson signed up in favor.</p> <p>McEachern testified that the commissioner appointments were political, and the people chosen were not necessarily administrators. Quandt considers the SLC a patronage appointment.. He also identified some complaints from some state employees.</p> <p>Interestingly, Commissioner Bodi testified <i>in favor</i> of a single commissioner.</p> <p>Commissioner Maiola testified in opposition, saying the commission is not broken, don’t try to fix it. He has established a good rapport with store employees. Has been 19 years on the commission.</p> <p>Chris MacNeil, former owner of a convenience store in Concord, testified in support of the bill, saying they need one manager.</p> <p>Clark Corson (now with the NH Wholesale Beer Association Distributors) testified <i>in support of the bill</i>. ‘It’s time to</p>	<p>The ED&A Committee referred this bill to Interim Study on 2/12/08 with a 10-5 vote.</p> <p>Then, as a result of the Interim Study, there was a ‘Not Recommended for Future Legislation’ report, with a vote of 14-2</p>

			<p>upgrade the agency'. The commission 'didn't want to get involved' when bottle bills and beer tax increase bills were introduced. 'The state doesn't have clear management authority and responsibility.'</p> <p>Gene Roberts, representing himself, testified in support of the bill 'in part'.</p> <p>The bill was referred to the Rules subcommittee. They met on February 5th and 8th, 2008 and discussed a performance audit. The 1994 Performance Audit Report, which recommended a single liquor commissioner, was included in the file. There was another subcommittee work session on August 26, 2008.</p> <p>Kristie MacNeil, who owns a convenience store, testified 'very much in favor' of this bill. She had found it 'strikingly impossible to get issues addressed with such a format... Particularly where two commissioners simply weren't speaking to the Chairman and voted against anything that licensees were hoping to address..... The Liquor Commission needs a manager to handle the direction it wants to make.'</p> <p>The majority blurb from the interim study claimed 'The thought of eliminating two liquor commissioners makes good fiscal sense; however, the Bill provided no transitional structure, nor did it provide a final composition of the commission. The subcommittee hearing had no input from either the sponsors or the commission. Therefore, a recommendation to consider the bill for further action was killed'.</p>	
2009	HB 248-FN' – relative to establishing a single liquor commissioner	Prime: Rep. McEachern	<p>This bill would have removed the two commissioners, and hired hearing officers to review enforcement actions by employees of the Commission.</p> <p>LBAO estimated reduction of expenditures starting FY 2010 at \$24,139 and increasing to \$138.021 in 2013.</p>	<p>The EDA Committee voted on March 17, 2009 OTP-A (15-0)</p> <p>It gets to the floor,</p>

		<p>The amendment described the transition period, and made a slight change (removal of 'tobacco products') to Section III- Investigations.</p> <p>At the hearing, Rep. McEachern spoke in favor of the bill, noting that the 1994 Performance Audit recommending this change, and three people in a commission does not provide adequate accountability.</p> <p>Rep. Maiola (now a rep, but former commissioner) spoke in opposition to the bill.</p> <p>Chief Bulkley testified on the bill. Saying that the commission did not concur with the Performance Audit recommendations. And that he as responsible for compliance with audit recommendations. He joined the commission in 1997. He described the current structure of three bureau chiefs.</p> <p>The bill was referred to the subcommittee on audits.</p> <p>There are documents included in this file – the one page recommendation by the LBA Performance Audit Report Summary of July 1994, which recommended one liquor commissioner.</p>	<p>and it is special ordered two days in a row (?). Finally, on March 26th, Ann Marie Irwin moved to lay the bill on the table. This motion passed on a voice vote. The bill died on the table 10/18/09.</p>
4/2009	LBO Performance Audit Report	<p>Recommendation: 'Consider amending RSA 176 to reduce the number of Commissioners from three to one chief executive and establish a part-time board to provide general oversight, policymaking, and adjudicative functions. Also, consider establishing a part-time, three- or five-member board appointed by the Governor and Council, to provide general oversight, strategic business plan approval, policy-making, adjudicative functions such as listing and de-listing products, preside over hearings for licensee violations, receive results from internal audits, and determine store locations.</p>	<p>Bodi concurred in part. Simard and Russell did not concur, citing strong revenues.</p>

			<p><i>Since this 2009 performance audit and despite its recommendations – and those of the 1994 performance audit – there has been no legislation filed to reduce the commission to one commissioner from the three currently in place.</i></p>	
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Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 637-FN-A

BILL TITLE: transferring licensing for retail tobacco sales to the department of revenue administration from the liquor commission.

DATE: 2/12/13

LOB ROOM: 306

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Goley

Seconded by Rep. Nelson

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 16-0 Consent Motion - Schmidt

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Daniel C. Hansberry, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 637-FN-A

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Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. *Doley*
Seconded by Rep. *Nelson*

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.
Seconded by Rep.
Vote: (Please attach record of roll call vote.)

Consent Motion Schmidt

CONSENT CALENDAR VOTE: 16-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,
Rep. Daniel C. Hansberry, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2013 9:17:57 AM
Roll Call Committee Registers
Report

2013 SESSION

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

Bill #: G37-FN-A Title: _____

PH Date: 1/1/ Exec Session Date: 2/12/2013

Motion: cltz Amendment #: _____

MEMBER	YEAS	NAYS
Weber, Lucy M, Chairman	✓	
Schuett, Dianne E, V Chairman	✓	
Schmidt, Peter B	✓	
Jeudy, Jean L		
Sullivan, Daniel J	✓	
Goley, Jeffrey P	✓	
Gagnon, Raymond G	✓	
Nelson, Mary S	✓	
Booras, Efstathia C		
Hansberry, Daniel C, Clerk	✓	
Moffett, Howard M	✓	
McGuire, Carol M	✓	
Sytek, John	✓	
Pratt, Calvin D		
Hansen, Peter T	✓	
Beaudoin, Steven P <u>Graham, John</u>	✓	
Byron, Frank A	✓	
Danais, Romeo		
Garcia, Bianca R	✓	
Sweeney, Shawn P	✓	
TOTAL VOTE:	<u>16</u>	<u>0</u>

Committee Report

CONSENT CALENDAR

February 14, 2013

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on EXECUTIVE DEPARTMENTS AND ADMINISTRATION to which was referred HB637-FN-A, AN ACT transferring licensing for retail tobacco sales to the department of revenue administration from the liquor commission. Having considered the same, report the same with the following Resolution: RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Jeffrey P Goley

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	EXECUTIVE DEPARTMENTS AND ADMINISTRATION
Bill Number:	HB637-FN-A
Title:	transferring licensing for retail tobacco sales to the department of revenue administration from the liquor commission.
Date:	February 14, 2013
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill would transfer the licensing of tobacco sales from the liquor commission to the department of revenue administration. The liquor commission already enforces laws dealing with tobacco products and the committee felt tobacco licensing should remain there, just as liquor and tobacco are with the ATF at a federal level.

Currently liquor and tobacco licensing are done on one form and sent to one agency. If this bill passes businesses will have to file two forms with two different agencies. Both the New Hampshire Grocers Association and the New England Convenience Stores Association opposed the bill because the current system is working well for them.

Vote 16-0.

Rep. Jeffrey P Goley
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB637-FN-A, transferring licensing for retail tobacco sales to the department of revenue administration from the liquor commission. **INEXPEDIENT TO LEGISLATE.**

Rep. Jeffrey P Goley for EXECUTIVE DEPARTMENTS AND ADMINISTRATION. This bill would transfer the licensing of tobacco sales from the liquor commission to the department of revenue administration. The liquor commission already enforces laws dealing with tobacco products and the committee felt tobacco licensing should remain there, just as liquor and tobacco are with the ATF at a federal level. Currently liquor and tobacco licensing are done on one form and sent to one agency. If this bill passes businesses will have to file two forms with two different agencies. Both the New Hampshire Grocers Association and the New England Convenience Stores Association opposed the bill because the current system is working well for them. **Vote 16-0.**

COMMITTEE REPORT

COMMITTEE: ED+A

BILL NUMBER: HB 637 FN-A

TITLE: _____

DATE: 2/12/13 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

COMMITTEE VOTE: 16-0

RESPECTFULLY SUBMITTED,

- | |
|---|
| <ul style="list-style-type: none"> • Copy to Committee Bill File • Use Another Report for Minority Report |
|---|

Rep. *John Glavin*
For the Committee

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The liquor commission already enforces laws dealing with tobacco products and the committee felt tobacco licensing should remain there, just as liquor and tobacco are with the ATF at a federal level.

Currently liquor and tobacco licensing are done on one form and sent to one agency; if this bill passes businesses will have to file ^{two} forms with ^{two} different agencies.

Both the NH Grocers Assoc. and the ~~NE Grocers Assoc.~~ the NE Convenience Stores Association ~~were~~ oppose ^{the bill} because the current system is working well.

HB 637-FN

ITL

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Rep. Jeffrey Goléy for the Committee

OK
JMG

HB 637-FN

ITL

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Rep. Jeffrey Goley for the Committee
