

Bill as
Introduced

HB 122 - AS INTRODUCED

2015 SESSION

15-0254
03/06

HOUSE BILL **122**

AN ACT relative to advertising of liquor or beverages.

SPONSORS: Rep. Murphy, Hills 7

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill modifies the prohibition on advertisements of alcoholic beverages referencing minors.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to advertising of liquor or beverages.

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

- 1 1 Advertising Restrictions; Reference to Minors. Amend RSA 179:31, VII(a) to read as follows:
- 2 (a) Any reference to minors, pictorial or otherwise, ***unless the commission determines***
- 3 ***that such reference is not intended to appeal to minors.***
- 4 2 Effective Date. This act shall take effect 60 days after its passage.

HB 122 - FINAL VERSION,

04/09/2015 1221s

2015 SESSION

15-0254

03/06

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- 1 1 Advertising Restrictions; Inducement of Minors. Amend RSA 179:31, VII(b) to read as follows:
- 2 (b) Any subject matter or illustrations [~~inducing persons under the legal drinking age~~]
- 3 ***that the commission determines is reasonably likely to induce minors*** to drink. All coupon
- 4 offers requiring consumer participation shall contain reference that the coupon offer is available only
- 5 to persons of legal drinking age.
- 6 2 Repeal. RSA 179:31, VII(a), relative to advertising referencing minors, is repealed.
- 7 3 Effective Date. This act shall take effect 60 days after its passage.

Amendments

Commerce
March 31, 2015
2015-1221s
03/04



Amendment to HB 122

- 1 Amend the bill by replacing all after the enacting clause with the following:
- 2
- 3 1 Advertising Restrictions; Inducement of Minors. Amend RSA 179:31, VII(b) to read as follows:
- 4 (b) Any subject matter or illustrations [~~inducing persons under the legal drinking age~~
- 5 *that the commission determines is reasonably likely to induce minors* to drink. All coupon
- 6 offers requiring consumer participation shall contain reference that the coupon offer is available only
- 7 to persons of legal drinking age.
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Committee Minutes

**SENATE CALENDAR NOTICE
COMMERCE**

Senator Russell Prescott Chairman
 Senator Jeb Bradley V Chairman
 Senator Sam Cataldo
 Senator Donna Soucy
 Senator David Pierce

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

Date: March 26, 2015

HEARINGS

Tuesday

3/31/2015

COMMERCE

SH 100

1:00 PM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

<p>1:00 PM HB429</p> <p>1:15 PM HB554-FN</p> <p>1:30 PM HB381-FN</p> <p>1:45 PM HB177-FN</p> <p>2:00 PM HB122</p>	<p>revising the commission to review and consider alcoholic beverage manufacturing processes and retail sales in manufacturing facilities.</p> <p>relative to sales of beer in refillable containers.</p> <p>allowing a liquor manufacturer to be issued an on-premises license.</p> <p>(NT) relative to sales of alcoholic beverages by manufacturers.</p> <p>relative to advertising of liquor or beverages.</p>
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Sponsors:

HB429

Rep. Frederick Rice

Rep. Naida Kaen

Sen. Jeb Bradley

Sen. Andy Sanborn

HB554-FN

Rep. Kermit Williams

Sen. Jeb Bradley

Rep. John Potucek

Rep. Stephen Schmidt

HB381-FN

Rep. Mark McConkey

Sen. Jeb Bradley

Rep. Gene Chandler

Rep. Karen Umberger

HB177-FN

Rep. John Hunt

HB122

Rep. Keith Murphy

Patrick Murphy 271-8631

Sen. Russell Prescott

Chairman

SENATE COMMERCE COMMITTEE

Patrick Murphy, Legislative Aide

HB 122 Relative to advertising of liquor or beverages.

Hearing Date: March 31, 2015

Time Opened: 2:14 p.m.

Time Closed: 2:30 p.m.

Members of the Committee Present: Senator Prescott, Senator Bradley, Senator Pierce

Members of the Committee Absent: Senator Cataldo, Senator Soucy

Bill Analysis: This bill modifies the prohibition on advertisements of alcoholic beverages referencing minors.

Sponsors: Rep. Murphy, Hills 7

Who supports the bill: Rep. Murphy, Hills 7; Rep. Tucker, Rock 23; Mark Foster, The Beer Store; Andy Day, The Drinkers; Brian Kerrick, Craft Beer Cellar in Nashua; Bert Bingel, Bert's Better Beers; Paul Kelly, Kelly's Brewing Company; Melanie Foster, The Beer Store

Who opposes the bill: Craig Bulkley, NH Liquor Commission; Sarah Sadowski, New Futures

Summary of testimony presented in support:

Rep. Murphy, Hills 7

- This bill modifies the prohibition on advertisements of alcoholic beverages referencing minors. Used Founders Oatmeal Stout bottle as an example. The label uses a baby eating oatmeal. We don't want labels that encourage minors to drink alcohol but we also need a better process of approving labels.
- Senator Pierce suggested amending the bill to changes line 3 "appeal" to "intended".

Andy Day, The Drinkers

- It's the parent's responsibility to educate their children when it comes to what is ok for them and what is for adults. Gave examples of alcoholic beverage containers that appeal to children without using pictures to do so. For example, adult chocolate milk that looks similar to a regular chocolate milk container. Another example of a vodka bottle in the shape of a toy tommy gun.
- Founders Oatmeal Stout is available in Maine, Vermont and Massachusetts and New Hampshire businesses are losing out on sales when customers buy Founders in those states and make their other purchases while they are at those stores.

Bert Bingel, Bert's Better Beers

- Agreed with comments made by Andy Day.

Summary of testimony presented in opposition:

Craig Bulkley, NH Liquor Commission

- Was asked to answer questions and respond to Senator Pierce's amendment suggestion.
- The NH Liquor Commission is opposed to the bill because we think current law is satisfactory.
- Will have to ask staff from the Enforcement Division to respond to specific amendment suggestion.

Sarah Sadowski, New Futures

- We object to the use of images of minors to promote liquor or beverages. This language does little to address our concern because it replaces a clear and established standard with commission discretion which is to be guided by less than clear language. Under this bill, the commission can act only if the picture was intended to appeal to minors. The real question is could the picture appeal to or confuse the minor and cause him or her to consumer the product.

Fiscal Note: None

Future Action: Ought to pass with amendment by a vote of 5-0, Senator Bradley for the Committee.

Speakers

Senate Commerce Committee: Sign-In Sheet

Date: March 31, 2015

Time: 2:00 p.m.

Public Hearing on HB 122

HB 122

Relative to advertising of liquor or beverages

Name	Representing	Support	Oppose	Speaking?	Yes	No
✓ CRAIG BULKLEY	Liquor Commission	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
✓ Pam Tucker	Rock 23	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
✓ Sarah Sadowski	New Futures	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ MAMIE KOSTER	THE BEER STORE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
✓ Andy Day	The Drinkery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ Brian Kerick	Craft Beer Cellar Nashua	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
✓ Bert Bingel	Bert's Bottle Beers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ PAUL KELCY	KELSEW BREWING COMPANY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
✓ MELANIE FOSTER	THE BEER STORE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
✓ REP. KEITH HENNING	BEERERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>

Testimony

March 31st, 2015

The Honorable Russell Prescott, Chairman
Senate Commerce Committee
Statehouse, Room 100
Concord, NH 03301

Re: New Futures Opposition to HB 122 (relative to advertising of liquor or beverages)

Dear Senator Prescott and Honorable Members of the Committee,

New Futures respectfully requests that the Committee recommend HB 122 (relative to advertising of liquor or beverages) Inexpedient to Legislate. HB 122 would qualify a long – standing restriction in RSA 179:31, VII(a) which currently prohibits references or pictures to minors in liquor or beverage advertising (“Advertising of liquor or beverages shall not contain ... any reference to minors, pictorial or otherwise”) to state: “Advertising of liquor or beverages shall not contain ... any reference to minors, pictorial or otherwise, **unless the commission determines that such reference is not intended to appeal to minors.**” (Bold added to show change proposed in HB 122.)

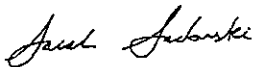
We object to the use of images of minors to promote liquor or beverages. The language proposed in HB 122 does little to allay our concern because it replaces a clear and established standard with commission discretion which is to be guided by less than clear language. Under HB 122 the commission can act (after the fact because there is no requirement of prior commission approval) only if the picture was **intended** to appeal to minors. The appropriate question is not whether the picture of a child on the label of an alcoholic beverage was intended to appeal to the child, but whether the picture, in fact, would or could appeal to or confuse the minor and cause him/her to consume the product.

As noted in the National Institute of Medicine 2005 Report, *Reducing Underage Drinking, a Collective Responsibility*, research shows that a substantial portion of alcohol advertising reaches an underage audience and is presented in a style that is attractive to youth. Research also demonstrates that exposure to alcohol advertising affects the age at which youth begin to drink. HB 122 would reduce the effectiveness of advertising restrictions that are specifically designed to protect children and youth. It is distressing that New Hampshire would consider this change when our rates of alcohol use by our youth, while still some of the highest in the country, are finally beginning to trend down, thanks in part to the thoughtful system of policies and other environmental strategies that are in place in New Hampshire. This system of policies and practices is good for our businesses, our communities, and our youth.

Based on the testimony received in support of HB 122, its introduction was motivated by the fact that several years ago the Liquor Commission refused to approve the sale in New Hampshire of Founders Breakfast Stout because the label on the bottle was a picture of a child eating oatmeal. It is our understanding that the manufacturer did not take issue with the decision because it was able to sell the product on tap. HB 122 was not brought forward by the product's manufacturer or by the NH Beverage Distributors but by an individual who wishes to be able to purchase the product by the bottle. Although it is not uncommon for legislation to be introduced to benefit an individual or a small group of constituents, it is the responsibility of the legislature to weigh the benefits to the individual/small group against the interests of other groups opposed to/adversely effected by the legislation. We do not believe that the desire of a single/small group of individuals to purchase Founders Breakfast Stout by bottle (as noted above it is available on tap) should be permitted to outweigh the importance of maintaining a carefully crafted and long established limitation on the advertising of liquor and beverages designed to protect the wellbeing of our children and youth.

For these reasons we respectfully request that the Committee recommend HB 122 Inexpedient to Legislate. Thank you for your time and please contact me if you have questions or need additional information.

Sincerely,



Sarah Sadowski
Community Engagement Director

Log in or Sign up

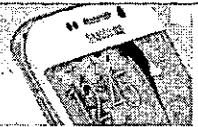


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Founders Breakfast Stout - Founders Brewing Company

< 796 64 1

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BA SCORE
100
world-class

14,108 Ratings

THE BROS
100
world-class

(view ratings)

Ratings: 14,108
Reviews: 3,529
rAvg: 4.52
pDev: 9.29%
Wants: 1,511
Gots: 4,173 | FT: 214

Brewed by:
Founders Brewing Company
Michigan, United States

Style | **ABV**
American Double / Imperial Stout | 8.30% ABV

Availability: Year-round

Notes & Commercial Description:
Beer added by: marburg on 07-26-2003

Brewed with flaked oats, bitter and sweetened imported chocolates, Sumatra and Kona coffee.

60 IBU

Educational use only; do not reuse.

View: Beers (107) | Place Ratings (857) | Events

Beer: Ratings & Reviews

Log in or Sign up to view all ratings, reviews and sorting options.

Ratings: 14,108 | Reviews: 3,529



4.6/5 rDev +1.8%
look: 4.5 | smell: 5 | taste: 4.5 | feel: 4.25 | overall: 4.5

Bferber, Yesterday at 08:03 PM



4.85/5 rDev +7.3%
look: 4.75 | smell: 4.75 | taste: 5 | feel: 4.75 | overall: 4.75

PatrickCT, Yesterday at 03:34 PM



4.6/5 rDev -1.8%
look: 4.5 | smell: 4.5 | taste: 4.75 | feel: 4.5 | overall: 4.5

Solid breakfast stout- great coffee notes and awesome body.

ManBearPat, Yesterday at 02:41 PM



4.77/5 rDev +5.5%
look: 4.5 | smell: 5 | taste: 4.75 | feel: 4.5 | overall: 4.75

mhunt10, Yesterday at 12:22 PM



4.95/5 rDev +9.5%
look: 5 | smell: 5 | taste: 5 | feel: 5 | overall: 4.75

UPBrewer92, Yesterday at 11:28 AM

4.26/5 rDev -5.8%
look: 4.5 | smell: 3.5 | taste: 4.5 | feel: 4.5 | overall: 4.5

Tools

Log in or Sign up to report an update.

Frequently Asked Questions

Shelf Talker

Print Shelf Talker

Other Beer Style Examples

American Double / Imperial Stout

Founders Breakfast Stout
Founders Brewing Company

Bourbon County Brand Stout
Goose Island Beer Co.

Founders KBS (Kentucky Breakfast Stout)
Founders Brewing Company

Bourbon County Brand Coffee Stout
Goose Island Beer Co.

The Abyss
Deschutes Brewery

AleSmith Speedway Stout
AleSmith Brewing Company

Storm King Stout
Victory Brewing Company

Choklat
Southern Tier Brewing Company

Dragon's Milk
New Holland Brewing Company

World Wide Stout
Dogfish Head Brewery

Péché Mortel (Imperial Stout Au Cafe)
Brasserie Dieu Du Ciel

Cappuccino Stout
Lagunitas Brewing Company

Terrapin Coffee Oatmeal Imperial Stout
Terrapin Beer Company

Bell's Black Note Stout
Bell's Brewery, Inc.

Prairie Bomb!
Prairie Artisan Ales

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120 NORTHWEST BOULEVARD ~ NASHUA, NH 03063-4007

March 30, 2015

Rep. Keith Murphy
5 Rachel Way
Bedford, NH 03110

Dear Keith:

As a distributor of the Founders brands in southern New Hampshire I wanted to provide some insight on retailer and consumer interest in Breakfast Stout. We have been able to sell Founders Breakfast Stout draft only for the past two years and it is our #1 selling seasonal release from Founders. This beer also has a score of 100 out of 100 from BeerAdvocate.

We have about 30 licensed off-premise retailers that continue to ask every year if we will have packaged Breakfast Stout and we get numerous consumer inquiries via our website and Facebook page asking where they can buy a four-pack. Unfortunately the answer has been same -- packaged Breakfast Stout it is not approved for sale in New Hampshire because of its label.

I do understand the rationale for the current statute that keeps this package from being approved as it provides important authority to the NH Liquor Commission to keep irresponsible products from reaching store shelves. It would be useful, however, if the Commission was given the discretion to approve those rare products, like Founders Breakfast Stout, that may comply with the spirit of the statute while not necessarily meeting the letter of it.

Sincerely,

Joseph Bellavance Jr.
President



HB 122, relative to advertising of liquor or beverages. OUGHT TO PASS. Rep. Pamela Z. Tucker for Commerce and Consumer Affairs. This bill makes minor modifications to RSA 179:31, addressing advertising on alcoholic beverages. The bill came to fruition due to restrictions placed on the liquor commission in approving labeling for a particular brand of beer. Current law prohibits any depiction of minors for use of advertising, and rightfully so, to not encourage underage drinking. However, the law is overly restrictive and does not allow leeway if the advertising did use a minor, perhaps a small child, but in no way promoted underage drinking. This bill allows for common sense determinations to be considered by the liquor commission in approving advertising instead of overly strict laws. Vote 20-0

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: April 1, 2015

THE COMMITTEE ON Commerce

to which was referred House Bill 122

AN ACT relative to advertising of liquor or beverages.

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

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 1221s

Senator Jeb E. Bradley
For the Committee

Patrick Murphy 271-8631

New Hampshire General Court - Bill Status System

Docket of HB122

Docket Abbreviations

Bill Title: relative to advertising of liquor or beverages.*Official Docket of HB122:*

Date	Body	Description
1/7/2015	H	Introduced and Referred to Commerce and Consumer Affairs; HJ 7 , PG. 118
1/7/2015	H	Public Hearing: 1/15/2015 10:00 AM LOB 302
1/29/2015	H	Subcommittee Work Session: 2/5/2015 8:30 AM LOB 302
2/12/2015	H	Subcommittee Work Session: 2/17/2015 3:00 PM LOB 302
2/20/2015	H	Executive Session: 3/3/2015 1:00 PM LOB 302
3/5/2015	H	Committee Report: Ought to Pass for Mar 11 (Vote 20-0; CC); HC19 , PG. 390
3/11/2015	H	Ought to Pass: MA VV; HJ 24 , PG. 767
3/19/2015	S	Introduced and Referred to Commerce; SJ 10
3/26/2015	S	Hearing: 3/31/15, Room 100, SH, 2:00 p.m.; SC15
4/1/2015	S	Committee Report: Ought to Pass with Amendment #2015-1221s , 4/9/15; SC16
4/9/2015	S	Committee Amendment 1221s, AA, VV
4/9/2015	S	Ought to Pass with Amendment 1221s, MA, VV; OT3rdg; SJ 11
5/6/2015	H	House Concurs with Senate Amendment #1221s (Rep Hunt): MA VV.
5/19/2015	S	Enrolled (In recess 5/14/2015); SJ 15
5/19/2015	H	Enrolled (in recess of 5/6/2015)
6/3/2015	H	Vetoed by the Governor on 6/2/2015

NH House

NH Senate

Other Referrals

New Hampshire Governor **MAGGIE HASSAN**

Press Release

For Immediate Release

June 2, 2015

Contact:

Communications Office
(603)271-2121

Governor Hassan's Veto Message Regarding HB 122

CONCORD – Governor Maggie Hassan released the following message after vetoing HB 122 today:

“By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on June 2, 2015, I have vetoed House Bill 122, relative to advertising of liquor or beverages.

“Substance misuse, including alcohol misuse, continues to be one of the major public health and safety challenges facing us as a state. Moreover, statistics suggest that New Hampshire has among the highest rates of underage drinking in the country. In changing the way that we regulate, and in some cases loosening restrictions on referring to minors in the advertisement and sale of alcoholic beverages, House Bill 122 could undermine our efforts to prevent underage drinking.

“It is imperative that we strike the appropriate balance between responsible regulation of alcohol and the desired latitude for marketing creativity within our growing craft beer industry. However, in repealing RSA 179:31, VII(a), particularly the explicit prohibition on references to minors, House Bill 122 fails to provide adequate statutory guidance to the Liquor Commission in maintaining that important balance.

“While I remain very supportive of our growing craft beer industry in the state and have signed many laws aimed at supporting the expansion of this industry in a responsible way, statutory changes significantly impacting the way alcohol could be advertised in our state must be undertaken with great caution and clear guidelines. House Bill 122 does not meet that standard, and it could also potentially lead to greater inconsistencies in how our marketing regulations are applied.

“I would encourage proponents to work with the Liquor Commission and substance misuse advocacy organizations to develop a proposal with clear guidance that is understandable to both the business community and the Liquor Commission. Such a proposal should aim to balance the desire for creativity in the marketing and/or branding of craft and other locally manufactured alcoholic beverages with the very real need to ensure that such marketing does not encourage underage drinking.

“Because this bill does not strike that necessary balance, I have vetoed House Bill 122.”

COMMITTEE REPORT FILE INVENTORY

H8 122 ORIGINAL REFERRAL

_____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- HANDOUTS FROM THE PUBLIC HEARING
- PREPARED TESTIMONY AND OTHER SUBMISSIONS
- SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 1221s _____ - AMENDMENT # _____
_____ - AMENDMENT # _____ _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

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

- OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): Veto Message

DATE DELIVERED TO SENATE CLERK 8-21-15


BY COMMITTEE AIDE