

# Committee Report

**CONSENT CALENDAR**

**March 2, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Commerce and Consumer Affairs to  
which was referred HB 171,**

**AN ACT relative to food in cigar shops. Having  
considered the same, report the same with the  
recommendation that the bill OUGHT TO PASS.**

**Rep. John Potucek**

**FOR THE COMMITTEE**

## **COMMITTEE REPORT**

Committee:	<b>Commerce and Consumer Affairs</b>
Bill Number:	<b>HB 171</b>
Title:	<b>relative to food in cigar shops.</b>
Date:	<b>March 2, 2021</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>OUGHT TO PASS</b>

### **STATEMENT OF INTENT**

Under current law cigar bars are prohibited from the “*service*” of food. This bill simply amends the law to prohibit the “*sale*” of food. This would allow cigar bar licensees to provide free food to customers, like traditional bar snacks. The Commerce and Consumer Affairs Committee feels that it is important for patrons consuming adult beverages to have something in their stomach and unanimously supported this bill.

Vote 19-0.

Rep. John Potucek  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Commerce and Consumer Affairs

**HB 171**, relative to food in cigar shops. **OUGHT TO PASS.**

Rep. John Potucek for Commerce and Consumer Affairs. Under current law cigar bars are prohibited from the “*service*” of food. This bill simply amends the law to prohibit the “*sale*” of food. This would allow cigar bar licensees to provide free food to customers, like traditional bar snacks. The Commerce and Consumer Affairs Committee feels that it is important for patrons consuming adult beverages to have something in their stomach and unanimously supported this bill. **Vote 19-0.**

Original: House Clerk

Cc: Committee Bill File

**Archived:** Thursday, April 22, 2021 1:47:29 PM  
**From:** JOHN HUNT  
**Sent:** Tuesday, March 9, 2021 9:43:16 AM  
**To:** Carrie Morris  
**Cc:** Pam Smarling  
**Subject:** Re: HB171 Majority Blurb - OTP  
**Importance:** Normal

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On Mar 3, 2021, at 8:19 AM, John Potucek <[potucek1@comcast.net](mailto:potucek1@comcast.net)> wrote:

John,  
Here it is:  
John

Rep. John Potucek for the Majority of Commerce and Consumer Affairs. Relative to food in Cigar Shops. This Bill amends the current statute that regulates cigar bars, and prohibits the “*service*” of food. This bill simply changes that to “*sale*”, which would allow cigar bar licensees to provide free items to customers, like traditional bar snacks. The Commerce and Consumer Affairs Committee felt it is good for patrons consuming adult beverages to have something in their stomach, and unanimously supported this bill. Vote 19-0.

# Voting Sheets

**HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS**

**EXECUTIVE SESSION on HB 171**

**BILL TITLE:** relative to food in cigar shops.

**DATE:** March 2, 2021

**LOB ROOM:** Zoom

**MOTIONS:** OUGHT TO PASS

Moved by Rep. Potucek

Seconded by Rep. Osborne

Vote: 19-0

**CONSENT CALENDAR: YES**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Keith Ammon, Clerk

**HOUSE COMMITTEE ON COMMERCE**

**EXECUTIVE SESSION ON HB 171**

**BILL TITLE:** relative to food in cigar shops;

**DATE:** 3/2/2021

**LOB ROOM:** Zoom

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**MOTION: (Please check one box)**

- OTP       ITL       Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. Potucek      Seconded by Rep. Osborne      Vote: 19-0

**MOTION: (Please check one box)**

- OTP     OTP/A     ITL     Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. \_\_\_\_\_      Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

**MOTION: (Please check one box)**

- OTP     OTP/A     ITL     Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. \_\_\_\_\_      Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

**MOTION: (Please check one box)**

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Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. \_\_\_\_\_      Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

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**CONSENT CALENDAR?**        X   Yes      \_\_\_\_\_ No

**Minority Report?**       Yes       No    If yes, author, Rep.: \_\_\_\_\_    Motion: \_\_\_\_\_

Respectfully submitted, Rep. Ammon, Clerk



STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK



1/22/2021 9:55:55 AM  
Roll Call Committee Registers  
Report

2021 SESSION

Commerce and Consumer Affairs

Bill #: HB171 Motion: OTP AM #: \_\_\_\_\_ Exec Session Date: 3/2/2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Hunt, John B. Chairman	19		
Potucek, John M. Vice Chairman	1		
Osborne, Jason M.	2		
Ammon, Keith M. Clerk	3		
Abramson, Max	4		
Ham, Bonnie D.	5		
Depalma IV, Joseph	6		
Greeson, Jeffrey	7		
Johnson, Dawn M.	8		
Terry, Paul A.	9		
Bartlett, Christy D.	10		
Abel, Richard M.	11		
Herbert, Christopher J.	12		
Van Houten, Constance	13		
Fargo, Kristina M.	14		
Weston, Joyce	15		
Beaulieu, Jane E.	16		
Burroughs, Anita D.	17		
McAleer, Chris R.	18		
<b>TOTAL VOTE:</b>	19	0	

# Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 171

**BILL TITLE:** relative to food in cigar shops.

**DATE:** February 9, 2021

**LOB ROOM:** Remote                      **Time Public Hearing Called to Order:** 9:31 a.m.

**Time Adjourned:** 9:47 a.m.

**Committee Members:** Reps. Hunt, Potucek, Ammon, Osborne, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

**Bill Sponsors:**

**Rep. Potucek**

**Rep. Van Houten**

**Rep. Belanger**

**TESTIMONY**

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

**Rep John Potucek**

Bill is food in cigar shops. The bill removes service and replaces it with sale of food. They may have snacks they provide for zero cost. If you go to a cigar shop they have things there they can try. As long as you have something in your stomach, it makes it better for that beverage to be assimilated into your body. The bill changes sale to service. And prohibits the sale of food?

**Curtis Barry**

On behalf of NH Cigar Association in support of the bill. I sent documents as a backup for the statute. When the statute was passed originally, they put a prohibition that they could not serve food, and this prohibited the service of snacks. The bill prohibits the sale of food but the cigar bar can provide free snacks at the bar. There are 13 cigar bars in the state. Kurt Kendal is participating in the hearing.

**Rep McAleer**

Q: What is a snack?

A: Trying to define a snack is awfully difficult.

**Rep Ham**

Q: I thought you needed to serve food with alcoholic beverages. How can the cigar bar do that?

A: These are different license types in the liquor statute? 2A in that statute. This statute was put in place in 2009.

**Mark Armaganian**

Chief of Liquor Commission Enforcement and Licensing. We are neutral on this bill. This license type does not have a food requirement.

**Rep Abel**

Q: Are there any unintended consequences to this bill?

A: There's always an unintended consequence to many bills. With this bill I do not see anything unintended. This is a license type that we probably have to look at. We're seeing a lot of hooka bars popping up that are using this license improperly.

**Rep Beaulieu**

Q: What does a license like this cost?

A: The license fees have been spoken about quite often and I don't want to confuse this fee with another

Q: Do cigar bars just sell cigars.

A: Cigars and cigar products. No cigarettes.

Q: Are the snacks packaged? Covid times.

A: No requirement for packaging. We require that it's just snacks.

**Rep Abramson**

Q: HB 337 and this bill affect both of the same RSAs and could create a conflict.

**Rep Hunt:** We'd have to pass one or the other.

**Aidan Moore**

The chief did a nice job testifying and answering questions.

**Mark Armaganian**

License fee is \$840.

HOUSE COMMITTEE ON COMMERCE & CONSUMER AFFAIRS

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DATE: Feb 9, 2021

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Time Adjourned: 9:47 AM

(please bold if present)

**Committee Members: Reps. Hunt, Potucek, Ammon, Osborne, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer**

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# House Remote Testify

## Commerce and Consumer Affairs Committee Testify List for Bill HB171 on 2021-02-09

<b><u>Name</u></b>	<b><u>Email Address</u></b>	<b><u>Phone</u></b>	<b><u>Title</u></b>	<b><u>Representing</u></b>	<b><u>Position</u></b>	<b><u>Testifying</u></b>	<b><u>Signed Up</u></b>
Potucek, John	potucek1@comcast.net	603.432.9049	An Elected Official	Myself	Support	Yes (3m)	2/3/2021 5:33 PM
Barry, Curtis	curtis@barrygr.com	603.496.4564	A Lobbyist	NH Cigar Association	Support	Yes (3m)	2/2/2021 5:36 PM
Moore, Aidan	aidan.moore@liquor.nh.gov	603.931.0222	State Agency Staff	NH Liquor Commission	Neutral	Yes (1m)	2/9/2021 8:06 AM
Armaganian, Mark	mark.armaganian@liquor.nh.gov	2713523	State Agency Staff	Liquor Commission	Neutral	Yes (0m)	2/9/2021 9:57 AM
Rollo, Michael	mike.rollo@cancer.org	603.661.8974	A Lobbyist	American Cancer Society Cancer Action Network	Oppose	No	2/9/2021 10:34 AM
Hoy, Daniel	hoy.dan@gmail.com	603.988.5710	A Member of the Public	Myself	Support	No	2/3/2021 8:40 AM
Axelman, Elliot	aluxelman@gmail.com	732.674.2355	A Member of the Public	Myself	Support	No	2/9/2021 8:38 AM
McGregor, Mary	moeandgretasmommy@gmail.com	603.290.4572	A Member of the Public	Myself	Support	No	2/9/2021 9:05 AM
Calitz, Louis	louis@free603.org	917.519.2528	A Member of the Public	Myself	Support	No	2/9/2021 9:30 AM
Gericke, Carla	carlagericke@gmail.com	917.607.4353	A Member of the Public	Myself	Support	No	2/8/2021 9:46 AM
Layon, Erica	erica.layon@leg.state.nh.us	603.479.9595	An Elected Official	Myself	Support	No	2/8/2021 9:33 AM
ploszaj, tom	tom.ploszaj@leg.state.nh.us	603.279.9965	An Elected Official	Myself	Support	No	2/8/2021 8:39 PM
Thomas, Nicholas	nicholas.w.thomas@uconn.edu	734.355.3870	A Member of the Public	Myself	Support	No	2/8/2021 10:37 PM
Blasek, Melissa	melissa.blasek@leg.state.nh.us	603.401.2542	An Elected Official	Myself	Support	No	2/8/2021 10:37 PM
Howland, Curtis	howland@priss.com	603.512.3414	A Member of the Public	Myself	Support	No	2/8/2021 10:37 PM
Rathbun, Eric	ericrathbun@gmail.com	860.912.3751	A Member of the Public	Myself	Support	No	2/8/2021 11:23 PM
Moore, Charles	voodooogodfather@gmail.com	703.967.1233	A Member of the Public	Myself	Support	No	2/9/2021 12:34 AM
kendall, kurt	kurt@twinssmokeshop.com	603.234.5350	A Member of the Public	Twins Smoke Shop	Support	No	2/9/2021 7:06 AM
Mennella, Alexandra	amennella1@protonmail.com	646.610.9858	A Member of the Public	Myself	Support	No	2/9/2021 7:24 AM
Nancy, Vaughan	nancy.vaughan@heart.org	603.566.5658	A Lobbyist	American Heart Association	Oppose	No	2/9/2021 7:53 AM

# Testimony



**CURTIS J. BARRY**  
**BARRY GOVERNMENT RELATIONS**  
(603) 496-4564 / CURTIS@BARRYGR.COM

**TO: House Commerce Committee**  
**FROM: Curtis J. Barry, on behalf of the Cigar Association of New Hampshire**  
**RE: HB 171, relative to food in cigar shops**  
**DATE: February 4, 2021**

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I write on behalf of the Cigar Association of New Hampshire, a coalition of premium cigar purveyor retailers comprised of 11 retail locations and 2 manufacturers based here in New Hampshire. Among them are several cigar bar licensed locations. The group is in support and in fact requested introduction.

I wanted to provide you with, ahead of the hearing, the background for the necessity for HB 171.

This bill amends a portion of the Liquor License statute, Chapter 178 of the N.H. RSAs, specifically 178:20-a, which I have enclosed in its entirety with the section that the bill amends highlighted.

178:20-a was first enacted in 2009. At the time, and currently, the premise for allowing cigar bars was that these would not be “restaurants”, thus the provision in (d) that the service of food is prohibited. However, “service” is interpreted to not allow the provision of traditional free bar snacks. HB 171 would simply change the word “service” to the word “sale”, meaning with the change proposed in HB 171 the cigar bar may provide free items.

This change passed the Senate in 2020 in SB 478 on a voice vote after a unanimous committee recommendation. There was no opposition presented at the House hearing on March 3<sup>rd</sup>, which I believe was the very last hearing held in the Commerce Committee prior to suspension of legislative activity on March 13<sup>th</sup>. The bill had been scheduled for Executive Session on March 17<sup>th</sup> but of course died on the table.

I plan to attend the hearing next week and testify. I expect a member of the group, Kurt Kendall of Twins Smoke Shops and the 7-20-4 brand of cigars, to attend as well in the event there are questions that I’m unable to answer.

Thank you for considering these points and I hope you’ll agree with the cigar bar licensees in the group that offering bar patrons something for their stomachs is a good thing.

**178:20-a On-Premises Cigar, Beverage, and Liquor Licenses. –**

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

II. In this section, "cigar bar" means a business that:

(a) Generates 60 percent or more of its quarterly gross revenue from the sale of cigar-related products, which is limited to cigars, humidors, cigar cutters, cigar cases, lighters, and ashtrays. Revenue from keno, mail order and Internet sales, as well as revenue generated from other tobacco sales in store, including cigarettes and loose tobacco sales, shall not be used to determine whether an establishment satisfies the definition of a cigar bar.

(b) Has a humidor on the premises.

(c) Does not allow any person under the age of 21 on the premises unless accompanied by a parent, legal guardian, or adult spouse.

(d) Does not allow cigarette smoking or service of food on the premises.

III. No beverage or liquor shall be consumed on the premises except that which is sold by the licensee.

IV. All applicants for employment at a cigar bar shall be presented with a written notice that states that working in a cigar bar has serious and permanent negative health effects, including, but not limited to, an increased risk of cancer and heart disease, and that no level of exposure to second-hand smoke is safe.

**Archived:** Tuesday, April 13, 2021 1:13:57 PM

**From:** Curtis Barry

**Sent:** Monday, February 8, 2021 11:57:56 AM

**To:** ~House Commerce Committee

**Subject:** HB 171 - food in cigar shops

**Importance:** Normal

**Attachments:**

[HB 171 - food in cigar bars - Cigar Association statement to House Commerce.pdf](#) 

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Folks, on behalf of a coalition of premium cigar shops in New Hampshire, the N.H. Cigar Association, I send the attached information relative to HB 171, , .

Hopefully you have received this information by U.S. as well.

I will attend the hearing tomorrow morning to testify, and planning to also participate is Kurt Kendall of Twins Smoke Shops whose Londonderry is a licensed cigar bar.

Thank you for your consideration,

Curtis J. Barry

603-496-4564 (mobile)

[www.linkedin.com/in/curtisjbarry](http://www.linkedin.com/in/curtisjbarry)

<https://lobbylinx.com/profile.php?profileid=3111115>

Bill as  
Introduced

HB 171 - AS INTRODUCED

2021 SESSION

21-0118  
08/11

HOUSE BILL            **171**

AN ACT                relative to food in cigar shops.

SPONSORS:            Rep. Potucek, Rock. 6; Rep. Van Houten, Hills. 45; Rep. Belanger, Rock. 9

COMMITTEE:          Commerce and Consumer Affairs

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ANALYSIS

This bill allows the service but not the sale of food in cigar shops holding an on-premises cigar, beverage, and liquor license.

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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 Twenty One*

AN ACT                   relative to food in cigar shops.

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

1           1 On-Premises Cigar, Beverage, and Liquor License; Food Service Allowed. Amend RSA 178:20-  
2 a, II(d) to read as follows:

3                   (d) Does not allow cigarette smoking or [~~service~~] **sale** of food on the premises.

4           2 Effective Date. This act shall take effect 60 days after its passage.