

Committee Report

REGULAR CALENDAR

February 8, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on Executive Departments and Administration to which was referred HB 345,

AN ACT establishing a license for mushroom harvesters. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Sallie Fellows

FOR THE MAJORITY OF THE COMMITTEE

MAJORITY COMMITTEE REPORT

Committee:	Executive Departments and Administration
Bill Number:	HB 345
Title:	establishing a license for mushroom harvesters.
Date:	February 8, 2021
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2021-0239h

STATEMENT OF INTENT

This bill legalizes the sale of safe varieties of wild harvested mushrooms in restaurants and markets. The Food and Drug Administration Food Code explicitly prohibits the sale of wild harvested mushrooms unless an oversight agency establishes an approval process for licensed harvesters. Some wild mushrooms are poisonous. Licensing will ensure those sold in NH are safe. The Department of Health and Human Services (DHHS) will oversee training programs, testing and licensing of harvesters, and will specify the authorized varieties. Harvesters must have permission to take wild mushrooms from someone else's land. This bill doesn't apply to cultivated mushrooms or picking wild mushrooms for personal consumption. DHHS supports this bill and indicated they can absorb the operational cost. The amendment simply adds a definition of mushrooms.

Vote 12-7.

Rep. Sallie Fellows
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Executive Departments and Administration

HB 345, establishing a license for mushroom harvesters. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Sallie Fellows for the **Majority** of Executive Departments and Administration. This bill legalizes the sale of safe varieties of wild harvested mushrooms in restaurants and markets. The Food and Drug Administration Food Code explicitly prohibits the sale of wild harvested mushrooms unless an oversight agency establishes an approval process for licensed harvesters. Some wild mushrooms are poisonous. Licensing will ensure those sold in NH are safe. The Department of Health and Human Services (DHHS) will oversee training programs, testing and licensing of harvesters, and will specify the authorized varieties. Harvesters must have permission to take wild mushrooms from someone else's land. This bill doesn't apply to cultivated mushrooms or picking wild mushrooms for personal consumption. DHHS supports this bill and indicated they can absorb the operational cost. The amendment simply adds a definition of mushrooms. **Vote 12-7.**

Original: House Clerk

Cc: Committee Bill File

Rep. Fellows, Graf. 8
February 5, 2021
2021-0239h
08/10

Amendment to HB 345

1 Amend RSA 143-A:21, VII-VIII as inserted by section 1 of the bill by replacing them with the
2 following:

3

4 VII. "Mushroom" means the fleshy, spore-bearing, fruiting body of a fungus.

5 VIII. "Tier 1 mushroom" means a wild mushroom which is easily identified, that has no toxic
6 look-alikes, and which is unlikely to cause illness in humans.

7 IX. "Tier 2 mushroom" means a wild mushroom which is difficult to identify, may have toxic
8 look-alikes, or may cause illness in some humans.

REGULAR CALENDAR

February 8, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on Executive Departments and Administration to which was referred HB 345,

AN ACT establishing a license for mushroom harvesters. Having considered the same, and being unable to agree with the Majority, report with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Tony Lekas

FOR THE MINORITY OF THE COMMITTEE

MINORITY COMMITTEE REPORT

Committee:	Executive Departments and Administration
Bill Number:	HB 345
Title:	establishing a license for mushroom harvesters.
Date:	February 8, 2021
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill would license wild mushroom harvesters. Wild mushrooms have been harvested for sale in New Hampshire for many years. Up to now that has not caused enough trouble for there to have been a call for regulating the practice in our state. That would likely still be the case except that, unfortunately, the Department of Health and Human Services chose to adopt the 2017 Food and Drug Administration Food Code into New Hampshire rule and the legislature accepted that action. There are reasons that there are separate states. What is necessary and appropriate for one state may not be for another. We should end the practice of adopting standards without carefully considering if they are all really necessary for New Hampshire. We should not be licensing additional professions just to deal with an earlier error.

Rep. Tony Lekas
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR


Executive Departments and Administration

HB 345, establishing a license for mushroom harvesters. **INEXPEDIENT TO LEGISLATE.**

Rep. Tony Lekas for the **Minority** of Executive Departments and Administration. This bill would license wild mushroom harvesters. Wild mushrooms have been harvested for sale in New Hampshire for many years. Up to now that has not caused enough trouble for there to have been a call for regulating the practice in our state. That would likely still be the case except that, unfortunately, the Department of Health and Human Services chose to adopt the 2017 Food and Drug Administration Food Code into New Hampshire rule and the legislature accepted that action. There are reasons that there are separate states. What is necessary and appropriate for one state may not be for another. We should end the practice of adopting standards without carefully considering if they are all really necessary for New Hampshire. We should not be licensing additional professions just to deal with an earlier error.

Original: House Clerk

Cc: Committee Bill File

Archived: Tuesday, April 20, 2021 9:30:56 AM
From: Carol McGuire
Sent: Friday, February 12, 2021 1:54:11 PM
To: Miriam Simmons; Pam Smarling
Subject: Fwd: FW: report for HB 345 wild mushrooms
Response requested: No
Importance: Normal
Attachments:
[62D5DD862DBE4D849F88660F3A39A12D.png](#) 

Blurb is fine

----- Forwarded message -----
From: **Fellows4NH** <Fellows4NH@myfairpoint.net>
Date: Fri, Feb 12, 2021 at 1:51 PM
Subject: FW: report for HB 345 wild mushrooms
To: Carole McGuire <mcguire4house@gmail.com>

Rep. McGuire, Sorry for the delay. I forwarded your email to my personal account, and when I replied on the 9th I didn't notice I was sending it back to my leg.state.nh.us address.

NH adopted the 2017 version of the FDA Food Codes sometime before summer of 2019, but earlier versions of the FDA code included essentially the same requirement with different words. 2009 version required inspection by "an APPROVED mushroom identification expert." 2017 code says "shall not be offered for sale or service by a FOOD ESTABLISHMENT unless the FOOD ESTABLISHMENT has been APPROVED to do so .P" and the P footnote refers to an approving authority. So, that's not new.

The FDA requirement is only about mushrooms, nothing else.

So, I have deleted those two parts below. The rest of the changes are fine with me and an improvement.

Thanks. Sallie

From: Carol McGuire
Sent: Tuesday, February 9, 2021 3:37:48 PM (UTC-05:00) Eastern Time (US & Canada)
To: Sallie Fellows
Subject: Re: report for HB 345 wild mushrooms

Sallie, are you OK with my edits?

This bill legalizes the sale of safe varieties of wild harvested mushrooms in restaurants and markets. *The* FDA Food Code explicitly prohibits the sale of wild mushrooms unless an oversight agency establishes an approval process *for licensed harvesters*. Some wild mushrooms are poisonous. Licensing will ensure those sold in NH are safe. DHHS will oversee training programs, testing and licensing of harvesters, and will specify the *authorized* varieties. Harvesters must have permission to take from someone else's land.

This bill doesn't apply to cultivated mushrooms or picking *wild* mushrooms for personal consumption. DHHS supports this bill and indicated they can absorb the operational cost. The amendment simply adds a definition of mushrooms.

Archived: Tuesday, April 20, 2021 9:30:58 AM
From: Carol McGuire
Sent: Tuesday, February 9, 2021 3:46:42 PM
To: Miriam Simmons; Pam Smarling
Subject: Fwd: Minority Report for HB 345
Response requested: Yes
Importance: Normal

----- Forwarded message -----
From: **Tony Lekas** <rep.tony.lekas@gmail.com>
Date: Tue, Feb 9, 2021 at 3:44 PM
Subject: Minority Report for HB 345
To: Carol McGuire <mcguire4house@gmail.com>

HB345 establishing a license for mushroom harvesters

Minority Report
Recommendation: ITL

This bill would license mushroom harvesters. Wild mushrooms have been harvested for sale in New Hampshire for many many years. Up to now that has not caused enough trouble for there to have been a call for regulating the practice in our state. That would likely still be the case except that, unfortunately, the department of health and human services chose to adopt the 2017 FDA Food Code into New Hampshire rule and the legislature accepted that action. There are reasons that there are separate states. What is necessary and appropriate for one state may not be for another. We should end the practice of adopting standards without carefully considering if they are all really necessary for New Hampshire. We should not be licensing additional professions just to deal with an earlier error.

--
Representative Tony Lekas
Hillsborough 37 (Hudson and Pelham)
Committee: Executive Departments and Administration
30 Barretts Hill Rd
Hudson, NH 03051
603-305-5726

Voting Sheets



2021 SESSION

Executive Departments and Administration

Bill #: HB 345 Motion: OTP/A AM #: _____ Exec Session Date: 2-8-21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
McGuire, Carol M. Chairman		X	
Roy, Terry Vice Chairman		X	
Sytek, John Clerk	X		
Pearson, Stephen C.	X		
Yakubovich, Michael		X	
Lekas, Tony		X	
Alliegro, Mark C.		X	
Bailey, Glenn		X	
Lanzara, Tom E.	X		
Santonastaso, Matthew		X	
Goley, Jeffrey P.	X		
Schuett, Dianne E.	X		
Judy, Jean L.	X		
Schmidt, Peter B.	X		
Schultz, Kristina M.	X		
Fellows, Sallie D.	X		
Fontneau, Timothy J.	X		
Grote, Jaci L.	X		
O'Brien, Michael B.	X		
TOTAL VOTE:			

12-7



2021 SESSION

Executive Departments and Administration

Bill #: HB 345 Motion: ADOPT AMEND AM #: 0239H Exec Session Date: 2-8-21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
McGuire, Carol M. Chairman		X	
Roy, Terry Vice Chairman	X		
Sytek, John Clerk	X		
Pearson, Stephen C.	X		
Yakubovich, Michael		X	
Lekas, Tony	X		
Alliegro, Mark C.		X	
Bailey, Glenn		X	
Lanzara, Tom E.	X		
Santonastaso, Matthew		X	
Goley, Jeffrey P.	X		
Schuett, Dianne E.	X		
Jeudy, Jean L.	X		
Schmidt, Peter B.	X		
Schultz, Kristina M.	X		
Fellows, Sallie D.	X		
Fontneau, Timothy J.	X		
Grote, Jaci L.	X		
O'Brien, Michael B.	X		
TOTAL VOTE:			

14-5

Amendment to HB 345

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8 look-alikes, or may cause illness in some humans.

UNAPPROVED

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 345

BILL TITLE: establishing a license for mushroom harvesters.

DATE: February 4, 2021

LOB ROOM: LOB Hybrid **Time Public Hearing Called to Order:** 1:00 p.m.

Time Adjourned: 1:30 p.m.

(please circle if present)

Committee Members: Reps. McGuire, Roy, Sytek, S. Pearson, Yakubovich, Lekas, Alliegro, Bailey, Lanzara, Santonastaso, P. Schmidt, Schultz, Goley, Jevdy, Schuett, Fellows, Fontneau, Grote, M. O'Brien

LABRANCHE

ALL PRESENT EXCEPT BAILEY

Bill Sponsors:

Rep. Knirk
Rep. M. Murray
Sen. Bradley

Rep. Fellows
Rep. Bixby

Rep. Merchant
Sen. Sherman

TESTIMONY

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

HB 345 establishing a license for mushroom harvesters. (1:00/1:30)

Rep. Knirk introduced the bill and described its history.

This bill (with possible amendment) was passed by the House last term but was left on the Senate table due to COVID. Rep. Knirk said that this bill was the product of the 2019 Mushroom Foraging Study Commission which was to develop licensing procedure for those who harvest wild mushrooms for commercial purposes. The 2017 Food Code prohibits the sale or use by restaurants of wild mushrooms unless there is regulatory body approving their commercial use. NH does not have any certification program, so this bill was developed.

The Dept. of HHS has already developed a course for identification and handling wild mushrooms. He described the two-tier system, one for easily identified mushrooms; the other for more difficult situations. He explained many practical details and said that the Dept. of HHS has much of a system of regulation in readiness. **There was a question** as to whether "Chaga mushrooms" *would need an amendment exempting them* (they are roots from which a tea is made). Rep. Knirk said that they are not technically mushrooms.

Rep. McGuire asked questions concerning licensing fee structure.

Colleen Smith, Administrator, Food Protection Section, Dept of HHS, and member of the Mushroom/ Commission, spoke in support.

NH has adopted by administrative rule the 2017 Food Code which authorizes a state to develop a licensing program for this harvesting. She indicated that there might be a fiscal note since there are fees and penalty fines.

Rick Van de Poll, president of the Northeast Mycological Association, spoke in support.

He worked with the Commission and said together they had worked through the parameters of the bill. He recounted his experience with similar licensing areas, has written the exam for soil scientists. He cited his experience with vendors selling toxic mushrooms.

There was a question as to whether the market would expand if we had rigorous licensing. He commented on Chaga mushrooms, noting that they are not mushrooms not intended as a food source but for medicinal purposes.

Eric Milligan, primary owner of NH Mushroom Company, spoke in support.

He looked forward to being able to sell wild mushrooms legally and discussed the economics of the business.

Doug Gralenski, Owner, White Mountain Forager, was neutral on the bill.

He favored the concept but he did not endorse all provisions. He spoke of his personal history in the business. He wanted this to go forward but didn't want this to stifle the business.

Comment - Rep. Fellows spoke concerning how the list of which mushrooms would go on each tier would be developed.

Public hearing adjourned at 1:30 p.m.

Respectfully submitted by,
Rep. John Sytek
Committee Clerk

HB 345 establishing a license for mushroom harvesters. (1:00/1:30)

Rep. Knirk introduced the bill and described its history. This bill (with possible amendment) was passed by the House last term but was left on the Senate table due to COVID. Rep. Knirk said that this bill was the product of the 2019 Mushroom Foraging Study Commission which was to develop licensing procedure for those who harvest wild mushrooms for commercial purposes. The 2017 Food Code prohibits the sale or use by restaurants of wild mushrooms unless there is regulatory body approving their commercial use. NH does not have any certification program, so this bill was developed. The Dept. of HHS has already developed a course for identification and handling wild mushrooms. He described the two-tier system, one for easily identified mushrooms; the other for more difficult situations. He explained many practical details and said that the Dept. of HHS has much of a system of regulation in readiness. There was a question as to whether “Chaga mushrooms” would need an amendment exempting them (they are roots from which a tea is made). Rep. Knirk said that they are not technically mushrooms. Rep. McGuire asked questions concerning licensing fee structure.

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House Remote Testify

Executive Departments and Administration Committee Testify List for Bill HB345 on 2

Support: 8 Oppose: 8 Neutral: 2 Total to Testify: 4

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Count</u>
Van de Poll, Rick	rickvdp@gmail.com	603.677.2473	A Member of the Public	Myself	Support	Yes (5m)	2
Knirk, Jerry	jknirk@roadrunner.com	617.448.7557	An Elected Official	Prime Sponsor	Support	Yes (5m)	1
Smith, Colleen	colleen.smith@dhhs.nh.gov	603.856.6829	State Agency Staff	NH DHHS	Support	Yes (5m)	2
Milligan, Eric	Ericmilligan77@gmail.com	603.986.9205	A Member of the Public	Myself	Support	Yes (2m)	2
GRALENSKI, DOUGLAS	wmforager@ne.rr.com	603.915.3155	A Member of the Public	Myself	Neutral	No	2
Stock, Jasen	jstock@nhtoa.org	603.224.9699	A Lobbyist	NH Timberland Owners Association	Neutral	No	2
Murray, Megan	Megan.Murray@leg.state.nh.us	978.494.4636	An Elected Official	Hillsborough 22	Support	No	2
Mennella, Alexandra	amennella1@protonmail.com	646.610.9858	A Member of the Public	Myself	Oppose	No	2
Sherman, Senator Tom	jennifer.horgan@leg.state.nh.us	2717875	An Elected Official	SD 24	Support	No	2
Eliason, Cynthia	cyne@cmk4u.com	603.837.2448	A Member of the Public	Myself	Oppose	No	2
Bryce, Dir Philip	philip.a.bryce@dncr@nh.gov	603.271.3557	State Agency Staff	DNCR Div Parks and Recreation	Support	No	2
Lekas, Alicia	rep.alicia.lekas@gmail.com	603.881.8960	An Elected Official	Hillsborough 37	Oppose	No	2
Rathbun, Eric	ericrathbun@gmail.com	860.912.3751	A Member of the Public	Myself	Support	No	2
Richardson, Diane	Workingclasscanine@msn.com	603.558.9042	A Member of the Public	Myself	Oppose	No	1
Antonico, Justin	jantonico11@gmail.com	603.785.9910	A Member of the Public	Myself	Oppose	No	1
Blaise, Erik	Erikblaise@gmail.com	603.268.2841	A Member of the Public	Myself	Oppose	No	1
Webber, Angela	awebber479@gmail.com	603.953.4372	A Member of the Public	Myself	Oppose	No	1
Williams, Dean	deanwilliams08@gmail.com	603.391.8376	A Member of the Public	Myself	Oppose	No	1

Testimony



Lori A. Shibinette
Acting Commissioner

Lisa M. Morris
Director

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES
BUREAU OF PUBLIC HEALTH PROTECTION

29 HAZEN DRIVE, CONCORD, NH 03301
603-271-4524 1-800-852-3345 Ext. 4524
Fax: 603-271-8705 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

Testimony for
HB 345, Relative to Establish a License for Mushroom Harvesters
Executive Departments and Administration Committee
February 4, 2021

Good afternoon members of the committee. My name is Colleen Smith, and I am the Administrator of the Food Protection Section within the NH Department of Health and Human Services (DHHS), Division of Public Health Services (DPHS). I am here to support HB 345 that establishes a certification for mushroom harvesters.

Background

The bill, which was created at the request of the Wild Mushroom Foraging Study Commission, of which I served on, now makes it possible for licensed food establishments to offer New Hampshire wild harvested mushrooms provided they be harvested in accordance with conditions set forth in this bill. As there are public health concerns associated with wild mushrooms, it is currently not allowable for New Hampshire wild mushroom harvesters to legally offer wild mushrooms to licensed food establishments.

Over 5000 species of fleshy mushrooms grow naturally in North America. The vast majority have never been tested for toxicity. It is known that about 15 species are deadly and another 60 are toxic to humans whether they are consumed raw or cooked. An additional 36 species are suspected of being poisonous, whether raw or cooked. At least 40 other species are poisonous if eaten raw, but are safe after proper cooking.

Some wild mushrooms that are extremely poisonous may be difficult to distinguish from edible species. For this reason, there has been difficulty in the past, regulating wild harvested mushrooms at retail. The 2017 US Food and Drug Administration Food Code, He-P 2300, The Rules for the Sanitary Production and Distribution of Food, which is based on the latest science and best practices and is incorporated into rule for the regulation of New Hampshire food establishments, states that the following elements should be addressed for allowing wild harvested mushrooms:

1. Developing resources & criteria to select wild mushroom species for service or sale,
2. Establishing record-keeping and traceability to assure safety of wild harvested mushrooms,
3. Documenting buyer specifications that include:
 - Identification by the scientific name and the common name of the mushroom species,
 - A statement that the mushroom was identified while in a fresh state,
 - The name and contact information of the person who identified the mushroom and the mushroom seller, and

- A statement as to the qualifications and training of the identifier, specifically related to mushroom identification.
- Development of qualifications and training curriculum that could be used for further training of mushroom identifiers

The required education of harvesters, identifiers and distributors, the limitation of wild mushroom species to be offered, and the requirement for recordkeeping by the harvester and by the food establishment as specified in this bill, creates the pathway necessary to meet the Food Code requirements for wild harvested mushrooms. This pathway addresses public health protection for consumers seeking wild harvested mushrooms.

Food Protection Section inspectors will be able to verify compliance to ensure those food establishments offering wild mushrooms are obtaining products from approved licensed wild mushroom harvesters or distributors and are following the recordkeeping requirements during routine inspections.

As there are requirements for the Department to collect fees and administer fines for non-compliance to this regulation, we would welcome the opportunity to provide a fiscal note.

Thank you for this opportunity to address the committee on this bill. I am happy to answer any questions or provide additional information.

Colleen Smith, MS
Administrator, Food Protection Section
New Hampshire Division of Public Health Services, Department of Health and Human Services
29 Hazen Drive Concord, NH 03301-6504
Phone: 603-271-4589 Email: colleen.smith@dhhs.nh.gov

HB 345—Establishing a certification for mushroom harvesters

Feb 4, 2021

Rep Jerry Knirk, Carroll 3, Madison, Tamworth, Albany and Freedom

This bill is a product of the 2019 mushroom foraging commission charged “to study developing a system for licensing individuals who forage for wild mushrooms with intent to sell them to restaurants, suppliers, or at farmers markets in New Hampshire”. Without passage of this bill, restaurants, grocery stores, farmers markets and farmstands will not be allowed to sell or serve wild mushrooms in New Hampshire.

According to the 2017 US food code, in order for a food service establishment to serve or sell wild harvested mushrooms in the United States they must be approved to do so by a regulatory authority with jurisdiction over the food establishment. Approval requires the proper identification of wild mushrooms being sold or served. In New Hampshire, we do not have a program of certification and registration for the harvesting of wild mushrooms to ensure proper identification, making the sale of wild harvested mushrooms not allowed. Food establishments include restaurants, grocery stores, suppliers, farmstands, or farmer’s markets.

This bill does not interfere with harvesting wild mushrooms for personal use.

The difficulty with mis-identified mushrooms can range from simply a mushroom which is inedible to a mushroom which is toxic. Many of the toxic reactions are minor gastrointestinal distress but the toxicity can range up to kidney and liver failure and death.

It is important to assure that the mushrooms being sold are actually the mushroom being represented and are safe to eat. A restaurant which serves a dinner of inedible mushrooms or is the source of an outbreak of mushroom poisoning would sustain damage to their reputation with a deleterious effect on the restaurant’s business. An outbreak of mushroom poisoning would give wild mushrooms a bad reputation, harming the competent foragers.

The Mushroom Foraging Commission recommended that in order to meet the US food code, the state of New Hampshire institute a program of certification and registration of individuals who harvest, identify and/or distribute wild mushrooms with intent to sell them to food establishments or private individuals as food.

The bill was introduced in 2020 as HB 1692 and was passed through Environment and Agriculture and the House, passed out of ED + A 15-4 as OTPA but then died a COVID death as the session ended.

Under HB 345, DHHS will approve an educational course for individuals who wish to harvest, identify and/or distribute wild mushrooms. The educational program will cover the identification of mushrooms, appropriate locations to harvest mushrooms, the safe handling and storage of mushrooms, the New Hampshire regulations for record keeping of sales, and the ethics of harvesting.

For basic certification, a specified list of accepted Tier 1 mushrooms will be maintained and updated as needed. The Tier 1 list will include mushrooms which are easy to identify, with no toxic look-alikes, and which are unlikely to cause illness in humans. A more exhaustive advanced list of acceptable mushrooms, Tier 2, will be maintained for an advanced level of certification. The Tier 2 list will include mushrooms which are more difficult to identify, which may have toxic look-alikes, or may make a small percentage of humans ill. Harvesters and distributors will only be able to sell wild harvested mushrooms on the list consistent with their certification, and food establishments will only be able to purchase wild harvested mushrooms on those lists. Purchasing by food establishments and private purchases will only be able to occur from a certified harvester or distributor consistent with their level of certification.

A registration program for certified wild mushroom harvesters, identifiers and/or distributors will be based in the Department of Health and Human Services with an online database that is updated as new individuals certify. A certification card will be given to every certified harvester, identifier and/or distributor.

Public notification will be given to restaurants, suppliers, grocery stores, farm stands, and farmers markets, that only certified wild mushroom harvesters, and/or distributors will be allowed to sell wild harvested mushrooms as food. Any other sources will not be considered an approved source and therefore will not be allowed. They will also be informed as to the approved mushrooms on the list by receiving descriptions and photographs of mushrooms on the approved lists of mushroom species.

The Department of Health and Human Services retains responsibility for inspection of wild harvested mushrooms in grocery stores and food service establishments, along with the authority to levy fines for non-compliance.

A certified harvester and/or distributor who sells wild harvested mushrooms shall generate a labeling tag for all mushrooms sold that shall include the name and address of the harvester, the name and address of the distributor, if different, the certificate number of the harvester and distributor, if different, the species of the mushroom, the weight sold, the date of harvesting, and the county of harvesting. A copy of this labeling tag shall be retained by the harvester and/or distributor and by the purchasing food establishment for a period of 90 days and the seller for one year. These records shall be available for inspection upon request by the Department of Health and Human Services. The harvester and/or distributor, when selling, must demonstrate the certification card to the purchaser.

With regard to the amendment, just last week, Rep Fellows, one of the co-sponsors, was contacted by a person who questioned whether the bill would apply to the harvesting of chaga mushrooms. Chaga is not what we normally think of as a mushroom, which is the fruiting body of the fungus. Chaga is not the fruiting body; it is the mycelia of the fungus which is harvested and dried and ground to make a tea, purported to be medicinal. It is not really an edible mushroom. To clarify this, the amendment defines a mushroom as the fruiting body of a fungus, exempting chaga.



STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
DIVISION of PARKS and RECREATION
172 Pembroke Road Concord, New Hampshire 03301
Phone: (603) 271-3556 Fax: (603) 271-3553
Web: www.nhstateparks.org

February 3, 2021

The Honorable Carol McGuire
and the Executive Departments and Administration Committee
Legislative Office Building, Room 306
Concord, NH 03301

RE: HB 345 establishing a license for mushroom harvesters.

Dear Chair McGuire and Members of the Committee,

The Department of Natural and Cultural Resources, Division of Parks and Recreation supports the legislation as written, in particular, the requirement for documented landowner permission and the revocation of a license for not following this requirement.

The Division of Parks and Recreation and the State rely on private landowners to make their lands available for recreational access by the public. This includes thousands of miles motorized and non-motorized trails along with access for hunting and fishing. We are very concerned that without this requirement, it would result in landowners posting their land against public access in order to prevent collection on their property.

The licensing of these harvesters is somewhat unique in that many collectors are dependent upon other's lands to provide the product. We do not want the state licensing to imply indirectly that the collectors now have a right to collect on private land. Mushroom collection on Department lands (state reservations) is covered under administrative rule (Res 7400). If allowed, a permit would be required.

Thank you for the opportunity to write in support of this language in this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip A. Bryce".

Philip A. Bryce, Director

Cc: Sarah L. Stewart, Commissioner
Patrick Hackley, Director – Division of Forests and Lands

PAB/ttl-020321

MEMORANDUM

DATE: October 23, 2019

TO: Honorable Christopher Sununu, Governor
Honorable Stephen J. Shurtleff, Speaker of the House
Honorable Donna M. Soucy, President of the Senate
Honorable Paul C. Smith, House Clerk
Honorable Tammy L. Wright, Senate Clerk
Michael York, State Librarian

FROM: Representative Jerry L. Knirk, Chairman

SUBJECT: Final Report on RSA 433:37, HB 634, Chapter 35, Laws of 2019
Commission to Study the Licensure of Individuals who Forage for
Wild Mushrooms for Sale to Others

Pursuant to RSA 433:37, HB 634, Chapter 35, Laws of 2019, enclosed please find the Final Report of the Commission to Study the Licensure of Individuals who Forage for Wild Mushrooms for Sale to Others.

If you have any questions or comments regarding this report, please do not hesitate to contact me.

Enclosure

cc. committee members

FINAL REPORT

Commission to Study the Licensure of Individuals who Forage for Wild Mushrooms for Sale to Others

RSA 433:37, HB 634, Chapter 35, Laws of 2019

October 23, 2019

MEMBERS:

- Rep. Jerry L. Knirk, Chairman
- Rep. Sallie D. Fellows
- Rep. Craig R. Thompson
- Sen. Harold French
- Shane Conlin, designee of the Commissioner of the Department of Agriculture, Markets, and Food
- Colleen Smith, designee of the Commissioner of the Department of Health and human services
- Thomas Stoughton, active wild mushroom forager who sells commercially, appointed by the governor.
- Nada Haddad, representative of the university of New Hampshire cooperative extension, appointed by the extension.
- Stefan Ryll, representative of the American Culinary Foundation, appointed by that foundation.
- Rick Van de Poll, trained mycologist, appointed by the governor.

CHARGE OF THE STUDY:

The commission was charged “to study developing a system for licensing individuals who forage for wild mushrooms with intent to sell them to restaurants, suppliers, or at farmers markets in New Hampshire”.

PROCESS AND PROCEDURES:

The commission met five times between September 16 and October 9, 2019. In the course of their study they reviewed the following materials:

- Information on Michigan’s Wild-foraged Mushroom Identification Certification Program accessible through the website of the Midwest American Mycological Information website
- 22 Maine RSA §2175 Maine Wild Mushroom Harvesting Certification Program
- Minnesota Food Code administrative rule section 4626.0155, relative to the sale of mushrooms to food establishments by certified mushroom harvesters
- *National Survey of State Regulation of Wild Mushroom Foraging for Retail Sale*, by Ms. Priya Nair, Environmental Health Specialist, Georgia Department of Health, November 2016
- Information on the Rhode Island Wild Mushroom Foraging Certification Program and Workshop; course description, sample application, and list of Tier 1, Tier 2 and Tier 3 mushrooms, submitted by Catherine White, Supervising Environmental Health Food Specialist, Rhode Island Department of Health

Commission members also received direct testimony from the following individuals:

- Joe Shoemaker, Director, Division of Technical Professions, Office of Professional Licensing and Certification
- Mike Sommers, NH Lodging and Restaurant Association
- Matt Provencher, Chef, The Foundry, Manchester
- Corey Fletcher, Chef, Revival Kitchen and Bar, Concord
- Catherine White, Supervising Environmental Health Food Specialist, Rhode Island Department of Health
- Susan Francher, Division of Forests and Lands, Department of Natural and Cultural Resources
- Mike Mengers, UNH Professional Development and Training
- William Dunkerley, Dunks Mushroom Products & Foraging LLC, Brentwood

INTRODUCTION

In order to protect public safety of the food supply and to enable legal sale of wild harvested mushrooms (WHM) the Mushroom Foraging Commission makes the following report and recommendations.

According to the 2017 US food code, in order for a food service establishment to serve or sell wild harvested mushrooms in the United States they must be approved to do so by a regulatory authority with jurisdiction over the food establishment. Approval requires the proper identification of wild mushrooms being sold or served. In New Hampshire, we do not have a program of certification and registration for the harvesting of wild mushrooms, making the sale of wild harvested mushrooms not allowed, though such sales are common.

The 2017 FDA Food Code has been adopted in rule by the department of health and human services as follows:

3-201.16 Wild Mushrooms.

(A) Except as specified in ¶ (B) of this section, mushroom species picked in the wild shall not be offered for sale or service by a FOOD ESTABLISHMENT unless the FOOD ESTABLISHMENT has been APPROVED to do so. ^P

(B) This section does not apply to:

(1) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the FOOD regulatory agency that has jurisdiction over the operation; or

(2) Wild mushroom species if they are in packaged form and are the product of a FOOD PROCESSING PLANT that is regulated by the FOOD regulatory agency that has jurisdiction over the plant.

Therefore, the Mushroom Foraging Commission recommends that the state of New Hampshire should institute a program of certification and registration of individuals who harvest, identify and/or distribute wild mushrooms with intent to sell them to food establishments or private individuals as food. Food establishments include restaurants, grocery stores, suppliers, farmstands, or farmer's markets.

COMPONENTS OF FUTURE LEGISLATION

The entire commission supports the introduction of legislation to implement a certification and registration program for individuals who wish to harvest, identify and/or distribute wild mushrooms with the following components:

A. EDUCATION PROGRAM

There will be established a certified educational course for individuals who wish to harvest, identify and/or distribute wild mushrooms. Such a curriculum and qualified trainers will be approved by the Department of Health and Human Services (DHHS) and the Department of Agriculture.

The educational program will cover the identification of mushrooms, appropriate locations to harvest mushrooms, the safe handling and storage of mushrooms, the New Hampshire regulations for record keeping of sales, and the ethics of harvesting.

For basic certification, a specified list of accepted Tier 1 mushrooms (see appendix A) will be maintained by Department of Agriculture and updated as needed. The Tier 1 list will include mushrooms which are easy to identify, with no toxic look-alikes, and which are unlikely to cause illness in humans. A more exhaustive advanced list of acceptable mushrooms, Tier 2, (see appendix B) will be maintained for an advanced level of certification. The Tier 2 list will include mushrooms which are more difficult to identify, which may have toxic look-alikes, or may make a small percentage of humans ill. Harvesters and distributors will only be able to sell wild harvested mushrooms on the list consistent with their certification, and food establishments will only be able to purchase wild harvested mushrooms on those lists. Purchasing by food establishments and private purchases will only be able to occur from a certified harvester or distributor consistent with their level of certification.

The teaching program will culminate in testing and certification. A passing level will be set high enough to be certain that the person has demonstrated true competency in the identification, harvesting and handling of wild harvested mushrooms (WHM).

The training course for new and/or inexperienced harvesters, identifiers and/or distributors, will consist of a minimum of 12 contact hours along with a mandatory, online preparation module. For existing or experienced harvesters, identifiers and/or distributors a mandatory four contact hour course will be given followed by an exam. Experienced harvesters, identifiers and/or distributors must demonstrate competency to the testing agent in order to qualify for the shorter course. Cost, including testing, is not expected to exceed \$275. Subsequent to passing the exam and being certified by the Department of Agriculture as a certified harvester, identifier and/or distributor, an online refresher course for re-certification shall be taken every five years. The cost of the recertification seminar is not expected to exceed \$30 and shall be administered by a DHHS and Department of Agriculture approved training entity.

B. REGISTRATION OF WILD MUSHROOM HARVESTERS

A registration program for certified wild mushroom harvesters, identifiers and/or distributors will be based in the Department of Agriculture with an online database that is updated as new individuals certify. A certification card will be given to every certified harvester, identifier and/or distributor.

Cost of registration is not expected to exceed \$25. This fee shall be used by the Department of Agriculture to cover the cost of registration and maintaining the data base. It is expected that fewer than 100 people will register as WHM harvesters, identifiers and/or distributors. This may include out-of-state harvesters, identifiers and/or distributors who seek to certify themselves for sale of WHM in New Hampshire or in another state where certification is not yet operational.

The Department of Agriculture may revoke certification for good cause.

Reciprocity with other states could be considered in the future.

C. INSPECTION AND REGULATION

Public notification will be given to restaurants, suppliers, grocery stores, farm stands, and farmers markets, that only certified wild mushroom harvesters, and/or distributors will be allowed to sell wild harvested mushrooms as food. Any other sources will not be considered an approved source and therefore will not be allowed. They will also be informed as to the approved mushrooms on the Department of Agriculture list by receiving descriptions and photographs of mushrooms on the approved lists of WHM species.

Authority for inspection shall reside within the Department of Agriculture for farmstands and farmers markets by adding wild harvested mushrooms to the definition of a commodity and adding wild harvested mushrooms to the inspection requirements for farmstands and farmers markets.

The Department of Health and Human Services retains responsibility for inspection of wild harvested mushrooms in grocery stores and food service establishments, along with the authority to levy fines for non-compliance.

D. LABELING AND TRACKING OF WILD HARVESTED MUSHROOMS

A certified harvester and/or distributor who sells wild harvested mushrooms will generate a labeling tag for all mushrooms sold that shall include the name and address of the harvester, the name and address of the distributor, if different, the certificate number of the harvester and

distributor, if different, the species of the mushroom, the weight sold, the date of harvesting, and the county of harvesting. A copy of this labeling tag shall be retained by the harvester and/or distributor and by the purchasing food establishment for a period of 90 days and the seller for one year. These records shall be available for inspection upon request by the Department of Health and Human Services or the Department of Agriculture. The harvester and/or distributor, when selling, must demonstrate the certification card to the purchaser.

HARVESTING MUSHROOMS ON PUBLIC AND PRIVATE LAND

The commission learned that some people who currently harvest and sell wild mushrooms take those mushrooms from private or public land without the permission of the land owner or land manager. The ethics and legality of doing so were discussed by the commission.

Rep. Fellows felt that the commission's recommendations for legislation should include a requirement for a harvester to obtain permission from the land owner or manager before harvesting wild mushrooms intended for sale. This would apply to private land and conservation land, as well as federal and state parks and forests. It would not apply to the harvesting of small quantities of mushrooms for personal use by recreational users of the land. This recommendation was defeated by a vote of the commission.

Respectfully submitted,

Rep. Jerry Knirk, Chairman

APPENDIX A

Tier 1 Wild Harvested Mushrooms

- 1) Morel – *Morchella* spp. - *M. americana* Clowez & Matherly, *M. angusticeps* Pk., *M. elata* Fr., *M. punctipes* Pk.
- 2) Chanterelle – *Cantharellus* spp. - *Cantharellus cinnabarinus* (Schwein.) Schwein. *C. flavus* Foltz & Volk, *C. lateritius* (Berk.) Singer, *C. minor* Pk., *C. roseocanus* (Redhead, Norvell & Danell) Redhead, Norvell & Moncalvo
- 3) Black Trumpet – *Craterellus cornucopioides* (L.) Pers., *C. fallax* A.H. Smith
- 4) Lion’s Mane (Bears Head or Coral Tooth) – *Hericium* spp. - *H. americanum* Ginns, *H. coralloides* (Scop.) Pers., *H. erinaceus* (Bull.) Pers.
- 5) Oyster Mushroom – *Pleurotus* spp. - *Pleurotus ostreatus* (Jacq.) Kumm., *P. populinus* O. Hilber & O.K. Miller, *P. pulmonarius* (Fr.) Quel.
- 6) King Bolete (Porcini, Cep, Steinpilz) – *Boletus edulis* group (*B. edulis* Bull., *B. atkinsonii* Pk., *B. chippewaensis* A.H. Smith & Thiers, *B. nobilis* Pk., *B. sepeperans* Pk., *B. subcaerulescens* (E.A. Dick & Snell) Both, Bessette & A.R. Bessette, *B. variipes* Pk.,)
- 7) Matsutake – *Tricholoma magnivelare* (Pk.) Redhead
- 8) Hen-of-the-Woods – *Grifola frondosa* (Dickson) Gray
- 9) Wine Cap – *Stropharia rugosoannulata* Farl. ex Murrill
- 10) Cauliflower Mushroom – *Sparassis* spp. – *S. spathulata* (Schwein.) Fr., *S. americana* R.H. Petersen
- 11) Lobster Mushroom - *Hypomyces lactifluorum* (Schwein.) Tulasne & C. Tulasne

APPENDIX B

Tier 2 Wild Harvested Mushrooms

12. Caesar's Amanita - *Amanita jacksonii* Pomerleau
13. Pear-shaped puffball - *Lycoperdon pyriforme* Schaeff.
14. Crown-tipped coral - *Artomyces pyxidatus* (Pers.) Julich
15. Russell's bolete - *Aureoboletus russellii* (Frost) G.Wu & Zhu L.Yang
16. Jelly ear - *Auricularia americana* Parmasto & I.Parmasto
17. Pallid Bolete - *Boletus pallidus* Frost
18. Butter bolete - *Butyriboletus brunneus* (Pk.) D. Arora & J. L. Frank
19. Frost's bolete - *Butyriboletus frostii* (J.L.Russell) G.Wu, Kuan Zhao & Zhu L. Yang
20. Pheasant's back or Dryad's Saddle – *Polyporus (Cerioporus) squamosus* (Huds.) Fr.
21. Blewit - *Lepista nuda* (Bull.) Cooke
22. Shaggy Mane - *Coprinus comatus* (O.F.Muller) Pers.
23. Trumpet chanterelles - *Craterellus* spp. Pers. (*Craterellus caeruleofuscus* A.H. Smith, *Craterellus foetidus* A.H. Smith, *Craterellus ignicolor* (R.H.Petersen, Dahlman, Danell & Spatafora, *Craterellus tubaeformis* (Fr.) Quel.)
24. Aborted Entoloma - *Entoloma abortivum* (Berk. & M.A.Curtis) Donk
25. Beefsteak polypore - *Fistulina hepatica* (Schaeff.) Wither.
26. Enoki or Winter Mushroom - *Flammulina velutipes* (Curt.) Sing.
27. Chestnut Bolete - *Gyroporus castaneus* (Bull.) Quel.
28. Bluing bolete - *Gyroporus cyanescens* (Bull.) Quel.
29. Chrome-footed bolete - *Harrya chromapes* (Frost) Halling, Nuhn, Osmundson, & M.Binder
30. Yellow scaber stalk - *Hemileccinum subglabripes* ((Pk.) Halling
31. White hedgehog - *Hydnum albidum* Pk. group (subgenus *Albi*)
32. Sweet tooth - *Hydnum repandum* L. group (subgenus *Hydnum*)
33. Depressed hedgehog - *Hydnum umbilicatum* Pk. group (sect. *Rufescentes*)
34. Conifer tuft - *Hypholoma capnoides* (Fr.) P.Kumm.
35. Brick cap - *Hypholoma lateritium* (Schaeff.) P.Kumm.
36. Elm Oyster - *Hypsizygus ulmarius* (Bull.) Redhead
37. Elm Oyster- (*Hypsizygus tessellatus*) (Bull.) Sing.
38. Bay bolete - *Imleria badia* (Fr.) Vizzini
39. Purple-gilled laccaria - *Laccaria ochropurpurea* (Berk.) Pk.
40. Maple milkcap or Burnt-sugar milky - *Lactarius aquifluus* Pk. (= *L. helvus* (Fr.) Fr.)
41. Corrugated-cap milky - *Lactarius corrugis* (Pk.)
42. False saffron milkcap or Orange-latex milky - *Lactarius deterrimus* (Groger)
43. Orange milky - *Lactarius hygrophoroides* Berk. & M.A.Curtis
44. Tawny milky - *Lactarius volemus* (Fr.) Fr.
45. Chicken-of-the-woods or Sulphur shelf - *Laetiporus cincinnatus* (Morgan) Birds., Banik & T.J.Volk, *Laetiporus sulphureus* (Bull.) Murrill
46. Gem-studded puffball - *Lycoperdon perlatum* Pers.
47. Platterful Mushroom - *Megacollybia rodmanii* Petersen, Hughes, & Lickey
48. Black-staining polypore - *Meripilus sumstinei* (Murrill) M.J. Larsen & Lombard
49. Olive Oysterling – *Panellus (Sarcomyxa) serotinus* (Pers.) Kuhn.

50. Old man of the woods - *Strobilomyces* Berk. spp.
51. Dotted-stalk Suillus - *Suillus weaverae* (A.H.Smith & Shaffer) Kretzer & T.D.Bruns (= *granulatus* (L.) Rouss.)
52. Spotted bolete - *Xanthoconium affine* var. *affine* Pk. and var. *maculosus* (Pk.) Sing.

Archived: Wednesday, April 7, 2021 12:12:31 PM
From: [Diane Richardson](#)
Sent: Thursday, January 28, 2021 10:08:20 AM
To: ~House Executive Departments and Administration
Subject: Hb345
Importance: Normal

Dear committee
Please add this to this bills perms the record

I am opposed to this Bill

If you want to license a large commercial business so be it

But this bill will require licensure of small time people who sell direct to consumers or small amounts to businesses

For example I sell maybe 10 -50lbs of chaga a year (a hard woody easy to Id (tier 1 per the bill) if I'm required to to be licensed I'll simply stop selling entirely removing an ethically harvested source from buyers

Commercial chaga harvesters are often not harvesting ethically or sustainably

Please vote no

Diane Richardson
Springfield

Archived: Wednesday, April 7, 2021 12:12:31 PM
From: Jerry Knirk
Sent: Tuesday, February 2, 2021 2:41:42 PM
To: ~House Executive Departments and Administration
Subject: HB 345
Importance: Normal

Attachments:

[INTRO-HB 345-mushrooms-PDF.pdf](#)  [HB 345.pdf](#)  [mushroom final report oct 23.pdf](#)  [HB 345 - 2021-0186h.pdf](#) 

Hello committee members,

I am sending my bill introduction for HB 345 which you are hearing on Thursday Feb, 4 at 1 PM. This is the detailed version, including the details of the bill to help you prepare for the hearing. I will not repeat all of the details of the bill during my oral bill introduction.


I have attached the bill in case you need it.

There is a very minor amendment, explained at the end of the introduction, which I have attached for you as well.

Since this bill is the product of a study commission, I have attached the commission report in case you really want to go into the weeds (or shall I say, into the mushrooms).

See you on Thursday.

Jerry Knirk

Archived: Wednesday, April 7, 2021 12:12:31 PM
From: Rogers, Abigail
Sent: Wednesday, February 3, 2021 1:48:00 PM
To: ~House Executive Departments and Administration
Subject: DHHS Testimony on HB 345
Importance: Normal
Attachments:
[DHHS Testimony HB 345-Wild Mushrooms.docx](#) 

Dear Representative McGuire,

Please find attached testimony to be presented by Colleen Smith, Administrator, Food Protection Program, Division of Public Health Services, DHHS on HB 345 Establishing a license for mushroom harvesters during tomorrow's scheduled hearing on the proposed legislation.

Please let me know if you have any questions.

Thank you.

Abby Rogers

Abigail Rogers
Legislative Liaison

Division of Public Health Services
New Hampshire Department of Health and Human Services
29 Hazen Drive, Concord, NH 03301
603-333-6309 (cell)
603-271-4593 (O)
Abigail.Rogers@dhhs.nh.gov

ATTENTION: please visit the DHHS COVID-19 website for the latest COVID-19 information, resources and guidance: <https://www.nh.gov/covid19/>

Archived: Wednesday, April 7, 2021 12:12:31 PM

From: [Tango-Lowy, Torene](#)

Sent: Wednesday, February 3, 2021 3:45:36 PM

To: ~House Executive Departments and Administration

Subject: NH House Remote Testify: 1:00 pm - HB345 in House Executive Departments and Administration

Importance: Normal

Attachments:

[L-H-EDA HB345 mushroom harvesters 2.3.21.pdf](#) 

Hello – On behalf of Director Phil Bryce of DNCR Division of Parks and Recreation, I am sending the attached testimony in support of HB 345.

Sincerely,

Torene Tango-Lowy

NH DNCR – Div. of Parks and Recreation

172 Pembroke Rd, Concord, NH 03301

P: 603-271-3556; 603-271-2976 (direct)

www.nhstateparks.org

STATEMENT OF CONFIDENTIALITY

The information contained in this electronic message and any attachments to this message may contain confidential and/or privileged information and is intended for the exclusive use of the addressee(s). Please notify the Division of Parks and Recreation office immediately at (603) 271-2976 or reply to Torene.Tango-Lowy@dncr.nh.gov if you are not the intended recipient and destroy all copies of this electronic message and any attachments.

Amendment to HB 345

1 Amend RSA 143-A:21, VII-VIII as inserted by section 1 of the bill by replacing them with the
2 following:

3

4 VII. "Mushroom" means the fruiting body of a fungus.

5 VIII. "Tier 1 mushroom" means a wild mushroom which is easily identified, that has no toxic
6 look-alikes, and which is unlikely to cause illness in humans.

7 IX. "Tier 2 mushroom" means a wild mushroom which is difficult to identify, may have toxic
8 look-alikes, or may cause illness in some humans.

UNAPPROVED

Bill as
Introduced

HB 345 - AS INTRODUCED

2021 SESSION

21-0156

08/10

HOUSE BILL **345**

AN ACT establishing a license for mushroom harvesters.

SPONSORS: Rep. Knirk, Carr. 3; Rep. Fellows, Graf. 8; Rep. Merchant, Sull. 4; Rep. M. Murray, Hills. 22; Rep. Bixby, Straf. 17; Sen. Sherman, Dist 24; Sen. Bradley, Dist 3

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill:

I. Establishes a license for wild mushroom identifiers, harvesters, and distributors.

II. Allows the department of health and human services to assess fines to people who distribute wild mushrooms without a license.

III. Requires the department of health and human services to develop a list of approved mushrooms for distribution as well as an educational curriculum for license applicants.

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.

1 (c) Passing an exam on the tier 2 mushroom list approved by the department.

2 IV. Licenses shall be valid for 5 years from the date of issue. A person holding a valid
3 mushroom identifier, harvester, and distributor license may renew such license after completion of
4 an on-line renewal course and payment of a \$30 fee.

5 V. A licensee may only identify, harvest, and sell mushrooms from the tier list corresponding
6 to the tier license they hold, however a tier 2 licensee may also identify, harvest, and sell mushrooms
7 from the tier 1 list.

8 VI. The department may revoke a license for good cause including, but not limited to, the
9 harvest, distribution or sale of wild mushrooms in a manner not consistent with this chapter and the
10 educational program required under this section, failure to keep records in accordance with this
11 subdivision, or the sale of wild harvested mushrooms not included on the tier 1 or tier 2 lists.

12 VII. A licensed mushroom identifier, harvester, and distributor shall present his or her
13 license to the purchaser of his or her mushrooms at the time of sale and to the department of health
14 and human services or to the department of agriculture, markets, and food upon request.

15 VIII. A person harvesting wild mushrooms for personal use shall not require a license.

16 IX. A licensee may harvest from a property only with documented permission from the land
17 owner or land manager.

18 143-A:23 Labeling Requirements; Recordkeeping.

19 I. All mushrooms harvested by a person licensed under this subdivision for sale shall be
20 labeled with the following:

21 (a) The name, address, and license number of the licensed mushroom identifier,
22 harvester, and distributor.

23 (b) The species of mushroom.

24 (c) The weight sold.

25 (d) The date of harvesting.

26 (e) The county of harvesting.

27 II. A copy of such label shall be retained by the licensed mushroom identifier, harvester, and
28 distributor for one year, as well as information on the specific harvest location of all mushrooms
29 harvested.

30 III. A copy of such label shall be retained by the food service establishment for 90 days.

31 IV. Such records shall be available for inspection upon request by the department of health
32 and human services and the department of agriculture, markets, and food.

33 143-A:24 Sale of Wild Mushrooms. A licensed food service establishment or retail food store
34 within the state may only sell wild mushrooms or food products made with wild mushrooms,
35 identified, harvested, and distributed in accordance with this subdivision unless purchased from an
36 out-of-state source approved by that state or country of origin. A licensed food service establishment
37 or retail food store purchasing or receiving wild mushrooms from a licensed wild mushroom

HB 345 - AS INTRODUCED

- Page 3 -

1 identifier, harvester, and distributor shall keep a record of all such transactions with the
2 information described in RSA 143-A:23 for no less than 90 days. Such records shall be available for
3 inspection upon request by the department of health and human services or the department of
4 agriculture, markets, and food. The department of health and human services shall add wild
5 mushrooms to the inspection requirements of licensed food establishments and retail food stores
6 including verifying that such wild mushrooms sold meet the requirements of this subdivision. The
7 department of agriculture, markets, and food may verify that wild mushrooms sold at farmers
8 markets and farmstands meet the requirements of this subdivision.

9 143-A:25 Revocation of License. A food service establishment or retail food store within this
10 state licensed under this chapter may have its license revoked under RSA 143-A:7 if the department
11 finds any of the following:

12 I. Records have not been kept in accordance with RSA 143-A:23 and RSA 143-A:24.

13 II. Purchasing or receiving wild mushrooms for use in food products from a person who is
14 not licensed under RSA 143-A:22 unless purchased from an out-of-state source approved by that
15 state or country of origin.

16 III. Purchasing or receiving wild mushrooms for use in food products that are not approved
17 as tier 1 or tier 2 mushrooms by the department, unless purchased from an out-of-state source
18 approved by that state or country of origin.

19 143-A:26 Penalty.

20 I. Any person who identifies, harvests, or distributes wild mushrooms without having a
21 license to do so as required by this subdivision may be subject to an administrative fine levied by the
22 commissioner of the department not to exceed \$1,000 for each violation.

23 II. The department may issue a cease and desist order to any person selling mushrooms in
24 violation of this subdivision at a farm stand, farmers market, food service establishment, or retail
25 food store.

26 III. A food service establishment or retail food store within this state licensed under this
27 chapter that violates this subdivision may be subject to an administrative fine levied by the
28 department of health and human services not to exceed \$1,000 per violation.

29 IV. A food service establishment or retail food store within this state licensed under this
30 chapter that distributes wild mushrooms in violation of this subdivision may be subject to an
31 administrative fine levied by the department of health and human services not to exceed \$1,000 per
32 violation.

33 143-A:27 Duties; Department of Health and Human Services. The department shall:

34 I. Maintain a database of all wild mushroom identifier, harvester, and distributor licensees.
35 Such database shall be available to the public on the department's Internet site.

36 II. Approve training courses and licensing exams for tier 1 and tier 2 mushroom identifier,
37 harvester, and distributor licenses.

1 III. Develop an education and notification program for food service licensees on the wild
2 mushrooms approved for harvest and sale on the tier 1 and tier 2 lists, including but not limited to
3 photos of such mushrooms.

4 143-A:28 Rulemaking. The department shall adopt rules under RSA 541-A relative to:

5 I. The content of the required educational courses for persons applying for a tier 1 or tier 2
6 mushroom identifier, harvester, and distributor license, including identification of mushrooms,
7 appropriate locations from which to harvest mushrooms, the safe handling and storage of
8 mushrooms, record keeping requirements, and ethics of harvesting; and which shall contain no less
9 than 12 hours of in-person instruction with a mandatory online preparation module.

10 II. The content of the required educational course for persons applying to renew a tier 1 or
11 tier 2 mushroom harvester and distributor license.

12 III. The content of an abbreviated course which shall contain no less than 4 hours of in-
13 person training which shall be offered for experienced identifiers, harvesters, and distributors who
14 demonstrate competency to the department. Experienced identifiers, harvesters, and distributors
15 may apply to the department for such course.

16 IV. A list of tier 1 mushrooms which are easy to identify, with no toxic look-alikes, and
17 which are unlikely to cause illness in humans.

18 V. A list of tier 2 mushrooms which are more difficult to identify, which may have toxic look-
19 alikes, or may make a small percentage of humans ill.

20 VI. The content and format of application forms, testing materials and procedures.

21 VII. The content of testing material and test taking procedures.

22 VIII. Evidence of licensure.

23 IX. The content of the database for mushroom identifier, harvester, and distributor
24 licensees.

25 X. Qualifications for trainers and instructors for educational courses for tier 1 and tier 2
26 mushroom identifier, harvester, and distributor license.

27 XI. A fine schedule for violations of this subdivision.

28 2 Effective Date. This act shall take effect July 1, 2022.