HB 1692-FN - AS AMENDED BY THE HOUSE

19Feb2020... 0415h

2020 SESSION

20-3091
08/10

HOUSE BILL   1692-FN

AN ACT establishing a license for mushroom harvesters.


COMMITTEE: Environment and Agriculture

________________________________________________________

AMENDED 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.

This bill was a request of the mushroom foraging study commission established in 2019, 35:2.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
HB 1692-FN - AS AMENDED BY THE HOUSE

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty

AN ACT establishing a license for mushroom harvesters.

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

1 New Subdivision; Wild Mushroom Harvesters. Amend RSA 143-A by inserting after section 20 the following new subdivision:

Wild Mushroom Harvesters

143-A:21 Definitions. In this chapter:

I. "Community supported agriculture" or "CSA" means a distribution system in which a farmer distributes produce directly to consumers.

II. "Department" means the department of health and human services.

III. "Distributor" means a person who purchases wild mushrooms from a harvester and sells to food establishments or direct to the public. Distributor shall not include food establishments.

IV. "Food establishment" means a food service establishment or retail food store licensed under RSA 143-A, as well as farmers market, farm stand, and CSA.

V. "Harvester" means a person who forages for and harvests wild mushrooms for sale to a distributor, food establishment, or to the public.

VI. "Identifier" means a person who identifies wild mushrooms collected by a harvester on behalf of a distributor or a food establishment.

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

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

143-A:22 License Required.

I. No person shall identify, harvest, or offer wild mushrooms for sale unless he or she is licensed by the department.

II. A wild mushroom identifier, harvester, and distributor may receive a tier 1 license upon the following:

(a) Payment of a fee of $75 to the department.

(b) Fulfilling educational requirements approved by the department.

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

III. A wild mushroom identifier, harvester, and distributor may receive a tier 2 license upon the following:

(a) Payment of a fee of $75 to the department.
(b) Fulfilling educational requirements set by the department.

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

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

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

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

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

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

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

143-A:23 Labeling Requirements; Recordkeeping.

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

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

   (b) The species of mushroom.

   (c) The weight sold.

   (d) The date of harvesting.

   (e) The county of harvesting.

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

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

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

143-A:24 Sale of Wild Mushrooms. A licensed food service establishment or retail food store within the state may only sell wild mushrooms or food products made with wild mushrooms, identified, harvested, and distributed in accordance with this subdivision unless purchased from an out-of-state source approved by that state or country of origin. A licensed food service establishment
or retail food store purchasing or receiving wild mushrooms from a licensed wild mushroom
identifier, harvester, and distributor shall keep a record of all such transactions with the
information described in RSA 143-A:23 for no less than 90 days. Such records shall be available for
inspection upon request by the department of health and human services or the department of
agriculture, markets, and food. The department of health and human services shall add wild
mushrooms to the inspection requirements of licensed food establishments and retail food stores
including verifying that such wild mushrooms sold meet the requirements of this subdivision. The
department of agriculture, markets, and food may verify that wild mushrooms sold at farmers
markets and farmstands meet the requirements of this subdivision.

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

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

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

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

143-A:25 Penalty.

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

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

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

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

143-A:26 Duties; Department of Health and Human Services. The department shall:

I. Maintain a database of all wild mushroom identifier, harvester, and distributor licensees.

Such database shall be available to the public on the department's internet site.
II. Approve training courses and licensing exams for tier 1 and tier 2 mushroom identifier, harvester, and distributor licenses.

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

143-A:27 Rulemaking. The department shall adopt rules under RSA 541-A relative to:

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

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

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

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

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

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

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

VIII. Evidence of licensure.

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

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

XI. Amending the definition of “commodity” in department rules to include wild harvested mushrooms.

XII. A fine schedule for violations of this subdivision.

2 Effective Date. This act shall take effect January 1, 2021.
AN ACT establishing a license for mushroom harvesters.

FISCAL IMPACT: [ X ] State [ ] County [ ] Local [ ] None

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| Funding Source: | [ X ] General | [ ] Education | [ ] Highway | [ ] Other |

METHODOLOGY:

This bill establishes a license for wild mushroom identifiers, harvesters and distributor and requires the Department of Health and Human Services to develop a list of approved mushrooms for distribution and an educational curriculum for license applicants.

The Department of Health and Human Services would establish the license and would have authority to collect the application fees and issue fines to individuals who distribute wild harvested mushrooms without a license. The Department indicates the initial work would include developing rules concerning the application process, the training curriculum, requirements for new licensure and license renewal. In addition, there would be ongoing work to issue licenses and renewal notices and to maintain the database of licensed identifiers, harvesters and distributors. The Food Protection Program would add these additional responsibilities into the current work of the program. Concerning the fiscal impact, the Department assumes:

- Because harvesting and distribution of wild mushrooms is not currently regulated, there is no reliable information on the potential number of licenses or violations.
- Most of the activity in the first year would be to develop the program and minimal revenue will be collected.
- No more than three violations would occur in the first year of enforcement and violations would decline in the future years due to training and enforcement activities.
- There could be up to 30 licenses in the first four years. At $30 per license, $2,250 of revenue would be generated. More licenses would be issued in the early years of implementation.
• Additional costs for inspection and enforcement beyond the current food protection budget cannot be determined as there is no information on the number of food establishments or retail stores that will offer wild mushrooms.

• Food establishments and retail stores that distribute wild mushrooms in violation of the bill would be subject to a fine not to exceed $1,000. The Department is not able to estimate this revenue because it is a new fine and past violations have not been tracked.

The Department of Agriculture, Markets and Food indicates this bill, as amended, would have no fiscal impact on the Department.

AGENCIES CONTACTED:
Departments of Health and Human Services and Agriculture