



2022 Changes for Businesses Licenses as a Carrier Under RSA 178:14

Relative and Applicable Statutes and Rules:

**RSA 178:14, RSA 178:27 and
Liq. 1100, et seq.**

1. Purpose.

The 2021/2022 legislative session brought several changes for New Hampshire licensees. Among the changes was a provision in HB 1039 addressing businesses holding a carrier license under RSA 178:14. This Industry Circular will review a law change contained within this bill affecting licensed carriers. The New Hampshire Liquor Commission, Division of Enforcement and Licensing (Commission) has provided this guidance document to inform the industry of the changes in the law and to answer questions from the public and the licensed industry.

2. Authority.

Administrative Rule Liq. 201¹ gives the Commission the authority to interpret statutes and administrative rules. This question falls within the authority of the Commission. The purpose of Title XIII is to provide an orderly and controlled environment for the manufacture, wholesale and retail sale of alcoholic beverages. To that extent the General Court has charged the Commission with the fair and reasonable interpretation of the statutes and the administrative rules established under law.

3. Discussion of the Issues.

HB 1039 amended the provisions of RSA 178:14, III. Businesses shipping alcoholic beverages into New Hampshire are required to obtain a Direct Shipping permit as required by RSA 178:27. A small number of businesses ship alcohol into New Hampshire without first obtaining a direct shipping permit. Whether licensed or unlicensed, businesses shipping their alcohol to New Hampshire consumers utilize the services of businesses holding a carrier license under RSA 178:14.



NEW HAMPSHIRE LIQUOR COMMISSION

Division of Enforcement, Licensing and Education

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Carrier licensees are prohibited from transporting liquor, wine or beverages into New Hampshire when the origins come from a non-licensed business located outside of New Hampshire. The previous provisions prohibited the carrier from making any delivery of alcohol within the state from an unlicensed entity for a period of 90 days once the carrier received written notice from the Liquor Commission that the shipping party was unlicensed.

Under the previous law a carrier could resume deliveries on the 91st day and continue until they received a new notice from the Liquor Commission stating the business was not licensed to ship into New Hampshire.

The Law Change - The law change removed the phrase “within a 90 day period” from the law thereby permanently prohibiting a licensed carrier from accepting alcoholic beverages for shipment into New Hampshire once they have been notified by the Liquor Commission in writing that the business shipping alcohol is unlicensed to do so.

There is no ability for the carrier to resume shipping after a 90 day waiting period until such time as the unlicensed shipping entity becomes licensed. Licensed carriers that deliver alcoholic beverages from an unlicensed out of state business risk both criminal and administrative prosecution that could result in a fine and/or a suspension of their carrier license.

The law change will take effect on August 23, 2022.

NOTE: Carrier licensees should be aware that nothing in these changes shields them from potential prosecution by the Commission if alcohol is delivered to a person under the age of 21 or a visibly intoxicated person in violation of RSA 179:5.

4. Questions and Additional Information

The following are representative of some questions liquor manufacturers might have regarding the law change.



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Q. Does it make a difference if I am delivering alcohol to a retail licensee and not a consumer?

A. No. The law change applies across the board to retail licensees and consumers.

Q. As a Carrier can I have a list of licensed direct shippers so I can be sure not to accept products from an unlicensed business?

A. Yes. Send the Direct Shipping unit of the Liquor Commission an email at directshippers@liquor.nh.gov, requesting a current list and one will be forwarded to you. You can also find the list on our website at, <https://www.nh.gov/liquor/enforcement/licensing/documents/unauthorized-direct-shippers.pdf>. Keep in mind the list of licensed direct shipper's changes regularly so while checking the list is a prudent preventative action the written notice from the Liquor Commission is the official document advising you of an unlicensed entity.

Q. If I have questions whether a business has been licensed by the Liquor Commission as a direct shipper may I contact the agency to inquire?

A. Of course. The Liquor Commission wants to work with all licensees to aid them in developing a successful business. In furtherance of this goal we welcome questions from licensees with the hope we can provide accurate information and forego any possible violations by the licensee based upon a misunderstanding of the laws governing the sale of alcoholic beverages in New Hampshire. We welcome your questions!

More Questions? - If you have questions about the interpretation of these statutes beyond what has been provided in this circular you are encouraged to contact the Division of Enforcement and Licensing at 603-271-3521 to have you questions answered.

i Liq 201.01 Interpretation of Statutes/Administrative Rules. Any question arising, relating to an interpretation of RSA 175- RSA 180, RSA 126-K, or administrative rules adopted by the commission shall be submitted in writing as a petition to the chairman of the liquor commission requesting a declaratory ruling.