



Law Changes Relative to Contract Brewing for Brew Pubs (RSA 178:13) and Nano Brewers (RSA 178:12-a)

Relative and Applicable Statutes and Rules:

RSA 178:13, RSA 178:12-a

1. Purpose.

The New Hampshire Liquor Commission, Division of Enforcement and Licensing (Commission) has provided this interpretation of laws passed in the 2021 legislative session. The purpose of this document is to provide licensees with clarity on the meaning of the provisions signed into law and provide guidance on how these provisions will be interpreted and applied by the Commission

2. Authority.

Administrative Rule Liq. 201ⁱ gives the Commission the authority to interpret statutes and administrative rules. These questions fall 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 and Changes to Statutes.

SB 125 made changes to RSA 178:13 and RSA 178:12-a, to allow these licensees to engage in contract brewing arrangements with a Beverage Manufacturer. The definitions of a Contract Brewer (RSA 175:1 XXV-a) and a Contract Brewing Arrangement (RSA 175:1 XXV-b) were amended to include the Brew Pub and Nano Brewer as eligible to participate in contract brewing.

It is the Brew Pub and the Nano Brewery who have the responsibility to provide the Commission Form A-104 with a copy of the contract brewing agreement with the Beverage Manufacturer and adhere to all production, reporting and taxation requirements.

The limitation on the maximum quantity of product produced by the Brew Pub and the Nano Brewer remain at 2500 barrels and 2000 barrels respectively. It is the responsibility of the licensees to adhere to the limitations on production.



The change in the statute puts in place certain prerequisites for the Brew Pub or Nano Brewer to be eligible to enter into a contract brewing arrangement. These are as follows:

Brew Pub – RSA 178:13

1. Brew Pubs have an on-site production requirement. The requirement is a one year look back period for production therefore the Brew Pub must have been in operation for at least one year before entering into a contract brewing arrangement.
2. After entering into a contract brewing arrangement, the brew pub may not have produced LESS at the end of an arrangement calendar year than it did in the calendar year prior to entering the arrangement to be eligible to contract brew. **The contract brewing arrangement is limited to licensed producers within New Hampshire.**
3. A brew pub shall not enter into a contract brewing arrangement with a contract brewer if it does not brew at least 10 barrels annually. **Therefore if the brew pubs production falls below 10 barrels or on-site production falls below previous years production, they are no longer eligible under the law change to enter into a contract brewing arrangement.**
4. Total production, including tenant and contract brewers, shall be at least 10 barrels and shall not exceed 2500 barrels annually.
5. There is an annual reporting requirement for the brew pub and the brew pub shall be responsible for all taxes due to the State of New Hampshire as a result of the contract brewing arrangement.

Nano Brewers – RSA 178:12-a

1. Nano Brewers have an on-site production requirement. The requirement is a one year look back period for production, therefore the Nano Brewer must have been in operation for at least one year before entering into a contract brewing arrangement.
2. After entering into a contract brewing arrangement, the nano brewer may not have produced LESS at the end of an arrangement calendar year than it did in the calendar year prior to entering the arrangement to be eligible to contract brew. **The contract brewing arrangement is limited to licensed producers within New Hampshire.**
3. A Nano Brewer shall not enter into a contract brewing arrangement with a contract brewer if it does not brew at least 10 barrels annually. **Therefore if the Nano Brewery**



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production falls below 10 barrels or on-site production falls below previous years production, they are no longer eligible under the law change to enter into a contract brewing arrangement.

4. Total production, including tenant and contract brewers, shall be at least 10 barrels and shall not exceed 2000 barrels annually.

5. There is an annual reporting requirement for the brew pub and the brew pub shall be responsible for all taxes due to the State of New Hampshire as a result of the contract brewing arrangement.

4. Frequently Asked Questions.

Q. I am a Nano Brewer (or Brew Pub). I am near the Vermont border. Rather than contract with a NH producer I would like to use a Vermont manufacturer. Can I do that?

A. No, the law change requires you to contract brew with a NH licensed manufacturer to be eligible to use the opportunities provided in this law change.

Q. I am a new business and I have been licensed only 6 months. When can I enter into a contract brewing arrangement?

A. You must be in business, and brewing, for at least one year to be eligible to enter into a contract brewing arrangement, so to be eligible you must have been licensed for at least one year and produced at least 10 barrels of product.

Q. What if I have met the requirements for being in business and the 10 barrels of production and in a subsequent year the contract brewer, tenant brewer and I do not make the 10-barrel requirement or my on-site product falls below my previous year's production?

A. If you fail to meet your production requirements in a subsequent year then you are no longer eligible to remain in a contract brewing arrangement under the law.

Q. As a Nano Brewer (or Brew Pub) am I responsible for the State taxes on product produced by the manufacturer with whom I have contracted?

A. Yes, the Nano Brewer or Brew Pub is 100 percent responsible to pay whatever taxes are due to the State of New Hampshire as a result of the contract brewing arrangement.



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Q. As a Nano Brewer (or Brew Pub) do I have the reporting responsibilities to the Commission for products produced under the contract?

A. Yes, the Nano Brewer or Brew Pub shall submit an annual report of all beverages produced by:

- The nano brewer on-site
- Any tenant brewer
- Any contract brewer the nano brewer has contracted with.

Q. Whom should I contact if I have more questions?

A. Please contact the Division of Enforcement and Licensing at 603-271-3521 to have your questions answered

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.