



Law Changes Relative to Shipment of Alcohol Direct to Consumers by Designated Licensees (RSA 178:27-b)

Relative and Applicable Statutes and Rules:

RSA 178:27-b

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 now allows Beverage Manufacturers (RSA 178:12), Nano Brewers (RSA 178:12-a), Brew Pubs (RSA 178:13), Wine Manufacturers (RSA 178:6), Liquor Manufacturers (RSA 178:6) and Wholesale Distributors (RSA 178:16) to ship alcoholic beverages they manufacture or distribute directly to legal aged consumers who are residing in New Hampshire by means of a licensed Carrier (RSA 178:14).

There is no fee for the manufacturers or distributors identified above to obtain a Direct to Consumer Shipping Permit (DCSP). Vehicles utilized in the delivery of alcoholic beverages must be licensed by the Commission as Carriers and pay a fee of \$120 (*see RSA 178:29, IV*). RSA 178:14 has been amended to allow a Carrier Licensee to deliver alcoholic beverages sold to consumers under the newly established provisions of RSA 178:27-b. Carriers shall not ship into areas of the state where alcohol beverages may not be lawfully sold.



NEW HAMPSHIRE LIQUOR COMMISSION

Division of Enforcement, Licensing and Education

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A. Limitations

The licensees identified above are not eligible to engage in direct shipments of alcohol to consumers until they have obtained a DCSP from the Commission. Once the licensee has obtained a DCSP they are limited to the quantity of alcohol they may ship to a single consumer in a calendar year. *See limitations below:*

Liquor Manufacturers – not more than 60 individual containers

Wine Manufacturers – not more than 12, 9 liter cases

Beverage Manufacturers, and Beverage Distributors – not more than 27 gallons of beverages, specialty beer and specialty beverage. The alcoholic content of the beverage, specialty beer or specialty beverage may not exceed 8 percent alcohol by volume.

Nano Brewers and Brew Pubs – not more than 27 gallons of beer and specialty beer. The alcoholic content of the beer and specialty beer may not exceed 8 percent alcohol by volume

B. Packaging and Records

DCS permittees are required to label the packaging used to prepare the alcoholic beverages for shipping with the clearly marked phrase **“Alcoholic Beverages – Adult Signature Required.”** The licensed Carrier is required to obtain a signature of a person over the age of 21.

DCSP’s shall file monthly reports to the Commission and include the following information:

1. Total amount of alcohol beverage they have shipped within the state of for the preceding month;
2. Name and address of the purchaser
3. Date of purchase, copies of the invoices, and the identity of the carrier used. *(Please note some of the eligible licensees have their vehicles registered as Carriers already. If they are using company vehicles it should be so noted. If not a company vehicle then the identity of the Carrier hired to make the delivery)*



Records of sales made to consumers under the DCSP must be maintained and made available to the Commission upon request for a period of three years from the date of the transaction.

C. Licensed Common Carrier

Carriers are required to file with the Commission a list of all DCSP shipments within New Hampshire by the 10th of the following month.

D. Rulemaking

The Commission shall engage in rulemaking to further clarify and adopt rules consistent with the intent of the legislation and provide further clarity on process and procedures.

4. Frequently Asked Questions.

Q. What steps do I need to take to get a DCSP?

A. The Commission will be writing rules to layout the process and procedure to be used by the eligible licensees. With an effective date of July 1, 2021 eligible licensees should advise the Division of Enforcement, Licensing and Education that they wish to engage in the DCSP program. The Commission will advise the business of the appropriate next steps to begin shipping to consumers.

Q. What if I want to ship products to a regular customer who has a summer home in another state?

A. Each state is a sovereign in the area of alcohol. If you desire to ship alcoholic beverage out of New Hampshire and into another state, you are advised to contact the alcohol agency in that state to determine what process must be followed to make the shipment lawful within that state. The Commission has no jurisdiction for NH licensees who ship alcohol outside our borders.

Q. I am a wholesale distributor and I have a fleet of delivery trucks I use to deliver beer to licensees. Can I use these trucks to deliver products I have sold directly to NH consumers?

A. Yes, your trucks hold carrier licenses and are therefore eligible to be used for the delivery of products as part of a direct to consumer transaction. Unlike a delivery to a licensee, where a driver might roll out cases of beer on a dolly, DC transactions require specific package labeling, record keeping and record retention. It is worth considering keeping separate records for DC transactions.



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Q. I am a wine manufacturer. I have a satellite store and my customer wanted me to ship them a case of wine to their home in Wolfeboro? Can I do it?

A. Yes, if you have a DCSP then the transaction can be fulfilled from either your winery or your satellite store. The transaction requires specific package labeling, record keeping and record retention. It is worth considering keeping separate records for DC transactions.

Q. I am a liquor manufacturer. It appears this DCSP isn't going to help me because I produce products over 8 percent alcohol by volume. Am I limited to selling 8% products?

A. No, the limitation on the percentage of alcohol by volume only applies to licensees who manufacture beer, specialty beer and specialty beverages. You are eligible to obtain a DCSP and sell up to the limits identified in the statute (*see above*). The transaction requires specific package labeling, record keeping and record retention. It is worth considering keeping separate records for DC transactions.

Q. Getting a DCSP is free. What if I decide that this is actually costing me more than it is worth? What do I need to do to stop participating?

A. We would ask you to notify the Commission in writing that you would like to end your permit. This will enable the Commission to adjust records and prevent you from receiving notices from the Commission that you are not filing your monthly reporting requirements as required by the law.

Q. Who 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.