



## NEW HAMPSHIRE LIQUOR COMMISSION

Division of Enforcement, Licensing and Education

**Industry Circular**

Number 2022-02

Issued August 3, 2022

# 2022 Production and Fee Changes for Liquor Manufacturers

**Relative and Applicable Statutes and Rules:**

**RSA 178:6, RSA 178:29 and Liq.705.02**

## 1. Purpose.

The 2021/2022 legislative session brought several changes for New Hampshire licensed liquor manufacturers. The changes were included in HB 1613 and SB 212. This Industry Circular will review the law change for HB 1613 and SB 212 will be reviewed in Industry Circular 2022-03. 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 liquor manufacturing industry (manufacturers).

## 2. Authority.

Administrative Rule Liq. 201<sup>1</sup> 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 1613 – Relative to Certain Liquor Manufacturers

Prior to the passage of HB 1613, a business seeking a license as a liquor manufacturer (RSA 178:6) could make application to the Commission to distill liquor from raw materials (RSA 178:6, I). The law did not impose a limit on the quantity of liquor that a licensee could manufacturer under this license and the annual license fee for the liquor manufacturer was \$1692 for the licensing year.

HB 1613 recognized the trend towards new, smaller distilleries and the fee of \$1692 was a barrier to a business seeking to establish itself within the New Hampshire liquor manufacturing industry. HB 1613



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created what might be referred to as an “incubator license” for the new smaller business to acquire a license and provided a tiered fee schedule and production limits.

*Effective on July 1, 2022 a new business seeking a liquor manufacturer license with the intent of producing less than 1000 cases of liquor per year may apply for a license with a fee of \$300 per licensing year (RSA 178:29, V(b)). A current licensee producing less than 1000 cases per year will be allowed to pay the lower fee for their license. Existing licensees producing 1000 cases or more will continue to pay the existing fee of \$1692 for their license.*

Nothing in the law change shall relieve the applicant of their responsibility to acquire federal licensure as a condition precedent to state licensure. The applicant must also comply with the existing licensure requirements under Title XIII. Licensees should become fully familiar with the allowances and limitations articulated in RSA 178:6.

#### 4. Questions and Additional Information

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

**Q. I am an existing liquor manufacturer. May I renew my license seeking the lower fee?**

A. It depends. Because the new fee schedule provides a substantial reduction from the current fee we anticipate many businesses will want the lower fee. To ensure the integrity of the law, the Commission will review your previous production year totals. If in the preceding licensing year you produced less than 1000 cases you will be allowed to pay the lower fee. If your production totals were greater than 1000 cases in the preceding year your fee will be increased to \$1692.

**Q. I am a new applicant and I have no production history. Will I be eligible for the \$300 fee?**

A. Yes. As a new applicant you have no production history so you may declare your intent to produce less than 1000 cases during your licensing year. You will need to file production reports with the Commission just as current licensees do and this will be used to determine your compliance with the production limits in the following licensing year.



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**Q. What happens if I acquire the 1000 case or less license for \$300 and my production exceeds the 1000 case limit during my licensing year?**

A. If your production exceeds 1000 cases during your licensing year you will be charged a prorated fee in the amount of \$141 dollars per month for the remainder of your licensing year.

*E.g. – As a new licensee you pay \$300 for your license in January. In the October reporting period you exceed the 1000 case limitation linked to the fee. The Commission will upgrade your license beginning in the month you exceeded the 1000 case limit and you will be charged \$141 per month for the remainder of your licensing period. In this case you reported that in October you exceeded the 1000 case limit so you will be assessed an additional licensing fee of \$423 dollars (\$141 x 3) for October, November and December. When you renew your license it will be at the higher \$1692 fee for that licensing year.*

**Q. I am a farmer. Does HB 1613 create a new type of liquor manufacturing license?**

A. No. HB 1613 does not create a separate license for farms. HB 1613 establishes an entry level fee schedule for new, smaller businesses, seeking a liquor manufacturer license. The holder of a license under RSA 178:6 is a liquor manufacturer. New Hampshire does not have a farm distillery license.

**Q. I am a farmer and I want to acquire a license and sell my liquor at my roadside farm stand. Can I do that?**

A. As an applicant you will need to establish a production area on your property. The production area is subject to visitation by Commission staff for inspections and a determination of compliance. RSA 178:6 provides language that outlines sampling and sales of your products to guests. Your products must be sampled or sold from your production facility and would not be allowed at your roadside stand for sampling or sales.

It is strongly recommended that a new applicant provide the Commission with as much detail as possible on your business plan to ensure you do not make investments that may be unusable because of limitations in the law or rule. The Commission wants to assist you as you enter into the licensed world of alcohol production so you can achieve success and fulfillment of your goals.

**More Questions?** - Industry member who have questions about the policy changes outlined above should contact Lieutenant Matt Culver or Commission's Examiner Unit at the Division of Enforcement & Licensing at 603-271-3929.

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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.