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Frequently Asked Questions About Law Changes
Brought About by SB 418 in the 2018 Legislative Session

Q. What did SB 418 do?

A. SB 418 contained provisions that liberalized the ability of wine manufacturers licensed under RSA 178:8 and beverage manufacturers licensed under RSA 178:12 to sample and serve their products.

Q. Did SB 418 make any changes to Nano Brewers licensed under RSA 178:12-a?

A. SB 418 did not change any of the operational requirements for Nano Breweries or those Nano Breweries that obtained a Nano + licenses (adding a restaurant license as authorized by RSA 178:12-a, VI). SB 418 only applied to Beverage and Wine Manufacturers.

Q. If I am a wine manufacturer or beverage manufacturer do I need to open a restaurant to take advantage of the changes in SB 418?

A. No you don't. This law change expands on the manufacturer's ability to now serve a second glass of beer or wine to a customer. Existing law allows both to provide samples to visitors for free or for a fee. Prior to the passage of SB 418 wine manufactures and beverage manufacturers were limited to serving samples (2 oz. for wine and 4 oz. for beer). If a visitor asks for a glass of wine or a pint of beer the manufacturer could not serve it unless they held a second license (wine manufacturers and beverage manufacturers are eligible to hold a second retail license as permitted in their enabling statute). SB 418 changed that limitation and now permits samples or the service of a single glass of wine or beer in lieu of a sample. SB 418 also provides that the manufactures could sell the customer a second glass of wine or beer IF food is available to the customer.

Q. What does "food is available" mean?

A. While some wine manufacturers and beverage manufacturers have chosen to expand their businesses by acquiring an additional retail license, SB 418 recognized that not every manufacturer wants to take on that expense just to serve a customer one more glass of wine or beer. So the general court has chosen to look at the service as a second glass of wine or beer as a triggering point. If the manufacturer wishes to serve a second glass then it may occur if food is

available. The law permits a manufacturer to use a food produced by a third party to satisfy the requirement so long as the source of the food is “properly licensed.” The phrase “properly licensed” will be interpreted as a business that holds a license from the Food Protection Section, Bureau of Public Health Protection, New Hampshire Division of Public Health Services, Department of Health and Human Services or from one of the 15 self-inspecting communities that issues food protection licenses. (See the list of self-inspecting communities at this link <https://newhampshireonline.envisionconnect.com/#/pa2/search>).

Q. So I don't need to make the food myself to be able to serve the second drink?

A. That is correct. A manufacturer may produce food to satisfy the requirement if they are properly licensed or they purchase their food from a properly licensed 3rd party. See the answer to the question above for what does “properly licensed” mean.

Q. So can I invite a food truck onto my property to sell food and satisfy the requirement to be able to serve a second drink?

A. If the operator of the food truck is “properly licensed” by the Food Protection Section, Bureau of Public Health Protection, New Hampshire Division of Public Health Services, Department of Health and Human Services or from one of the 15 self-inspecting communities that issues food protection licenses then this would satisfy the standards laid out in SB 418.

Q. So if I hold a Nano Brewery license does SB 418 apply to me?

A. No, SB 418 only applies to licensed wine manufacturers and beverage manufacturers.

Q. So if I hold a Nano Brewery license can I have a food truck come to my facility?

A. A Nano Brewery (not a Nano +) does not have a food requirement. The Nano brewer can only sample their products in 4 oz. sizes. They are not permitted to sell the beer by the glass even if they have food available at their brewery. So a Nano Brewer may invite a food truck on to their property as a convenience to visitors.

Q. So if I have a Nano + license will a food truck satisfy my requirement to have food requirement?

A. NO! A Nano Brewer that wishes to serve their beer by the glass must hold a second license as required by the provisions of RSA 178:12-a VI. The Nano + brewer hold two separate licenses in order to achieve the desired result of serving beer by the glass.

A Nano + licensee hold a license under RSA 178:12-a and an on-premise beer and wine restaurant license under RSA 178:20. As a 178:20 licensee, the Nano + licensee is also obligated to follow the provisions of Liquor Rule 503.04 which is below.

Liq 503.04 Service and Preparation of Food.

(a) The holder of a restaurant license or his or her employees shall prepare, cook and serve the food for the restaurant.

(b) Preparation and cooking food shall consist of at least 3 of the following:

(1) Assembling raw or cooked food items to make a dish, such as a sandwich or salad;

(2) Cooking raw fresh or frozen ingredients to make a dish, such as grilling a steak;

(3) Heating prepared foods for service; and

(4) Arranging a selection of foods on a plate or dinnerware for service, so as to constitute a full meal.

(c) In no case shall the food concession be leased or rented out to any other person.

(d) Service of food in a full service restaurant licensed for liquor sales shall consist of:

(1) Taking a food order at the table; and

(2) Serving the food to the table on plates or appropriate dinnerware, accompanied by appropriate tableware and condiments.

Q. So are you telling me that if I hold a Nano + license I can't have a food truck on my property?

A. A Nano + licensee chose to take on the RSA 178:20 license to enable their business to sell beer by the glass. As a restaurant licensee the Nano + must adhere to the requirements of statute and rule. With that said a Nano + licensee is not prohibited from inviting a food truck onto their property to sell food from the truck. What is critical for the Nano + licensee to understand is the food truck **MAY NOT** function as a substitute for the food requirements the Nano Brewer agreed to undertake when they acquired the Nano + license (see Liq. 503.04 above).