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## Senate Bill 418

**Relative and Applicable Statutes and Rules:**

Amends RSA 178:12, II-a

**Licenses Impacted by the Change:**

Beverage Manufacturers Licensed Under RSA 178:12

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### Law Changes relative to beverage samples and sampling

**Amended Language for RSA 178:12, II-a**

**(Bold italicized words are the new language)**

The holder of a beverage manufacturer license may sell beverage samples to visitors of legal drinking age for consumption on the premises where the beverages were manufactured. ***A beverage manufacturer may either provide samples for free or for a fee which shall be limited to one 4-ounce glass per label or one 16-ounce glass per person. At such times as food is available, a beverage manufacturer may serve no more than 2 16-ounce glasses per person in any areas approved by the commission. For the purpose of this section, food and non-alcoholic beverages may be provided by a properly-licensed third party food vendor, prepared on or off the premise.***

#### **Agency Interpretation of the Law Change**

With the passage of this bill, a **beverage manufacturer** has gained some new serving privileges as well as some new obligations. A beverage manufacturer may continue to provide a free 4 oz. sample for each label manufactured by the brewery or they may charge a fee for the sample(s). In addition to the 4 oz. samples allowed in the earlier law, the beverage manufacturer now has the flexibility to serve a visitor **a single 16 oz. glass of beer as a sample of a single label**. The manufacturer may charge a fee for the single 16 oz. sample or give it away. To be clear, **the law change does not allow the service of a 16 oz. sample for each of the labels produced by the manufacturer.**

**“I want a second beer”** - The beverage manufacturer may now serve a second glass of their beer to visitors with conditions. **The service of the 2<sup>nd</sup> glass of beer is restricted to such times as when the beverage manufacturer has food available to the customer.** Food is defined under Title XIII, RSA 175:1, XXXI-aa, as a “solid nutritive material as distinguished from drink.”

Additionally the law change allows the licensee to hire a **“properly licensed** third party to provide the food for the beverage manufacturer. **The food requirement only applies if you intend to serve a second, 16 oz. glass of beer to customers.** Food is not required if you limit your serving to the 4 oz. samples or the single 16 oz. glass of sampled beer.

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>*).

If properly licensed, the beverage manufacturer may prepare its own food and make it available to the visitor on their premise in satisfaction of the requirement. The brewer may also use the services of caterers, food trucks or other restaurants **licensed by the NH Department of Public Health Protection** or by one of the self-inspecting communities. This requirement eliminates an unlicensed person or entity from providing food in an attempt to satisfy the requirement.

The Division of Enforcement, Licensing and Education recommends that any beverage manufacturer intending to take advantage of the “**second beer provision**” in the law, **retain receipts of food purchased** to satisfy the food requirement and have them available for inspection. If the brewery intends to have a properly licensed third party remain on their premise to provide food then that business should be able to provide a copy of their food service license upon request. It is recommended the beverage manufacturer keep copies of the food service license of any vendor supplying food to satisfy this requirement.

The law change also will give the beverage manufacturer the opportunity to petition the Commission under the provisions of RSA 178:24 to sample or consume not more than 2, 16 oz. glasses of beverage **in any area approved by the Commission**. By example, if the licensee owns an outdoor area they might wish to use on sunny days they may petition the commission under the requirements of RSA 178:24 for such approval. (*See RSA 178:24 for the approval process*)

## **Summary**

The legislative intent of this law change is to provide the beverage manufacturer and their customers with a greater degree of flexibility in how they serve and sample the licensee’s beer. Beverage manufacturers are eligible to hold other types of on-premise licenses and should contact the Division of Enforcement, Licensing and Education for more information if they desire to serve their beer or engage in expanded business operations beyond the scope of this law change.