



Relative and Applicable Statutes and Rules:

RSA 178:8; 179:15

Limitations of Delivery for New Hampshire Wineries

1. Purpose

To provide clarification on the scope of the licensed wine manufacturer's ability to sell and deliver wines. Also, referenced in this circular is Governor Sununu's Executive Order 2020-04, (E.O. 20-04) which has been extended and shall remain in effect until Monday, May 4, 2020.

2. Discussion

Please note that E.O. 20-04 provides a limited degree of relief to those licensees identified in the E.O. The order specifically provides on-premises licenses (restaurants, diners, saloons, private clubs or any other establishment that have both a restaurant license and an on premise licensees) with the limited ability to deliver up to 192 ounces of malt beverage or 1.5 liters of sparkling or still wine with food prepared by the licensee. It should be noted that wine manufacturers were not identified in the class of licensees who are eligible to make these deliveries of alcoholic beverages under E.O. 20-04.

We would then need to look at the existing language of RSA 178:8 to determine what delivery options are available to New Hampshire wine manufacturers. 178:8, II provides that "Each wine manufacturer in this state shall have the right to sell and to transport and deliver wines manufactured by it directly *to the holders of on-premises or off-premises licenses issued by the commission. (emphasis added)* No wine manufactured in this state by any manufacturer shall be sold or delivered in this state in any manner which is inconsistent with the provisions of this title."

RSA 178:8 provides wine manufacturers with the ability to sell and deliver to licensees or to the Commission. The manufacturer may also transport wine to farmer's market or festivals and sell

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their product in the original container. RSA 178:8, V allows the manufacturers to transport of wines manufacturers to the state border for transportation and sale outside New Hampshire.

In order for the Commission to answer the question we need to look at the statute and interpret the statute using the plain meaning of the language in the statute. RSA 178:8 is silent on the question of whether a wine manufacturer may deliver to a consumer who has purchased wines. Therefore, we must interpret the statute that the legislature did not intend for this statute to allow for the delivery of wines from a wine manufacturer directly to a consumer or it would have included this in the statute.

Looking further, we find that RSA 179:15 provides additional instruction on the question of the transportation beverages and wine. A review of the language of this statute does not provide any language that would support the ability of a wine manufacturer to make deliveries of wines directly to New Hampshire consumers. This statute also fails to provide language that would allow for the direct delivery of wines to the New Hampshire consumer.

In summary whereas the language of the applicable statutes fails to include and provide wine manufacturers with express authority to deliver directly to consumers and that wine manufacturers are not included in the provisions of E.O. 20-04 we must advise that holders of a wine manufactures license should not be making deliveries of wines directly to New Hampshire consumers who have purchased products.

3. Questions

Please contact the NH Liquor Commission- Division of Enforcement & Licensing at 603-271-2039.