

TITLE XIII

ALCOHOLIC BEVERAGES

CHAPTER 178

LIQUOR LICENSES AND FEES

Section 178:27

178:27 Direct Shippers. – *Effective as of January 1, 2011*

I. (a) Notwithstanding any other provision of law to the contrary, any person currently licensed in its state of domicile as a wine manufacturer, beverage manufacturer, importer, wholesaler, or retailer shall apply for a direct shipper permit from the commission.

(b) Applicants for a direct shipper permit shall be exempt from the provision of RSA 178:1, I requiring registration with the secretary of state, if the applicant is duly organized and registered to do business under the laws of the state in which the applicant is domiciled.

II. A direct shipper may ship directly to New Hampshire consumers over 21 years of age or licensees in packages clearly marked "'Alcoholic Beverages, adult signature (over 21 years of age) required.'" All shipments from direct shippers into the state shall be made by a licensed carrier and such carriers are required to obtain an adult signature. Direct shippers or carriers shall not ship into areas of the state where alcohol beverages may not be lawfully sold. Liquor and wine that has been registered for sale to the commission with the commission during the previous 2 months may be direct shipped only if the shipper offers to sell a matching amount to the commission at wholesale. Shipments of any other products shall be considered unlicensed shipments under the provisions of RSA 178:1, I.

III. Except with written permission of the commission, no direct shipper shall ship more than 60 individual containers of not more than one liter each of liquor and not more than 12-9 liter cases or equivalent of wine to any one consumer in New Hampshire in any calendar year. The commission shall only grant permission for additional shipments if the additional shipments are of products not otherwise available in New Hampshire. Furthermore, in the event any direct shipper wishes to ship more than a total of 600 liters of any particular liquor or wine directly to any combination of licensees and/or consumers in New Hampshire, the shipper shall offer to sell a matching amount to the commission or beer distributor at the lower of the wholesale price or the lowest price delivered into New Hampshire. A licensee may purchase from a direct shipper pursuant to RSA 179:32, III.

IV. No direct shipper shall ship more than 27 gallons of beer or beverage in individual containers of not more than one liter to any consumer's address in New Hampshire in any calendar year. No direct shipper shall ship beer or beverage to a New Hampshire licensee.

V. (a) Direct shippers shall file reports for each shipment with the liquor commission, and shall pay a fee of 8 percent of the retail price for shipments of liquor, wine, beer, or beverage to the commission. Such reports shall be filed once per month for any month in which a shipment was made in a manner and form required by the commission and include the following information:

- (1) The total amount of alcoholic beverages shipped into or within the state for the preceding month.
- (2) The names and addresses of the purchasers to whom the alcoholic beverages were shipped.
- (3) The date of purchase, if appropriate, the name of the common carrier used to make each delivery, and the quantity and retail value of each shipment.

(b) The commission may assess a \$250 penalty for failure to report to the commission in a timely manner.

(c) Direct shippers shall maintain records for at least 3 years which will permit the commission to ascertain the truthfulness of the information filed and permit the commission to perform an audit of the direct shippers' filings upon reasonable request. Wholesale shipments of any liquor or wine shall be permitted only in accordance with RSA 175:6.

- VI. The liquor commission shall adopt rules, pursuant to RSA 541-A, relative to:
- (a) The application procedures and form for the direct shipper permit authorized under paragraph I.
 - (b) The signature form or other identification procedures to be used by direct shippers to ensure that consumers to which liquor and beverage are being shipped are over 21 years of age.
 - (c) Filings of direct shippers under paragraph V.

VII. Notwithstanding the provisions of RSA 179:58, any person holding a direct shippers permit under this section who ships liquor, wine, or beer to a person under 21 years of age, shall be guilty of a class B felony and shall have such permit permanently revoked.

VIII. Upon notification by authorities in another state which imposes a reciprocal enforcement policy, a New Hampshire licensee proved to be making illegal direct shipments to consumers and licensees in said state shall be subject to action by the liquor commission. Such actions may include fines and suspension and revocation of New Hampshire liquor licenses.

Source. 2003, 231:13, eff. July 1, 2003.

CHAPTER 178

LIQUOR LICENSES AND FEES

Section 178:29 (In Part)

178:29 Fees; Expiration Dates; Transfers. – *Effective as of January 1, 2011*

V-b. (a) Annual direct shipper permit fees:

- (1) Wine Manufactures, \$100;
- (2) Importers, retailers, and wholesalers, \$500.

(b) If a direct shipper made less than 5 shipments during the permit year, the commission shall, upon request of the direct shipper, refund a portion of the permit fee. The amount of the refund shall be equal to 20 percent of the fee paid multiplied by the difference between 5 and the number of shipments made.

Source. 2003, 231:13, eff. July 1, 2003. 2007, 36:4, eff. July 13, 2007. 2008, 341:16, eff. Jan. 1, 2009. 2009, 313:2, eff. Jan. 1, 2010.

CHAPTER 179

ENFORCEMENT, REQUIREMENTS AND PENALTIES

Section 179:5 (In Part)

179:5 Prohibited Sales. – *Effective as of January 1, 2011*

I. No licensee, salesperson, direct shipper, common carrier, delivery agent, nor any other person, shall sell or give away or cause or allow or procure to be sold, delivered, or given away any liquor or beverage to a person under the age of 21 or serve an individual who is visibly intoxicated or who a reasonable and prudent person would know is intoxicated. For all deliveries of packages by common carrier or delivery agent marked "alcoholic beverages" or "alcoholic products," the carrier shall obtain an adult signature. A licensed carrier shall not transport any liquor, wine, or beverage that has been identified by the commission as originating from a

person who does not hold a valid New Hampshire direct shipper permit, provided that such identification has been provided to and received by the licensed carrier in writing. The commission shall notify carriers by mail on a monthly basis of the identity of unauthorized shippers, which notification shall be effective 15 days after such mailing.

Source. 1990, 255:1. 1996, 275:16. 1998, 167:6; 331:13, eff. July 1, 1998. 2009, 95:1, eff. Jan. 1, 2010.

Purchase and Supply Restrictions

Section 179:32

179:32 Purchase of Supplies. – *Effective as of January 1, 2011*

- I. All licensees shall purchase their supplies of liquor and wine from the commission or as provided by law.
- II. All on-premises or off-premises licensees shall purchase their supplies of beverages from licensed wholesale distributors, manufacturers, brew pubs, or as otherwise specifically provided by law.
- III. The commission may, upon request, grant licensees permission to purchase product not otherwise available in New Hampshire from direct shipper permit holders.

Source. 1990, 255:1, eff. July 1, 1990. 2003, 231:29, eff. July 1, 2003.