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Is Selling Tax-Free Liquor Tax Evasion?

As out-of-staters flock to New Hampshire to stock up on alcohol, its neighboring states think so.

New Hampshire doesn't collect sales or excise taxes on the purchase of liquor, yet it relies on liquor sales to keep its budget afloat. That combination has led to a long list of troubles, including allegations of bootlegging, money laundering and tax evasion, to name a few.

The tax-free liquor brings in lots of customers from other states. These aren't just out-of-state visitors looking to save a couple of bucks on a bottle. It's pretty common for people to drive up in trucks with New York license plates and purchase thousands of dollars' worth of booze. These purchases, often made in cash, frequently total just under \$10,000 apiece — the threshold that triggers Internal Revenue Service disclosure requirements.

Andru Volinsky, a member of the state's Executive Council — a sort of advisory governing board for the state — started hearing complaints about such transactions from Liquor Commission employees. "They were being encouraged to turn a blind eye to a number of practices by bootleggers, as well as their superiors at the Liquor Commission," Volinsky says.

He decided to check things out for himself. Hearing that a customer had phoned in a large order one Saturday, he went to the store in question. It was in Keene, just north of Massachusetts, off Interstate 91. Volinsky watched a man and a woman buy \$24,000 worth of Hennessy cognac, splitting up the order into multiple purchases, mostly paid for with cash. "I saw it happen in open space," Volinsky says.

He reported his findings to the governor and the attorney general and then took his allegations public. The Liquor Commission soon sprang into action, firing its own employee at the Keene store, whom Volinsky describes as a whistleblower. Blaming the messenger appeared to be the strongest initial impulse. The state Republican Party called for Volinsky himself to be investigated for running what party spokesman Patrick Hynes calls a "bizarre sting operation." GOP Gov. Chris Sununu suggested that wasn't a bad idea, calling for an investigation "on both sides."

Because Volinsky is a Democrat, this might be dismissed as yet another skirmish in an era of partisan warfare. The reality is that what Volinsky saw was not really news to anyone. There have been complaints for years that the Liquor Commission encourages — or at least fails to discourage — dodgy out-of-state purchases. Back in 2012, House Speaker Bill O'Brien commissioned a report that made serious allegations of impropriety. That year, a couple of drivers in Massachusetts were caught illegally transporting liquor apparently purchased in New Hampshire. One of them carried 1,676 bottles of Hennessy.

O'Brien's report came out just before that year's election, in which he and his fellow Republicans lost their House majority, so they were unable to take further action. "Quite frankly, if I became speaker again, we would have looked at doing away with the commission and privatizing the sale of liquor," O'Brien says. "It's an agency of government that needs greater oversight and maybe the

mission could be changed.”

Border towns in much of the country feature gas stations, liquor stores or cigarette barns that make it easy for residents of neighboring states to take advantage of lower tax rates just across the line. New Hampshire’s Liquor Commission makes it especially easy. Stores are located in places that happen to be convenient to bootlegging routes, and their complete inventories are publicly available online. As a result, you don’t have to waste time driving around to find the stores that stock tens of thousands of dollars’ worth of cognac.

Patrick Delaney, Vermont’s liquor commissioner, says New Hampshire’s setup is basically tax evasion. The New Hampshire Liquor Commission insists, however, that there’s “nothing illegal or unscrupulous” about selling to out-of-state customers. “Our prices, selection and service are one of the many reasons more than 11 million customers from around the world spent \$700 million with us last year. We welcome all customers, no matter where they live.”

The New Hampshire Liquor Commission nets \$150 million a year, or about 6 percent of the state’s total revenues. State law makes clear that prioritizing profits is at least as important a purpose for the commission as regulating the distribution of alcohol. As Volinsky has found, pointing out the flaws in this system is more likely to lead to disparagement than change.

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BY ALAN GREENBLATT | MAY 2018

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