

SB 141 - AS INTRODUCED

2017 SESSION

17-0894

06/04

SENATE BILL ***141***

AN ACT relative to warnings prior to the imposition of civil fines assessed by state agencies.

SPONSORS: Sen. Sanborn, Dist 9; Sen. French, Dist 7; Sen. Fuller Clark, Dist 21; Rep. Pearl, Merr. 26; Rep. Cordelli, Carr. 4; Rep. Vadney, Belk. 2

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill permits certain state agencies to issue a warning before imposing fines for certain violations.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struck through]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seventeen

AN ACT relative to warnings prior to the imposition of civil fines assessed by state agencies.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; Department of Revenue Administration; Duties of Commissioner. Amend
2 RSA 21-J:3 by inserting after paragraph XXXIV the following new paragraph:

3 XXXIV. Issue one written warning to any person for a violation of laws related to the
4 subject matter of this department for which a civil penalty not to exceed \$2,500 may be imposed;
5 however, no warning shall be issued if, in the opinion of the commissioner, such person intends to
6 cause harm or the violation poses a threat to public safety.

7 2 New Paragraph; Department of Transportation; Duties of Commissioner. Amend RSA 21-L:4
8 by inserting after paragraph VI the following new paragraph:

9 VII. Issue one written warning to any person for a violation of laws related to the subject
10 matter of this department for which a civil penalty not to exceed \$2,500 may be imposed; however,
11 no warning shall be issued if, in the opinion of the commissioner, such person intends to cause harm
12 or the violation poses a threat to public safety.

13 3 New Paragraph; Department of Health and Human Services; Duties of Commissioner.
14 Amend RSA 125:9 by inserting after paragraph XIV the following new paragraph:

15 XV. Issue one written warning to any person for a violation of laws related to the subject
16 matter of this department for which a civil penalty not to exceed \$2,500 may be imposed; however,
17 no warning shall be issued if, in the opinion of the commissioner, such person intends to cause harm
18 or the violation poses a threat to public safety.

19 4 New Section; Secretary of State; Authority to Issue Warning. Amend RSA 5 by inserting
20 after section 1 the following new section:

21 5:1-a Authority to Issue Warning. The secretary of state shall issue one written warning to any
22 person for a violation of laws related to the subject matter of this department for which a civil
23 penalty not to exceed \$2,500 may be imposed; however, no warning shall be issued if, in the opinion
24 of the secretary of state, such person intends to cause harm or the violation poses a threat to public
25 safety.

26 5 Unemployment Compensation; Duties and Power of the Commissioner of Employment
27 Security. Amend RSA 282-A:112, I to read as follows:

28 I. It shall be the duty of the commissioner of the department of employment security to
29 administer this chapter. The commissioner shall have power and authority to adopt, amend, or
30 rescind rules, to employ such persons, make such expenditures, require such reports, make such

1 investigations, and take such other action as he or she deems necessary or suitable to that end.
2 ***The commissioner shall issue one written warning to any person for a violation of laws***
3 ***related to the subject matter of this department for which a civil penalty not to exceed***
4 ***\$2,500 may be imposed; however, no warning shall be issued if, in the opinion of the***
5 ***commissioner, such person intends to cause harm or the violation poses a threat to public***
6 ***safety.*** The commissioner shall determine his or her own organization and methods of procedure in
7 accordance with the provisions of this chapter. Not later than the thirtieth day of June of each
8 year, the commissioner shall submit to the governor a report covering the administration and
9 operation of this chapter during the preceding calendar year and shall make such recommendations
10 for amendments to this chapter as he or she deems proper. Such reports shall include a balance
11 sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the
12 liability in future years to pay benefits in excess of the then current contributions, which reserve
13 shall be set up by the commissioner in accordance with accepted actuarial principles on the basis of
14 statistics of employment, business activity, and other relevant factors for the longest possible
15 period. Such report shall satisfy the requirements of RSA 20:7 and the department shall not be
16 required to submit a separate biennial report. Whenever the commissioner believes that a change
17 in contribution or benefit rates will become necessary to protect the solvency of the fund, the
18 commissioner shall promptly so inform the governor and the legislature and make
19 recommendations with respect thereto.

20 6 New Paragraph; Department of Environmental Services; Duties of Commissioner. Amend
21 RSA 21-O:3 by inserting after paragraph X the following new paragraph:

22 XI. Issue one written warning to any person for a violation of laws related to the subject
23 matter of this department for which a civil penalty not to exceed \$2,500 may be imposed; however,
24 no warning shall be issued if, in the opinion of the commissioner, such person intends to cause harm
25 or the violation poses a threat to public safety.

26 7 New Paragraph; Bank Commissioner; Duties. Amend RSA 383:9 by inserting after
27 paragraph VI the following new paragraph:

28 VII. The commissioner shall issue one written warning to any person for a violation of laws
29 related to the subject matter of this department for which a civil penalty not to exceed \$2,500 may
30 be imposed; however, no warning shall be issued if, in the opinion of the commissioner, such person
31 intends to cause harm or the violation poses a threat to public safety.

32 8 New Paragraph; Insurance Department; Rules and Regulations; Violations. Amend RSA 400-
33 A:15 by inserting after paragraph III the following new paragraph:

34 IV. The commissioner shall issue one written warning to any person for a violation of laws
35 related to the subject matter of this department for which a civil penalty not to exceed \$2,500 may
36 be imposed; however, no warning shall be issued if, in the opinion of the commissioner, such person
37 intends to cause harm or the violation poses a threat to public safety.

38 9 Liquor Commission; Administrative Fines. Amend RSA 179:57, I to read as follows:

1 I. The commission shall cause frequent inspections to be made of all the premises with
2 respect to which any license has been issued under the provisions of this title. If any licensee
3 violates any of the provisions of law or any of the rules of the commission adopted under this title or
4 fails to superintend in person or through a manager approved by the commission the business for
5 which the license was issued or allows the premises with respect to which the license was issued to
6 be used for any unlawful purposes or knowingly designates to be in charge of the premises any
7 person who has been convicted of a felony, unless the person has been approved by the commission
8 pursuant to RSA 179:23, V, or otherwise fails to carry out in good faith the purposes of this title or if
9 the premises are regularly the site of violence the license of such licensee may be suspended or
10 revoked after notice and hearing, in accordance with RSA 541-A:31-36. Notwithstanding any other
11 provisions of this chapter, the commission after the appropriate hearing may impose a fine of a
12 specific sum, which shall not be less than \$100 nor more than \$5,000 for any one offense. Such a
13 fine may be imposed instead of, or in addition to, any suspension or revocation of a license by the
14 commission. ***The commissioner shall issue one written warning to any person for a***
15 ***violation of laws related to the subject matter of this department for which a civil penalty***
16 ***not to exceed \$2,500 may be imposed; however, no warning shall be issued if, in the opinion***
17 ***of the commissioner, such person intends to cause harm or the violation poses a threat to***
18 ***public safety.***

19 10 New Paragraph; Fish and Game Commission; Powers and Duties of Executive Director.
20 Amend RSA 206:10 by inserting after paragraph IV the following new paragraph:

21 V. The executive director shall issue one written warning to any person for a violation of
22 laws related to the subject matter of this department for which a civil penalty not to exceed \$2,500
23 may be imposed; however, no warning shall be issued if, in the opinion of the commissioner, such
24 person intends to cause harm or the violation poses a threat to public safety.

25 11 Effective Date. This act shall take effect January 1, 2018.