

**Readopt with amendment Liq 600, effective 6-14-17 (Document #12209), to read as follows:**

CHAPTER Liq 600 ENFORCEMENT POLICY

~~PART Liq 601 PURPOSE AND EFFECT~~

~~——— Liq 601.01 Purpose. The purpose of these rules is to set forth the requirement of RSA 179:56, III, Enforcement Policy.~~

~~——— Liq 601.02 Effects of These Rules. Nothing contained herein shall be construed to release a natural or other person from complying with statutory law.~~

~~——— Liq 601.03 Definition of Terms. The following terms shall be construed as set forth below:~~

~~——— (a) "Administrative action" means the final disposition of any violation which results in a verbal warning, letter of warning, administrative fine, a suspension, or revocation;~~

~~——— (b) "Administrative fine" means any dollar amount exceeding \$100 but not over \$5,000, which is assessed by the commission for any violation of statute or administrative rule;~~

~~——— (c) "Administrative notice of agency action" means written notice by the commission or commission employee of any violation of RSA Title XIII, administrative rule, or RSA 126-K which is reported to the commission for administrative action;~~

~~——— (d) "Aggravating factor" means any condition or quality listed in Liq 206.02 (c) which, when observed, applied, or discovered in association with the actions or inactions of a licensee, would make the resulting administrative actions more severe;~~

~~——— (e) "Aggravated violation" means any violation of statute or commission order which endangers the public or results in injury, death, or property damage of at least \$1000.~~

~~——— (f) "Chief of enforcement" means the Director of the Division of Enforcement and Licensing;~~

~~——— (g) "Commission" means the New Hampshire Liquor Commission;~~

~~——— (h) "Commission order" means an instruction or decision, in writing, from the commission or commission employee;~~

~~——— (i) "Compliance check" means an attempt by an underage individual, under the supervision of an investigator or other police officer, to purchase alcohol or tobacco products in violation of statute.~~

~~——— (j) "Enforcement policy" means the standards, procedures, actions and penalties taken or imposed by the commission with respect to any classification of statute or administrative rule identified in Liq 601.04 or Liq 601.05;~~

~~——— (k) "Good behavior" means compliance with all commission orders and administrative fine payment deadlines issued under Liq 206.03;~~

~~——— (l) "Intoxicated individual" means an individual whose mental or physical faculties are impaired as a result of drug or alcohol use as to diminish that person's ability to think and act in a manner in which an ordinary, prudent, and cautious person, in full possession of his faculties and using reasonable care, would act under like circumstances;~~

~~—— (m) "Investigator" means any liquor enforcement officer who is authorized under RSA 176:9 and 179:59 to enforce statutes and administrative rules;~~

~~—— (n) "Letter of warning" means any written communication from the commission which identifies any violation of statute or administrative rule and which does not impose an administrative fine or a suspension;~~

~~—— (o) "License" means any form of permission to sell alcoholic beverages or tobacco issued by the commission or a tobacco license issued by the Department of Revenue Administration;~~

~~—— (p) "License year" means the period of time from which a license has been issued until it has expired or been renewed;~~

~~—— (q) "Licensee" means any natural or other person to whom a license has been granted;~~

~~—— (r) "Licensee record" means any written or electronic document, maintained by the commission, which lists any administrative action which has been taken against a licensee;~~

~~—— (s) "Mitigating factor" means any condition or quality listed in Liq 206.02(d) which would moderate in force or intensity any pending administrative action against a licensee, and which was reported in a violation;~~

~~—— (t) "Notice and record of verbal instruction" means any verbal instruction of compliance issued by an investigator to a licensee, which is reported to the commission in writing, and which does not result in a letter of warning, fine, revocation, or a suspension issued by the commission;~~

~~—— (u) "Point" means a numerical value assigned to a violation, used to determine a license's overall record for renewal of license.~~

~~—— (v) "Preponderance" means superiority in weight, quantity, power, importance, or the like;~~

~~—— (w) "Revocation" means to void, annul by recalling, withdraw, or rescind any license issued by the commission;~~

~~—— (x) "Security" means a certificate from an insurance or surety company providing liquor liability coverage on behalf of a licensee or a deposit by a licensee of money or securities with the commission to be used to satisfy judgment for liquor liability;~~

~~—— (y) "Suspension" means that the license allowing sale of alcoholic beverages or tobacco, as applicable, is to be discontinued until such time as the license is re-granted; and~~

~~—— (z) "Working days" means Monday through Friday and does not include Saturdays, Sundays, or state or federal holidays.~~

~~—— Liq 601.04 Statutory Violations Subject to Administrative Action. Administrative action shall be imposed on licensees for violation of statutes contained in RSA 175-180 or RSA 126-K.~~

~~—— Liq 601.05 Administrative Rules Subject to Administrative Action. Administrative action shall be imposed on licensees for violation of any administrative rule only by citing both the rule and the underlying statute, and imposing the penalty in Liq 603 or Liq 605 for the statute violated.~~

## ~~PART Liq 602 OPERATIONAL PROCEDURES~~

### ~~—— Liq 602.01 Investigative Procedure~~

~~— (a) Upon detecting a violation under Liq 601.04 or Liq 601.05, an investigator shall issue an administrative notice of agency action specifying the violation and penalty.~~

~~— (b) Upon detecting conditions which could cause or otherwise lead to violations, the investigator shall discuss the problem and corrective action with the person in charge at the licensed business; and issue a notice and record of agency instruction.~~

~~— (c) The investigator shall, within 5 calendar days, file the division copy of the notice of agency action or notice and record of verbal instruction at the office of division of enforcement and licensing, and either:~~

~~(1) A short narrative detailing the conditions and circumstances for which the notice and record of agency instruction was issued; or~~

~~(2) A full report of violation.~~

~~— Liq 602.02 Administrative Notice.~~

~~— (a) Any licensee who is charged with committing a violation shall be issued an administrative notice on or subsequent to the date of the violation.~~

~~— (b) The administrative notice shall contain the following:~~

~~(1) Licensee's name, trade name, and address;~~

~~(2) What violation has been committed, by description;~~

~~(3) What violation has been committed by statute or rule number;~~

~~(4) Date of the violation;~~

~~(5) Time of the violation;~~

~~(6) Commission license number;~~

~~(7) The penalty for the violation or notice of a required hearing;~~

~~(8) Corrective action required; and~~

~~(9) Notice of administrative hearing rights as authorized under RSA 179:56.~~

~~— Liq 602.03 Pre Hearing Requirements. MOVED~~

~~— Liq 602.04 Hearings. MOVED~~

~~— Liq 602.05 Witnesses. MOVED~~

~~— Liq 602.06 Evidence. MOVED~~

~~— Liq 602.07 Discovery. MOVED~~

~~— Liq 602.08 Licensee Record. MOVED~~

~~——— Liq 602.09 Commission Consideration. MOVED~~

~~PART Liq 603 ADMINISTRATIVE PENALTIES FOR LIQUOR VIOLATIONS~~

~~——— Liq 603.01 Standard Penalties.~~

~~(a) The commission shall impose the following base penalties for violations of statutes that are subject to administrative action:~~

- ~~(1) For violations of RSA 175 by licensees, a fine of \$250;~~
- ~~(2) For all violations of RSA 178 except those under RSA 178:3, a fine of \$100 and a commission order detailing specific licensee action required to correct the violation;~~
- ~~(3) For violations of RSA 179:5 a, 179:11, 179:13, 179:14, 179:17, 179:23 through 179:35, 179:40 through 179:44, and 179:47 through 179:54, a fine of \$250;~~
- ~~(4) For violations of RSA 179:18, 179:19, 179:20, and 179:55, a fine of \$100;~~
- ~~(5) For violations of RSA 180, a fine of \$250 and 2 license points;~~
- ~~(6) For violations of RSA 179:5 resulting from compliance checks, a fine of \$500 and 4 license points, except that the license points resulting from compliance checks shall be imposed only once annually; and~~
- ~~(7) For violations of RSA 179:5 not resulting from compliance checks, a hearing before the commission, at which time the commission shall either:~~
  - ~~a. If the licensee has no history of violations, impose a fine of \$500, 4 license points, and a 3-day license suspension; or~~
  - ~~b. Determine a penalty under the provisions of Liq 603.04.~~

~~——— (b) For violations of RSA 178:3, RSA 179:60, and all aggravated violations, the licensee shall be ordered to a hearing.~~

~~——— (c) For any violation, a licensee may request a hearing before the commission, in which case the penalty provisions of Liq 603.04 shall apply.~~

~~——— Liq 603.02 Penalties After Commission Hearings. After hearing all evidence regarding a violation and considering all aggravating and mitigating factors presented, the commission shall:~~

~~——— (a) Determine, based on the preponderance of evidence presented at hearing, whether the violation alleged in the report of violation occurred; and:~~

- ~~(1) If the violation was not proven, order the licensee record cleared of the allegation and all records of the charge removed from the licensee file; or~~
- ~~(2) If the violation was proven:~~
  - ~~a. Consider the aggravating and mitigating factors presented;~~
  - ~~b. Consider the licensee's record of past violations;~~
  - ~~c. Consider the danger posed to public health and safety by the violation; and~~

~~d. Consider any adverse impact of the licensee's business as operated on the community; and~~

~~—— (b) Impose an appropriate penalty considering all circumstances, subject to the limitations of RSA 179:57, I.~~

~~—— Liq 603.03 Special Penalty Exceptions.~~

~~—— (a) For any violation of RSA 179:19, VII or Liq 404.01, which includes the use of a gambling machine as defined in RSA 647:2, illegal lotteries or the booking of horses, sports, or other similar events, the commission shall impose the following penalties:~~

~~(1) For the first offense, license suspension for 30 consecutive days or a fine not to exceed \$1,500 and a license suspension of not more than 30 consecutive days;~~

~~(2) For the second offense, license suspension for 60 consecutive days or a fine not to exceed \$2,500 and a license suspension of not more than 60 consecutive days; and~~

~~(3) For the third offense, license revocation.~~

~~—— (b) For any aggravated violation as defined in Liq 601.03 the commission shall impose the following penalties:~~

~~(1) For the first offense, license suspension for 10 consecutive days and an administrative fine which shall not exceed \$2,500;~~

~~(2) For the second offense, license suspension for 30 to 60 consecutive days or an administrative fine which shall not exceed \$5,000 and a suspension of not less than 10 nor more than 60 consecutive days; and~~

~~(3) For the third offense, license revocation.~~

~~—— (c) The penalties provided for in Liq 603.04 (a) and (b) shall be in lieu of any other penalty provided for in Liq 603.02.~~

~~—— (d) On the second violation of RSA 179:5 within a 24 month period, excluding any violations resulting from compliance checks, the commission shall:~~

~~(1) Consider the complete record of all violations at the licensed location which occurred after July 7, 2002;~~

~~(2) Consider the record of the license holder and the management team at all current or previous licensed locations after July 7, 2002;~~

~~(3) Consider the circumstances of the violations of RSA 179:5; and~~

~~(4) Determine if the licensee shall be required to provide security under the requirements of RSA 178:5.~~

~~—— (e) If security for liability is required, the commission shall immediately suspend the license until such time as security is provided.~~

~~—— (f) Security shall consist of insurance meeting the requirements of RSA 178:5, I (a), except:~~

~~(1) If the licensee cannot obtain insurance, a bond in the amount of \$300,000 to cover liquor liability claims shall be accepted; or~~

~~(2) If the licensee provides proof that the licensee cannot obtain either insurance or a bond, the commission shall accept \$300,000 in cash or marketable securities to be held by the state treasurer in an escrow account with any interest going into the general fund.~~

~~— (g) The requirement for security of liquor liability shall be in effect:~~

~~(1) So long as the license holder maintains control of the license; or~~

~~(2) Until the commission determines the requirement is no longer necessary, but in no case less than a calendar year.~~

~~— (h) Cash or marketable securities held by the state treasurer in escrow shall be returned only after the statute of limitations for claims against the required security deposit has expired.~~

~~— (i) The security required in Liq 603.04 (d) shall be in addition to any penalties imposed under Liq 603.01 and Liq 603.02.~~

~~— Liq 603.04 Revocations; Payment of Fines.~~

~~— (a) Revocation shall be a permanent loss of a liquor license, except:~~

~~(1) A licensee shall be eligible to apply for a new license 365 calendar days after revocation;~~

~~(2) The commission shall hold a public hearing on any such application to determine if the applicant meets the requirements of RSA178:3; and~~

~~(3) If a new license is granted, the record of the revoked license shall be attached to the new license.~~

~~— (b) No license shall be issued to or renewed for an applicant who has not paid an outstanding administrative fine issued by the commission.~~

~~— Liq 603.05 Penalties For Violating Commission Orders.~~

~~— (a) Except as provided by Liq 604.01 the commission shall impose a \$2,000 fine, 30-day suspension, or both, depending on the nature and severity of the offense, and any aggravating or mitigating factors, on any licensee who fails to comply with the requirements of a commission order.~~

~~— (b) Except as provided by Liq 604.01 a subsequent offense within a 3-year period shall result in a revocation of the license.~~

#### ~~PART Liq 604 PAYMENT OF FINES; PROCEDURES FOR NON PAYMENT OF FINES FOR LIQUOR VIOLATIONS~~

~~— Liq 604.01 Notice; Delivery; and Procedures For Non Payment of Fines.~~

~~— (a) All administrative fines imposed by the commission shall be paid within 5 days of receipt of the fine order letter, days to be computed pursuant to Liq 205.07.~~

~~— (b) A fine order letter shall be:~~

~~(1) Delivered to the licensee or the licensee's attorney by certified mail return receipt requested;~~

~~(2) Hand delivered by a commission employee to any owner, partner, member, officer, attorney, director, or employee of the licensed entity; or~~

~~(3) Transmitted electronically.~~

~~—— (c) Proof of the date of receipt of the fine order letter by the licensee or the licensee's attorney shall be:~~

~~(1) The dated return receipt from the certified mail delivery by the United State Postal Service;~~

~~(2) A receipted copy of the fine order letter to any owner, partner, member, officer, attorney, director, or employee of the licensed entity;~~

~~(3) The affidavit of the employee making in-hand service attesting to that in-hand service; or~~

~~(4) Confirmation of receipt of electronic mail.~~

~~—— (d) The commission shall schedule a hearing pursuant to Liq 205.11 if a fine is not received as required by (a) above.~~

~~—— (e) Notice shall be served pursuant to Liq 205.11(c).~~

~~—— (f) Any party to whom notice has been served pursuant to Liq 205.11(c), who fails to appear and fails to advise the commission of non-appearance at least 3 days in advance of the hearing date shall have a decision rendered against them;~~

~~—— (g) Payment of the pending fine for which the hearing is scheduled after the time prescribed by (a) above shall not result in cancellation of the hearing, except by mutual agreement of the commission and the licensee.~~

~~—— (h) Notwithstanding the provisions of Liq 206.03 the commission shall, after hearing, impose an immediate suspension of the license for non-payment of fine, based upon a violation of its order, the provisions of RSA 178:3 VII, and RSA 179:57.~~

~~—— (i) The license shall remain under suspension until payment of the fine, or until the license is surrendered or expires.~~

#### ~~PART Liq 605 ADMINISTRATIVE PENALTIES AND FINE PROVISIONS FOR TOBACCO VIOLATIONS~~

~~—— Liq 605.01 Commission Compliance. The commission shall issue and maintain a list of all statutes and administrative rules for the sales of tobacco which are subject to administrative action by the commission.~~

~~—— Liq 605.02 First Offense. For any first recorded violation of RSA 126-K, the commission shall apply Liq 206.01 and Liq 206.02, and issue a letter of warning detailing necessary corrective actions, an administrative fine, or both. The administrative fine shall range from \$100 to \$250, depending on aggravating or mitigating factors.~~

~~—— Liq 605.03 Second Offense. For any second recorded violation of RSA 126-K in a 3-year period, the commission shall apply Liq 206.01 and Liq 206.02 and issue a letter of warning detailing necessary corrective actions, an administrative fine, or both. The administrative fine shall range from \$250 to \$500, depending on aggravating or mitigating factors.~~

~~—— Liq 605.04 Third Offense. For any third recorded violation of RSA 126-K in a 3-year period, the commission shall, apply Liq 206.01 and Liq 206.02 and:~~

~~—— (a) Issue a letter of warning detailing necessary corrective actions;~~

- ~~—— (b) Impose an administrative fine of not less than \$500 and not more than \$1,500; and~~
- ~~—— (c) Suspend the licensee's license for not fewer than 10 days and not more than 30 days.~~

~~—— Liq 605.05 Fourth Offense. For any fourth recorded violation of RSA 126-K in a 3-year period, the commission shall apply Liq 206.01 and Liq 206.02 and:~~

- ~~—— (a) Issue a letter of warning detailing necessary corrective actions;~~
- ~~—— (b) Impose an administrative fine of not less than \$750 and not more than \$3,000; and~~
- ~~—— (c) Suspend the licensee's license for not fewer than 10 days and not more than 40 days. The commission shall notify the commissioner of revenue administration prior to the effective date of any suspension.~~

~~—— Liq 605.06 Fifth Offense.~~

~~—— (a) For any fifth recorded violation of RSA 126-K in a 3-year period, the commission shall order the commissioner of revenue administration to revoke the license.~~

~~—— (b) The period of revocation shall be for one year from the date of revocation.~~

~~—— Liq 605.07 Notice; Delivery; and Procedures For Non-Payment of Tobacco Fines.~~

~~—— (a) All administrative fines imposed by the commission shall be paid within 5 days of receipt of the fine order letter, days to be computed pursuant to Liq 205.07.~~

~~—— (b) A fine order letter shall be:~~

- ~~(1) Delivered to the licensee or the licensee's attorney by certified mail return receipt requested;~~
- ~~(2) Hand delivered by a commission employee to any owner, partner, member, officer, attorney, director, or employee of the licensed entity; or~~
- ~~(3) Transmitted electronically.~~

~~—— (c) Proof of the date of receipt of the fine order letter by the licensee or the licensee's attorney shall be:~~

- ~~(1) The dated return receipt from the certified mail delivery by the United States Postal Service;~~
- ~~(2) A receipted copy of the fine order letter to any owner, partner, member, officer, attorney, director, or employee of the licensed entity;~~
- ~~(3) The affidavit of the employee making in-hand service attesting to that in-hand service; or~~
- ~~(4) Confirmation of receipt of electronic mail.~~

~~—— (d) The commission shall immediately report to the commissioner of revenue administration any fines not paid as ordered by the commission.~~

## PART Liq 601 PURPOSE AND EFFECT

Liq 601.01 Purpose. The purpose of these rules is to set forth the requirement of RSA 179:56, III, Enforcement Policy.

Liq 601.02 Effects of These Rules. Nothing contained herein shall be construed to release a natural or other person from complying with statutory law.



Liq 601.03 Definitions.

(a) "Compliance check" means an attempt by an underage individual, under the supervision of an investigator, to purchase alcohol or tobacco products in violation of statute.

(b) "Enforcement policy" means the standards, procedures, actions, and penalties taken or imposed by the commission with respect to any classification of statute, commission order, or administrative rule identified in Liq 601.04, Liq 601.05 or Liq 601.06.

(c) "Good behavior" means compliance with title XIII, RSA 126-K, all commission rules, orders, and administrative fine payment deadlines issued under Liq 206.03.

(d) "Intoxicated individual" means an individual who is visibly intoxicated or who a reasonable and prudent person would know is intoxicated.

(e) "Licensee record" means any written or electronic document pertaining to a licensee, maintained by the commission, including violation history.

(f) "License year" means the period of time from when a license is issued until it expires or is renewed.

(g) "Security" means, as provided by RSA 178:5, a certificate from an insurance or surety company providing liquor liability coverage on behalf of a licensee of up to a limit of \$100,000 for any one person and \$300,000 for all persons per incident or a deposit by a licensee of money or securities with the commission subject to execution to be used to satisfy judgment for liquor liability.

(h) "Verbal counseling" means any verbal instruction of corrective action issued by or at the direction of an investigator to a licensee, which is reported to the commission in writing, and which does not result in a warning, fine, revocation, points, or a suspension.

(i) "Violation history" means the record of violations of a licensee.

Liq 601.04 Statutory Violations Subject to Administrative Penalty. Administrative penalty, as defined in Liq 201.01(e), shall be imposed on licensees for violation of statutes contained in title XIII or RSA 126-K.

Liq 601.05 Administrative Rules Subject to Administrative Penalty. Administrative penalty, as defined in Liq 201.01(e), shall be imposed on licensees for violation of any administrative rule by imposing the penalty in Liq 603 or Liq 605 for the rule violated.

Liq 601.06 Commission Orders Subject to Administrative Penalty. Administrative penalty, as defined in Liq 201.01(e), shall be imposed on licensees for violation of any commission order by imposing the penalty in Liq 602.

PART Liq 602 ADMINISTRATIVE PENALTIES FOR LIQUOR VIOLATIONS

Liq 602.01 Standard Penalties.

(a) The presiding officer shall impose no less than the minimum penalties for violations of laws, rules, or statutes contained in the Points and Penalties Matrix:

Aggravated Violations (excluding serious bodily injury & Death)	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st Offense	5	\$500.00	\$1,000.00	3 days	6 days
2nd Offense	7	\$1,000.00	\$1,500.00	6 days	9 days
3rd Offense & subsequent	9	\$1,500.00	\$2,000.00	9 days	12 days
Aggravated Violations Serious Bodily Injury & Death	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st Offense	6	See Liq 602.03	See Liq 602.03	See Liq 602.03	See Liq 602.03
2nd Offense	8	See Liq 602.03	See Liq 602.03	See Liq 602.03	See Liq 602.03
3rd Offense	REVOCATION				
RSA 179:60 Interference With Liquor Investigators.	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st Offense	5	\$500.00	\$1,000.00	3 days	6 days
2nd Offense	7	\$1,000.00	\$1,500.00	6 days	9 days
3rd Offense & subsequent	9	\$1,500.00	\$2,000.00	9 days	12 days
RSA 178:3 License Applications, Qualifications, and Renewal.	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st Offense	5	\$500.00	\$1,000.00	3 days	6 days
2nd Offense	7	\$1,000.00	\$1,500.00	6 days	9 days
3rd Offense & subsequent	9	\$1,500.00	\$2,000.00	9 days	12 days
For violations of RSA 175 by licensees	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st OFFENSE	2	\$250.00	\$500.00	N/A	N/A
2nd OFFENSE	4	\$500.00	\$750.00	N/A	N/A
3rd OFFENSE & subsequent	6	\$750.00	\$1,000.00	N/A	N/A
For violations of RSA 180	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st OFFENSE	2	\$250.00	\$500.00	N/A	N/A
2nd OFFENSE	4	\$500.00	\$750.00	N/A	N/A
3rd OFFENSE & subsequent	6	\$750.00	\$1,000.00	N/A	N/A
For all violations of RSA 178 & 179:15, 179:18, 179:19, 179:55 except those under RSA 178:1, 178:3 and 178:27, 178:27-a, 178:27-b	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st OFFENSE	1	\$100.00	\$200.00	N/A	N/A
2nd OFFENSE	2	\$200.00	\$300.00	N/A	N/A
3rd OFFENSE & subsequent	3	\$300.00	\$400.00	0	5 days
For violations of RSA 178:1 I & VI	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st OFFENSE	6	\$1,000.00	\$2,000.00	N/A	N/A
2nd OFFENSE	8	\$2,000.00	\$3,000.00	N/A	N/A
3rd OFFENSE & subsequent	12	\$3,000.00	\$5,000.00	N/A	N/A
Violations of Administrative Rules (Liq)	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st OFFENSE	1	\$100.00	\$200.00	N/A	N/A
2nd OFFENSE	2	\$200.00	\$300.00	N/A	N/A
3rd OFFENSE & subsequent	3	\$300.00	\$400.00	N/A	N/A
For violations of RSA 178:27 & 178:27-a 178:27-b (Fine set by statute)	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st OFFENSE	1	\$250.00	N/A	N/A	N/A
2nd OFFENSE	2	\$250.00	N/A	N/A	N/A
3rd OFFENSE & subsequent	3	\$250.00	N/A	N/A	N/A

RSA 179:5 I Prohibited Sales - INTOX	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st OFFENSE	4	\$500.00	\$1,000.00	3 days	6 days
2nd OFFENSE	6	\$1,000.00	\$1,500.00	6 days	9 days
3rd OFFENSE & subsequent	8	\$1,500.00	\$2,000.00	9 days	12 days
RSA 179:5 I & II Prohibited Sales - MINOR	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st OFFENSE	4	\$500.00	\$1,000.00	3 days	6 days
2nd OFFENSE	6	\$1,000.00	\$1,500.00	6 days	9 days
3rd OFFENSE & subsequent	8	\$1,500.00	\$2,000.00	9 days	12 days
RSA 179:5 I Prohibited Sales - MINORS - COMPLIANCE CHECK Training as required by Liq 602.02 (c)	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st OFFENSE	WARNING	N/A	N/A	N/A	N/A
2nd OFFENSE	1	\$500.00	N/A	3 days	N/A
3rd OFFENSE & subsequent	2	\$1,000.00	N/A	6 days	N/A
Failure to attend required training within 30 days after adjudication	4				
RSA 179:6 Sale of Cider to Persons Under 21.	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st OFFENSE	4	\$500.00	\$1,000.00	3 days	6 days
2nd OFFENSE	6	\$1,000.00	\$1,500.00	6 days	9 days
3rd OFFENSE & subsequent	8	\$1,500.00	\$2,000.00	9 days	12 days
RSA 179:8 Statement From Purchaser as to Age & RSA 126-K:3 Proof of Age of Purchaser (No violation 179:5/126-K:3)	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st OFFENSE	1	\$100.00	\$200.00	N/A	N/A
2nd OFFENSE	2	\$200.00	\$300.00	N/A	N/A
3rd OFFENSE & subsequent	3	\$300.00	\$400.00	N/A	N/A
RSA 179:8 Statement From Purchaser as to Age & RSA 126-K:3 (with violation 179:5/126-K:4)	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st OFFENSE	2	\$250.00	\$500.00	N/A	N/A
2nd OFFENSE	4	\$500.00	\$750.00	N/A	N/A
3rd OFFENSE & subsequent	6	\$750.00	\$1,000.00	N/A	N/A
For violations of RSA 179:5-a, 179:11, 179:13, 179:14, 179:17, 179:20 179:23 through 179:35, 179:40 through 179:44, and 179:47 through 179:54	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st OFFENSE	2	\$250.00	\$500.00	N/A	N/A
2nd OFFENSE	4	\$500.00	\$750.00	N/A	N/A
3rd OFFENSE & subsequent	6	\$750.00	\$1,000.00	N/A	N/A
RSA 179:16 Adulteration (Penalty in Statute)	6				6 months
RSA 179:22 Employment Intervention; Penalty.	6	Ordered to Hearing - 603.02 Penalties			
Violation of a Commission Order	6	\$500	\$2,000	3 days	30 days
RSA 126-K:4 Sale and Distribution of Tobacco Products, E-cigarettes, or E-Liquid to Persons Who Have Not Attained 21 Years of Age Prohibited - COMPLIANCE CHECK - Training as required by 602.06(c)	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st Offense	WARNING	N/A	N/A		
2nd Offense	1	\$100.00	\$250.00	N/A	N/A
3rd Offense	2	\$250.00	\$500.00	N/A	N/A
4th Offense	3	\$500.00	\$1,500.00	10 days	N/A
5th Offense	4	\$750.00	\$3,000	10 days	40 days
6th Offense	5	N/A	N/A	N/A	Revocation
Failure to attend required training within 30 days after adjudication	4				
RSA 126-K:4 Sale and Distribution of Tobacco Products, E-cigarettes, or E-Liquid to Persons Who Have Not Attained 21 Years of Age Prohibited & 126-K:5 Distribution of Free Samples & 126-K:8 Special Provisions (set by statute)	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st Offense	4	\$100.00	\$250.00	N/A	N/A
2nd Offense	6	\$250.00	\$500.00	N/A	N/A
3rd Offense	8	\$500.00	\$1,500.00	10 days	30 days
4th Offense (option 1)	10	\$750.00	\$3,000	10 days	40 days
4th Offense (option 2)	10	\$0	\$0	40 days	n/a
5th Offense	N/A	N/A	N/A	N/A	Revocation
RSA 126-K:4-a Rolling Papers (set by statute)	POINTS	MIN	MAX	SUS MIN	SUS MAX
1st Offense	2	N/A	\$250.00	N/A	N/A
2nd Offense	4	N/A	\$500.00	N/A	N/A
3rd Offense & Subsequent	5	N/A	\$750.00	N/A	N/A

- (1) No portion of points shall be suspended or waived in any manner.
- (b) For any violation, a licensee may request a hearing.
- (c) For all violations, the presiding officer shall have the authority to impose conditions to maintain proper controls.
- (d) For all violations, the presiding officer shall have the authority to suspend or revoke the license.

Liq 602.02 Presiding Officer Consideration.

- (a) The presiding officer shall consider any testimony or evidence offered by the prosecutor, the licensee, and by all witnesses in determining an appropriate penalty.
- (b) The presiding officer, when hearing testimony or evidence regarding a violation of a statute, order, or an administrative rule, shall consider any aggravating factor or mitigating factor which is offered in any defense or prosecution, as required by RSA 179:56 III (a), in determining any administrative action or penalty.
- (c) Aggravating factors shall include but not be limited to the conduct listed on Form E-154 “Aggravating Factors” (revised 2023).
- (d) Mitigating factors shall include but not be limited to the conduct described in Form E-155 “Mitigating Factors” (revised 2023).
- (e) The presiding officer shall decide each case after closing the hearing and all decisions will be based upon a preponderance of the evidence.

Liq 602.03 Special Penalty For Certain Aggravated Violations.

- (a) For any aggravated violation as defined in Liq 201.01 (f) which results in serious bodily injury or death the presiding officer shall impose the following penalties:
  - (1) For the first offense, subject to the limitations of RSA 179:57, I, a suspension of not less than 30 days provided that the suspension shall be reduced by 15 days if the person(s) in charge, managers, security staff, servers and clerks have completed NHLC training within 24 months before the date of violation; fine of \$5000; and points as listed in 602.01 (a);
  - (2) For the second offense, within 7 years of the first offense, 30 day suspension, fine of \$5,000, and points as listed in 602.01(a); and
  - (3) For the third offense within 7 years of the second offense, revocation.
- (b) On the second violation of RSA 179:5 within a 24-month period, excluding any violations resulting from compliance checks, the presiding officer shall consider:
  - (1) The complete record of all violations at the licensed location that occurred within 7 years;
  - (2) The circumstances of the violations of RSA 179:5; and
  - (3) Determine if the licensee shall be required to provide security under the requirements of RSA 178:5.
- (c) If security for liability is required, the commission shall immediately suspend the license until such time as security is provided.

(d) Security shall consist of insurance or a deposit meeting the requirements of RSA 178:5, I (a), except:

(1) If the licensee provides proof that the licensee cannot obtain either insurance or a bond, the commission shall accept \$300,000 in cash or marketable securities to be held by the state treasurer in an escrow account with any interest going into the general fund.

(e) The requirement for security of liquor liability shall be in effect:

(1) So long as the license holder maintains control of the license; or

(2) Until the commission determines the requirement is no longer necessary, but in no case less than a calendar year.

(f) Cash or marketable securities held by the state treasurer in escrow shall be returned only after the statute of limitations for claims against the required security deposit has expired.

(g) The security required in Liq 602.03 (d) shall be in addition to any penalties imposed under Liq 602.01(2).

Liq 602.04 Revocations; Payment of Fines.

(a) Revocation shall be a permanent loss of a liquor license.

(b) No license shall be issued to or renewed for an applicant who has not paid an outstanding administrative fine issued by the commission.

Liq 602.05 Penalties For Violating Commission Orders.

(a) The presiding officer shall impose a penalty as provided in 602.01(a), on any licensee who fails to comply with the requirements of a commission order.

Liq 602.06 Progressive Discipline.

(a) Except as provided in clauses (b) and (c), the division shall follow a progressive discipline model for violations of title XIII, Chapter 126-K, or commission rules or orders. Identical violations shall be addressed in the following sequence:

(1) Verbal Counseling for the first violation;

(2) Warning for the second violation; and

(3) Administrative Notice for subsequent violations.

(b) The following shall result in an administrative notice:

(1) Violations of RSA 179:5 other than compliance checks;

(2) Violations of RSA 126-K:4 other than compliance checks;

(3) All aggravated violations;

- (4) Violations arising during any of the above violations;
  - (5) Violations of commission orders;
  - (6) Violations of RSA 178:3;
  - (7) Violations of RSA 179:60; and
  - (8) Violations of RSA 179:22.
- (c) A violation discovered in a compliance check shall be addressed as follows:
- (1) Warning for the first violation and training required within 30 days of adjudication; and
  - (2) Administrative notice and training required within 30 days of adjudication.
- (d) A violation shall not be a second or higher violation unless it occurs after the previous violation has been adjudicated.
- (e) Except as provided in Liq 602.08, when a single event results in multiple charges of the same violation, points shall only be applied once for that violation. Fines and suspensions shall be applied for each of the violations. Points remain on the license for a period of 3 years from the date of adjudication.
- (f) Except as provided in Liq 602.08, when a licensee accumulates 12 points or over, the licensee shall be ordered to a hearing to determine if enhanced penalties or conditions of the license are necessary to maintain proper controls.
- (g) When a licensee accumulates 25 points or over, the licensee shall be ordered to a hearing to determine if revocation is necessary.

Liq 602.07 Non-renewal, Denial, and Revocation.

- (a) Nothing in this chapter shall prohibit the division from recommending non-renewal of a license or denial of an application based on the specification of RSA 178:3.
- (b) Nothing in this chapter shall prohibit the Commission from revoking a license when there is a significant risk to public safety, or the business fails to operate in strict accordance with all applicable state and federal alcoholic beverage or tobacco control laws.

Liq 602.08 Multiple offenses over time.

- (a) For a first offense, points and penalties as listed in Liq 602.01;
- (b) For the second offense within 7 years of the adjudication for the first offense, points and penalties as listed in Liq 602.01;
- (c) For the third offense within 7 years of the adjudication of the second offense, points and penalties as listed in Liq 602.01; and
- (d) For subsequent offenses, points and penalties as listed in Liq 602.01.

PART Liq 603 ADMINISTRATIVE PENALTIES AND FINE PROVISIONS FOR TOBACCO VIOLATIONS

Liq 603.01 Commission Compliance. The commission shall determine the level of the violation by reviewing the licensee's record and counting violations that have occurred within 3 years of the date of the violation being considered. The commission shall notify the commissioner of revenue administration prior to the effective date of any suspension or revocation.

Liq 603.02 Administrative Penalties. The penalties shall be as provided in 602.01(a).

APPENDIX

RULE	STATUTE
Liq 601 – Liq 602	RSA 541-A:16, I(b) intro; RSA 179:56; RSA 179:57
Liq 603	RSA 126-K