

STATE LIQUOR COMMISSION
Storrs Street
Concord, New Hampshire 03301

CHAPTER Liq 100 ORGANIZATIONAL RULES

Statutory Authority: RSA 176:14

PART Liq 101 DEFINITIONS

Liq 101.01 Statutory Definitions Adopted. Unless otherwise indicated, all words used in these rules shall have the same meaning given them by RSA 175 - RSA 180.

Source. Editorial Addition.; ss by #5043, eff 1-11-91; ss by #6363, eff 10-26-96

Liq 101.02 Definitions. The words and phrases used in these rules shall mean and be construed as follows, except where a different meaning is clearly intended from the context:

(a) "Listing" means the procedure of purchasing.

(b) "De-listing" means the procedure of discontinuing of purchasing.

(c) "Wine Vendor" means a vintner, an importer, a bottler, a distributor, or any other supplier from whom the commission may purchase wines.

Source. #95, filed 12-05-73, as in effect 8-31-73 under 1973, 507:4; #727, eff 12-18-75; ss by #1251, eff 9-27-78; ss by #2137, eff 9-30-82; ss by #2931, eff 12-26-84; EXPIRED 12-26-90

New. #5043, eff 1-11-91; ss by #5289, eff 1-1-92; ss by #6363, eff 10-26-96

PART Liq 102 DESCRIPTION OF THE COMMISSION

Liq 102.01 Functions of Commission.

(a) The commission is operated under the provisions of RSA 175 - RSA 180.

(b) The commission is charged by law to:

- (1) Optimize the profitability of the commission;
- (2) Maintain proper control over the sale, warehousing and distribution of all beverage or liquor in the state;
- (3) Assume responsibility for the effective and efficient operation of the commission;
- (4) Provide service to the customers of the commission, pursuant to title XIII;
- (5) Operate state liquor stores;
- (6) Operate the state warehouse;
- (7) Market and merchandise liquor;
- (8) Maintain data processing to assure proper fiscal and inventory control;
- (9) Maintain financial, accounting and other budgetary functions relating to the operation of the commission; and
- (10) Enforce the laws and rules of the commission.

(c) The commission has the statutory authority to issue or deny licenses for the manufacture, sale, warehousing or distribution of liquor or beverage within the state. Application forms are provided by the commission enforcement division for all licensees.

Source. #94, filed 12-5-73, as in effect 8-31-73 under 1973, 507:4; ss by #2137, eff 9-30-82; ss by #2931, eff 12-10-84; EXPIRED 12-26-90

New. #5043, eff 1-11-91; ss by #6363, 10-26-96

PART Liq 103 METHODS BY WHICH THE PUBLIC MAY REQUEST OR OBTAIN INFORMATION PURSUANT TO
RSA 91-A:4

Liq 103.01 Requests For Information Pursuant to RSA 91-A:4. The public may obtain information by making submissions or requests by writing to the commission, by calling the commission offices and making an appointment to review the information in person at the commission offices, or by personal submission of said request at the commission offices. There is a nominal copy fee for requested information, pursuant to RSA 91-A:4, IV.

Source. #1586, eff 6-3-80; ss by #2137, eff 9-30-82; ss by #2931, eff 12-26-84;
EXPIRED 12-26-90

New. #5043, eff 1-11-91; rpld by #5180, eff 7-22-91

New. #6363, eff 10-26-96

CHAPTER Liq 200 PROCEDURAL RULES

Statutory Authority: RSA 176:14

Revision Note:

Document #5180, effective 7/22/91, made extensive changes to the wording and format of Chapter Liq 200. Document #5180 supersedes all prior filings for the sections in this chapter. The filings prior to Document #5180 for former Liq 200 include the following documents:

#94, filed 12-05-73, as in effect 8-31-73 under 1973, 507:4
 #727, eff 12-18-75
 #1585, eff 6-2-80
 #2137, eff 9-30-82
 #2931, eff 12-26-84 - EXPIRED 12-26-90
 #5043, eff 1-11-91

Please note that the rules in former Liq 200 were out of effect between 12-26-90 and 1-11-91.

The rules in former Liq 200 filed as part of Document #5043 were numbered Liq 201.01, 202.01 through 202.03, and 203.01 through 203.05. These rules have been amended and renumbered in Liq 200 by Document #5180. Former Liq 201.01 has been amended and renumbered as Liq 202.01. Former Liq 202.01 has been amended and renumbered as Liq 201.01. Former Liq 202.02 has been amended and renumbered as Liq 201.02. Former Liq 202.03 has been amended and renumbered as Liq 201.03. The rules in former Part Liq 203 have been amended and incorporated into different sections of Liq 200 by Document #5180.

Former rules Liq 602.03 through Liq 602.09 have been amended and incorporated into different sections of Liq 200 by document #5180. See the source notes to former Liq 602.03 through Liq 602.09 for the prior filings for these rules.

PART Liq 201 DECLARATORY RULING PROCEDURES

Liq 201.01 Interpretation of Statutes/Administrative Rules. Any question arising, relating to an interpretation of RSA 175- RSA 180, RSA 126-K, or administrative rules adopted by the commission shall be submitted in writing as a petition to the chairman of the liquor commission requesting a declaratory ruling.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 201.02 Declaratory Rulings by Agency.

(a) The commission shall within 30 days after submission of a petition under Liq 201.01 make a declaratory ruling in writing to the petitioner; or

(b) The commission shall notify the petitioner in writing of the reason for delay if more than 30 days are required to obtain:

- (1) Data from outside sources; or
- (2) A legal opinion of the department of justice.

(c) Upon receipt of the information required in (b) above, the commission shall make a declaratory ruling within 30 days.

Source. #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 201.03 Interpretation of Statutes. Any question arising, relating to an interpretation of RSA 175- RSA 180 or the sections of RSA126-K relating to the commission not specifically covered by liquor rules shall be submitted in writing to the commission for a ruling.

Source. #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

PART Liq 202 PETITIONS FOR RULEMAKING:

Liq 202.01 Petition for Adoption of Rules.

- (a) Any person may petition the commission to adopt, amend, or repeal a rule.
- (b) The petition shall:
 - (1) Be in writing;
 - (2) Be sent to the chairman of the liquor commission; and
 - (3) Be limited to a single subject matter, stating clearly:
 - a. The name and address of the petitioner and their representative, if any;
 - b. The objectives of the petition;
 - c. Why the petition should be adopted;
 - d. Pertinent factual data supporting the petition;
 - e. Identification of any statutes, rules, or other authority which would authorize the commission to act; and
 - f. Views or arguments to be considered.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 202.02 Commission Response.

- (a) Within 30 days after submission of the complete petition the commission shall consider it and:
 - (1) Require specific written information be furnished to clarify the petition, if necessary; or
 - (2) Deny the petition in writing, stating the reasons therefore; or
 - (3) Initiate rulemaking in accordance with RSA 541-A and notify the petitioner.
- (b) The commission shall initiate rulemaking if:
 - (1) The request is consistent with all applicable statutes;
 - (2) Rulemaking is necessary to clarify statute or practice;
 - (3) The request will not result in a loss of revenue to the state; and
 - (4) The request is not contrary to public policy.

Source. #6545, eff 7-23-97; ss by #6667, eff 1-1-98

PART Liq 203 RULEMAKING HEARINGS PROCEDURES

Liq 203.01 Purpose. The purpose of this part is to provide a uniform procedure for the conduct of public hearings at which comment from the general public shall be solicited.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 203.02 Scope.

- (a) These rules shall apply to all hearings conducted by the commission at which public comment is solicited.
- (b) If any requirement set by these rules conflicts with an applicable statute, that statutory authority shall control.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 203.03 Notice. Notice for public comment hearings concerning rulemaking shall appear within the commission state liquor stores at least 20 days prior to the hearing date(s) and shall provide the same information as required by RSA 541-

A:6.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 203.04 Media Access.

- (a) Public comment hearings shall be open to the print and electronic media.
- (b) The moderator shall place limits on the activities of the media in the following ways:
 - (1) Limit the number of media representatives when their presence is disproportionate to the number of citizens present and would cause citizens to be excluded;
 - (2) Limit the placement of television cameras to certain locations in the hearing room; and
 - (3) Prohibit interviews from being conducted within the hearing room during the hearing.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 203.05 Moderator.

- (a) The hearing shall be presided over by a moderator who shall be the chairman of the commission or his/her designee.
- (b) The moderator shall:
 - (1) Call the hearing to order;
 - (2) Cause a recording of the hearing to be made;
 - (3) Place limits on the media as set out in 203.04;
 - (4) Recognize those who wish to be heard and establish the order thereof;
 - (5) Limit the time for each speaker, as set out in 203.06(d)(1-5);
 - (6) Recognize or revoke recognition of a speaker for cause as set out in 203.06(b);
 - (7) Remove or have removed any person who disrupts the hearing; and
 - (8) Close the hearing.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 203.06 Public Participation.

- (a) Any person who wishes to speak on the issue or issues which are the subject of the hearing shall place his or her name and address on a speakers list before the last speaker on the list has finished speaking.
- (b) All those whose names appear on the speakers list shall be afforded an opportunity to speak at the hearing.
- (c) The moderator shall recognize speakers who have not put their names and addresses on the speakers list after those who were on the speakers list have spoken.
- (d) The agency through the moderator shall:
 - (1) Refuse to recognize a person who refuses to give his/her full name and address;
 - (2) Limit the amount of time each speaker may speak to a reasonable time, considering the number of people who wish to be heard;
 - (3) Limit a group to no more than 3 spokespersons, provided the members who are present may enter their names and addresses into the record as supporting the position by the group or organization; and

(4) Revoke recognition of a speaker who refuses to keep his/her comments relevant to the issue or issues which are subject of the hearing, or exceeds the specified time limitations.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

PART Liq 204 GENERAL MEETING AND SPECIAL MEETING PROCEDURES

Liq 204.01 Applicability. The procedures set forth in this section shall apply to all regular and special meetings conducted by the commission and to all matters scheduled to be presented to or heard by the commission at any regular or special meeting that are not rulemaking hearings, adjudicatory hearings or other hearings addressed in Liq 205.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 204.02 Place of Meetings.

(a) All regular meetings of the commission shall be held in its Concord offices.

(b) Special meetings, including meetings held to inform the public or solicit public comments, shall be held in Concord or at such other places as the commission shall determine based on considerations of maximizing access of interested parties to the meeting.

Source. #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 204.03 Scheduled Meetings.

(a) Regular meetings of the commission shall be held on Wednesday of each week. When Wednesday is a holiday the regular meeting of the commission shall be held on the day following the holiday.

(b) Special meetings shall be held at the call of the chairman or his/her designee.

(c) Any regular meeting scheduled in accordance with this rule shall be canceled or rescheduled if a quorum will not be present at the meeting.

Source. #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 204.04 Record of Meetings. All regular and special meetings of the commission shall be recorded. Minutes of the meeting shall be prepared and distributed to the commission members and applicable commission division heads.

Source. #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 204.05 Conduct of Meetings.

(a) The chairman of the liquor commission or his/her designee shall be the presiding officer of all special and regular meetings.

(b) The presiding officer shall:

(1) Regulate the conduct of the meeting;

(2) Rule on issues of procedure; and

(3) Take such other actions as necessary for the efficient and orderly conduct of the meeting, consistent with commission rules and state law.

Source. #6545, eff 7-23-97; ss by #6667, eff 1-1-98

PART Liq 205 ADJUDICATIVE HEARINGS AND OTHER HEARINGS

Liq 205.01 Purpose and Scope.

(a) This part shall provide the rules of practice and procedure for the conduct of hearings which affect the rights or privileges of any person.

(b) The rules in this section shall apply to all hearings conducted by the commission except public hearings for rulemaking purposes.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 205.02 Definitions.

(a) "Adjudicative hearing" means any proceeding in which the rights, duties, or privileges of a person are determined by the commission, including action on reports of violation, permission requests of licensees and licensing, but not including non-adjudicatory hearings or rulemaking.

(b) "Data" means all information other than argument, including, but not limited to:

- (1) Oral or written descriptions;
- (2) Reports;
- (3) Maps;
- (4) Charts;
- (5) Drawings;
- (6) Photographs;
- (7) Audio or video recordings;
- (8) Computer printouts;
- (9) Testimony;
- (10) Notes,
- (11) Memoranda or documents, whether finished or unfinished.

(c) "Commission" means a quorum of the liquor commission or an individual appointed by vote of the commission for the purpose of conducting specific adjudicatory hearings.

(d) "Ex-parte communication" means ex-parte communication as defined in RSA541-A:36.

(e) "Field administrative notice" means the notification given the person in charge of the premises licensed by the commission, by a commission investigator setting forth the statutes and/or rules alleged to have been violated with the procedure and times for requesting a hearing on those allegations.

(f) "File" means to place a document in the actual possession of the commission.

(g) "Hearing" means the process by which the parties actually present evidence, data, and/or argument by methods appropriate to the circumstances and includes but is not limited to:

- (1) Conducting trial type evidentiary procedures;
- (2) Directing the filing of exhibits, affidavits, memoranda, or briefs;
- (3) Directing the delivery of oral argument; or
- (4) Any combination of the above or similar procedures.

(h) Licensee means a licensee as defined by either RSA126-K or RSA 175:1, as applicable.

(i) "Motion" means any request by a party to a proceeding for an order relating to that proceeding.

(j) "Non-adjudicative hearing" means a formal or informal search for data by the commission concerning matters within its jurisdiction.

(k) "Order" means a document issued by the commission requiring a person to do or abstain from doing something, or

determining a person's rights or privileges.

(l) "Party" means any person who participates in the proceeding and will be directly affected by the outcome of the proceeding.

(m) "Person" means "person" as defined by RSA175:1, LIII or RSA126-K, as applicable, and includes any association, governmental subdivision, or public or private organization.

(n) "Petition" means any application, complaint, request, or other communication to the commission other than a motion, seeking an order, license, or any other relief.

(o) "Presiding officer" means the chairman of the liquor commission or an individual appointed by vote of the commission to conduct a specific adjudicatory hearing .

(p) "Rulemaking" means the process by which the commission adopts rules.

(q) "Violation" means "violation" as defined in Liq 601.03(r) or (s), as applicable.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 205.03 Adjudicative Pre-hearing Requirements for Licensees. Any licensee who has been charged with a violation shall contact the office of the chief of enforcement within 5 working days after receiving the investigator's field administrative notice to schedule a hearing and/or a prehearing conference , unless the licensee wishes to waive his or her right to a hearing.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 205.04 Prehearing Conferences.

(a) Upon request of any party, or his/her own request and with agreement of all parties, the chief of enforcement or the chief's designee shall schedule one or more informal conferences prior to the commencement of formal proceedings.

(b) Matters to be considered at a prehearing conference shall include but not be limited to the following:

- (1) Stipulation of the maximum and minimum penalties for the alleged offense under statute and/or rule;
- (2) Stipulation of the issues;
- (3) Stipulations or admissions as to the issues of fact or proof;
- (4) Limiting the number of witnesses;
- (5) Stipulation as to the recommendation of the chief of enforcement or his/her designee for the disposition on the violation; and
- (6) Any other matters which may aid in the disposition of the case.

(c) Any party to a prehearing conference may waive their right to a hearing based on the stipulations agreed to , providing any such stipulations and waiver are signed to in writing or are electronically recorded with the consent of the party.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 205.05 Settlements.

(a) In the case of a violation as defined by 601.03(r) or (s), as applicable, the chief of enforcement or his/her designee shall try to negotiate a settlement.

(b) Upon agreement by all parties to an offer of settlement, the chief of enforcement or his/her designee shall cause a formal document to be drawn which specifies the terms and conditions of the settlement.

(c) The agreement shall not be final and binding until the document is signed by all parties and a quorum of the
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commission, and all parties receive copies of the fully executed document.

(d) By signing the document the parties agree to the settlement in lieu of an adjudicatory hearing and as a knowing and voluntary waiver of the licensee's due process rights.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 205.06 Appearance Before the Commission.

(a) An individual may appear in a proceeding by personal attendance or through the attendance of a representative appointed in writing by the individual.

(b) Persons other than individuals may be represented by:

- (1) A licensed attorney; and/or
- (2) An officer, director, member, owner or designated manager; and/or
- (3) A representative appointed in writing by an individual with authority to act for the person.

Source. #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 205.07 Computation of Time; Changes in Time.

(a) Any time period specified in this part shall:

- (1) Begin with the day following the event, act, or default; and
- (2) Include the last day of the period unless it is a Saturday, Sunday or state legal holiday, in which event the period shall run to the end of the next day which is not a Saturday, Sunday, or state legal holiday.

(b) When the period prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and state legal holidays shall be excluded from the computation.

(c) Except where the time is fixed by statute, the commission shall, upon motion for good cause shown, including but not limited to personal illness or injury or illness, injury, or death in the immediate family of any of the parties, increase or decrease the time provided for the filing of any documents, or advance or postpone the time set for any oral hearings.

(d) A motion for a change in time shall be granted upon a finding of diligence and probable injury to the moving party which outweighs any detriment likely to be suffered by any other party to the proceeding.

(e) The presiding officer shall set the new date and time and notify each party by phone and by registered mail of the new date and time.

Source. #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 205.08 Filing of Documents.

(a) All documents filed under this part shall:

- (1) Be on strong, durable, opaque, unglazed paper at least 8-1/2 x 11 inches in size;
- (2) Be reproduced by printing, or other process providing a clear, legible copy and printed or typed in clear type not smaller than elite;
- (3) Be printed only on one side of the page;
- (4) Contain the title of the proceeding;
- (5) Be dated and signed in ink; and
- (6) State the title, if applicable, and address of the signer;

(b) A document conforming to these requirements shall be considered filed with the commission when it is actually received by the office of the commissioners.

Source. #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 205.09 Signature and Certification of Veracity.

(a) All petitions, motions and replies filed with the commission shall be signed by the party, or if represented, by his/her representative.

(b) The signature on the document shall constitute certification by their signer that the signer:

- (1) Has read the document;
- (2) Is authorized to file it;
- (3) That to the best of his or her information, knowledge, or belief, there are reasonable grounds to support it; and
- (4) It has not been filed for delay.

(c) A willful violation of this section shall result in rejection of the filing.

Source. #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 205.10 Pleadings, Petitions, and Responses.

(a) The following procedures shall apply to all petitions and responses:

(1) The only pleadings permitted other than motions shall be petitions and replies thereto.

(2) Unless otherwise specified by statute or rule all petitions shall contain:

- a. The name and address of the petitioner;
- b. The name and address of the petitioner's representative, if any;
- c. A concise statement of the facts which cause the petitioner to request the commission to act;
- d. The action which the petitioner wishes the commission to take;
- e. The identification of any statutes, rules, orders, or other authority which entitles the petitioner to have the commission to act as requested; and
- f. The name and address of the person, if any, against whom the petitioner complains, or against whom the petitioner wishes the commission to act;

(3) Unless otherwise required by rule or statute, all replies shall contain the following:

- a. The name and address of the respondent;
- b. The name and address of the respondent's representative, if any;
- c. A statement admitting, denying or claiming to have insufficient information to respond to, each and every fact in the petition;
- d. A statement admitting or denying the authority identified in support of the action requested by the petitioner;
- e. A concise statement of each and every additional or different fact which causes the respondent to request the commission not to act, or to act differently from that requested by the petitioner; and
- f. The action which the respondent wishes commission to take;

(4) Unless otherwise provided by statute or rule, a reply shall be filed within 30 days after service of a petition;

(5) Any fact contained in the petition shall be deemed admitted unless specifically denied by the respondent or the respondent indicates that he or she lacks sufficient information to deny or admit the fact and so states.

(6) The petitioner shall be presumed to deny all allegations in the reply and no response shall be permitted to the

reply.

- (b) The following procedures and criteria shall apply to all motions and objections thereto:
- (1) Unless presented in an oral session of a proceeding, all motions and replies thereto shall be served upon all parties.
 - (2) All motions shall state clearly and concisely:
 - a. The purpose of the motion;
 - b. The statutes, rules, orders, or other authority authorizing the relief sought in the motion; and
 - c. The facts claimed to constitute the grounds requiring the relief requested by the motion;
 - (3) Objections to motions shall state clearly and concisely:
 - a. The grounds for the objection of the party;
 - b. The action which the party filing the reply wishes the presiding officer to take on the motion;
 - c. The statutes, rules, order, or other authority relied upon in defense of the motion.
 - (4) An objection shall admit, deny, or state that the respondent has insufficient information to admit or deny each and every fact contained in the motion;
 - (5) Failure to object or claim insufficient information shall constitute the admission of fact for the purpose of the motion only;
 - (6) Unless otherwise specifically ordered by a court, all motions shall be decided upon the writings submitted;
 - (7) Repetitious motions shall not be accepted;
 - (8) Unless provided by statute, this chapter or orders of a court, objections to motions shall be filed within 10 days after the party receives a copy of the motion; and
 - (9) Failure to object to a motion within the time allowed shall constitute a waiver of objection to the motion.

Source. #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 205.11 Adjudicative Proceedings.

- (a) This section shall apply to all adjudicatory proceedings.
- (b) The commission shall commence an adjudicatory proceeding by issuing an order of notice which shall:
 - (1) Identify the parties to the proceeding as of the date of the order;
 - (2) Briefly summarize the subject matter and issues to be resolved;
 - (3) Specify the statutory authority for the proposed action and identify any agency rules;
 - (4) Specify the date by which, and place where, appearance shall be filed;
 - (5) Specify the date, time and place of the first day of oral hearing, if any, which may be limited to procedural matters; and
 - (6) Specify the date and address for submission of written materials;
- (c) The commission shall carry out the service of order of notice in the following manner:
 - (1) The presiding officer shall serve notice upon all parties to the proceeding by certified mail or by personal service, at least 10 days before the first date of oral hearing or the first date action is required in response to the order; and
 - (2) The date of service shall be the date of personal delivery or receipt through the mail.

- (d) Upon a written petition showing good cause which shall include, but shall not be limited to the licensee requesting a speedy hearing, the presiding officer shall shorten the 10 day notice requirement, provided no party shall be prejudiced thereby.
- (e) All subsequent official communications between parties including, but not limited to, petitions, responses, motions, orders, and memoranda, shall be served on all parties, either by the United States Mail or personal service.
- (f) Orders, notices, memoranda, exhibits, and all other material submitted in a case shall be kept in a case file.
- (g) The presiding officer shall provide reasonable notice of any change to the order of notice to all parties.
- (h) Any party, to whom notice has been served in accordance with this chapter, who fails to appear and fails to advise the agency of non-appearance prior to the scheduled time of the hearing at which evidence shall be presented, shall have a decision rendered against him or her which shall result in adverse administrative action by default.
- (i) All adjudicative decisions of the commission shall:
- (1) Be made on the basis of evidence of record only; and
 - (2) Be based on a preponderance of the evidence record taking into account that the burden of proof is on the party alleging a fact or circumstance;
 - (3) Take no account of any ex-parte communication of any kind made during the pendency of the proceeding.
- (j) A written decision setting forth the finding of fact, and conclusions drawn by the presiding officer shall be prepared, and parties shall receive copies of the decisions and findings.
- (k) Orders of the commission shall be carried out in the following manner.
- (1) Within the time prescribed in Liq 207.03(a) after the conclusion of a hearing, the presiding officer shall issue an order stating the action to be taken by the commission and the reasons therefore;
 - (2) The order shall be sent to all parties through the United States mails or by personal delivery; and
 - (3) The order shall constitute a final decision on the part of the commission for appeal purposes.
- (l) Intervention petitions shall be carried out in the following manner:
- (1) Petitions for intervention shall be filed at least 3 days before the commencement of a proceeding or at any time if the presiding officer determines that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the proceeding;
 - (2) Petitions for intervention shall state, with particularity:
 - a. The petitioner's interest in the subject matter of the proceeding;
 - b. The petitioner's position with respect to the subject matter of the hearing;
 - c. Why the interest of the parties and the orderly and prompt conduct of the proceeding would not be impaired; and
 - d. Any other reasons why the petitioner should be permitted to intervene;
 - (3) An intervenor shall be subject to the same limitations which would have been applicable if she or he had been a party from the commencement of the proceeding; and
 - (4) An intervenor shall participate in the remaining aspects of the proceeding from the time of intervention, and no phase or portion of the proceeding shall be repeated for the benefit of the intervenor.
- (m) Joinder and severance shall be carried out in the following manner:
- (1) Whenever it appears to the agency, upon motion or its own initiative, that 2 or more proceedings involve substantially similar or substantially related issues the commission shall join those proceedings for hearings, decision or both, provided no party would be prejudiced by the joinder; and

(2) Whenever it appears to the agency, upon motion or its own initiative, that prejudice to a party or parties or undue delay might be avoided, the commission shall sever one or more issues or parties, and dispose of those issues in another proceeding.

Source. #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 205.12 Notice and Conduct of Hearings.

(a) Unless otherwise provided in this chapter all notices of hearings shall:

(1) Be prepared and forwarded to all parties or their representatives so as to afford all parties sufficient opportunity to prepare for and develop the issues to be considered and decided at the hearing; and

(2) Be forwarded to all parties or their representatives in sealed envelopes, either in the United States mails or by personal service.

(b) Scheduling of hearings shall be carried out in the following manner:

(1) Unless otherwise provided for by statute or rule, hearings shall be scheduled as soon as possible following the events giving rise to the necessity for the hearing;

(2) The date set shall allow sufficient and reasonable time for the preparation of the case by the agency and all other parties; and

(3) Upon good cause, which shall include, but shall not be limited to illness or injury to one of the parties, the presiding officer shall continue the hearing or reschedule it for a date later than that specified in the notice.

(c) Powers and duties of the presiding officer shall be to:

(1) Schedule and hold hearings;

(2) Regulate and control the course of hearings;

(3) Administer oaths or affirmations;

(4) Receive relevant evidence;

(5) Take official notice of facts which are of common knowledge and general notoriety;

(6) Dispose of procedural requests, including those of the parties or those made on the motion of the presiding officer;

(7) Hold informal conferences;

(8) Interview or examine witnesses;

(9) Cause a complete record of the proceeding to be made; and

(10) Take any other action, consistent with applicable statutes and rules necessary to conduct and complete the proceeding in a fair and timely manner.

(d) All parties shall have the opportunity to present testimonial and documentary evidence, cross examine adverse witnesses and make opening and closing statements.

(e) In all proceedings governed by this chapter that party asserting the affirmative of a proposition shall have the burden of proving the truth of that proposition by a preponderance of the evidence.

(f) Introduction and admissibility of evidence shall be governed by the following:

(1) Hearings shall not be bound by the New Hampshire Rules of Evidence or the Federal Rules of Evidence;

(2) All relevant, reliable, and material evidence shall be admissible;

(3) Evidence which is irrelevant, immaterial or unduly repetitive, shall be excluded;

(4) Evidence may include, but not be limited to, depositions, affidavits, official documents, and testimony of

witnesses;

(5) The presiding officer shall:

- a. Officially notice facts;
- b. So state in the official record; and
- c. Allow any party, on a timely request, the opportunity to show the contrary.

(6) The chief of enforcement or his/her designee shall open the proceedings through presentation of his/her witnesses and exhibits;

(7) Such evidence shall include direct testimony from investigators of the commission enforcement division, if applicable;

(8) Members of the commission shall, if they have questions, ask them of the witnesses during or subsequent to direct cross-examination;

(9) The licensee shall present his/her testimony to the commission in a manner most beneficial to him or her;

(10) The licensee may present witnesses, his/her own statements or choose to provide a narrative presentation of his/her testimony;

(11) Members of the commission shall, if they have questions, ask them of the witnesses during or subsequent to direct cross-examination;

(12) Any party who intends to call witnesses to testify at an administrative hearing shall provide all other parties and the presiding officer with the following information, not less than 3 working days before the date of the hearing:

- a. The number of witnesses to be called to testify;
- b. The full name of each witness to be called;
- c. The home address of each witness to be called; and
- d. The capacity of employment of each witness to be called;

(13) Upon request, the chief of enforcement shall supply the licensee or their duly appointed representative with all reports and a list of any evidence which has been obtained during an investigation and which might be introduced at any administrative hearing against the licensee;

(14) A request pursuant to (13) above shall be made to the chief of enforcement in writing with a copy to the chairman of the commission;

(15) All hearings shall be recorded by means of audio and/or video recording devices; and

(16) Recorded results shall be maintained for a period of one year from the date of the final order.

Source. #6545, eff 7-23-97; ss by #6667, eff 1-1-98

PART Liq 206 PROCEDURES AND CONSIDERATIONS AFTER ADJUDICATIVE HEARINGS

Liq 206.01 Licensee Record.

(a) When a licensee receives an adverse decision as a result of an administrative hearing with regard to a violation as defined in Liq 601.03(r) or (s), as applicable, the commission shall examine the licensee's record and note all like violations which have occurred within 3 years of the date of the offense being considered.

(b) The number of similar recorded violations shall be used in determining what administrative action shall be taken as provided by Liq 603.03 - 603.10 or RSA126-K, as applicable.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 206.02 Commission Consideration.

(a) The commission shall hear and/or view any testimony or evidence offered by the prosecuting investigator, the licensee, and by all witnesses.

(b) The commission, when hearing testimony or evidence regarding a violation of a statute 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 (b) in determining any administrative action or penalty.

(c) Aggravating factors for violations as defined by Liq 601.03(r), shall include:

- (1) The failure to train employees in liquor education classes;
- (2) The failure to have adequately trained managers;
- (3) The failure to take advantage of education classes offered by the investigator;
- (4) The failure to have any training with regard to Title XIII requirements for an employee;
- (5) The failure to request identification of a person who appears younger than age 21 before sale of alcoholic beverage;
- (6) The failure to follow the provisions of RSA 179:8;
- (7) The failure to detect poor quality identification documents as being false;
- (8) The reckless serving of alcohol to a person under age 16 years when the server knows or should reasonably know the patron's age as defined in RSA 507-F:5, III(b);
- (9) Serving a minor or intoxicated patron if the subject is a minor or intoxicated individual;
- (10) Failure to monitor the length of time a patron has been drinking;
- (11) The active encouragement of intoxicated patrons to consume more alcohol;
- (12) The service of alcohol to a patron that is so continuous and excessive that it creates a risk of death by alcohol poisoning;
- (13) Actively assisting by a person of a patron into a motor vehicle when the patron is so intoxicated as to need assistance, when he knows or should have known that the intoxicated person will operate the motor vehicle;
- (14) The failure to prevent employees from consuming alcohol while working;
- (15) The failure to properly manage the premises, such as allowing over crowding, unaccompanied minors in lounges, standees to drink, lack of effort to clear aisles, or areas of ingress or egress and blocked fire exits;
- (16) The failure to take corrective action on previously cited violations;
- (17) The licensee's previous history of like violations;
- (18) A culpable mental state, as defined by RSA 626:2, II, General Principles, of the New Hampshire Criminal Code shall be aggravating factors when "purposefully" or "knowingly" is proved;
- (19) A violation of RSA 179:5 when it conforms to the provisions of RSA 507-F:4, II, III, & IV or RSA 507-F:5, III;
- (20) Negligent or reckless service of alcoholic beverages pursuant to RSA 507-F:4 and RSA 507-F:5; and
- (21) Any factor which increases the hazard to public safety is due to the sale or consumption of alcoholic beverages.

(d) Mitigating factors for violations as defined by Liq 601.03 (r) shall include but shall not be limited to:

- (1) The licensee having no record of like violations;

- (2) The licensee having no record of any violation;
 - (3) The licensee admitting to problems detected and taking steps to rectify the situation;
 - (4) The documented attendance of the licensee's personnel at a commission sponsored educational program as provided by RSA 507-F:6, III & VI;
 - (5) Implementing training for managers to make the aware of the liquor laws and rules;
 - (6) Maintaining an adequate number of trained employees to supervise the sale and consumption of alcoholic beverages on the premises to assure compliance with the liquor laws and rules;
 - (7) The licensee has requested a liquor education program, not yet conducted, when the problem occurred;
 - (8) A new employee with instruction from management, but not having attended a liquor education program;
 - (9) Established management policies of ensuring persons of questionable age are checked as to age before service of alcohol;
 - (10) Training for those checking IDs in the detection of false or altered documents;
 - (11) Publicizing responsible service of alcohol;
 - (12) Encouraging patrons not to drink too much;
 - (13) Encouraging patrons to consume non-alcoholic beverages or food;
 - (14) Encouraging patrons to use alternate forms of transportation;
 - (15) The display of any correct form of identification in any sale or attempted purchases of alcoholic beverages as outlined by RSA 179:7 and RSA 179:8;
 - (16) The physical appearance of any person, and the prudent application of reasonableness to an estimation of age as required by RSA 179:7 and RSA 179:8;
 - (17) Service of alcoholic beverage for a violation of RSA 179:5 shall be considered mitigating if RSA 507-F:4, V, VI, and VII apply; and
 - (18) Responsible business practices pursuant to RSA 507-F:6.
- (e) Aggravating factors for violations as defined by Liq 601.03(s), shall include:
- (1) The failure to train employees in the requirements of RSA 126-K;
 - (2) The failure to have adequately trained managers;
 - (3) The failure to take advantage of education classes offered by the investigator;
 - (4) The failure to have any training with regard to RSA 126-K requirements for an employee;
 - (5) The failure to request identification of a person who appears younger than age 18 before sale of tobacco products;
 - (6) The failure to follow the provisions of RSA 126-K:3;
 - (7) The failure to detect poor quality identification documents as being false;
 - (8) The sale of tobacco products to a person under age 16 years when the salesperson knows or should reasonably know the patron's age;
 - (9) The failure to properly manage the premises, such as allowing minors easy access to tobacco products or allowing unaccompanied minors to linger in tobacco sales areas;
 - (10) The failure to take corrective action on previously cited violations;
 - (11) The licensee's previous history of violations; and

(12) A culpable mental state, as defined by RSA 626:2, II, General Principles, of the New Hampshire Criminal Code shall be aggravating factors when "purposefully" or "knowingly" is proved.

(f) Mitigating factors for violations as defined by Liq 601.03 (r) shall include but shall not be limited to:

- (1) The licensee having no record of like violations prior to the 3 year term of Liq 206.01 (a);
- (2) The licensee having no record of any violation;
- (3) The licensee admitting to problems detected and taking steps to rectify the situation;
- (4) The documented attendance of the licensee's personnel at a commission sponsored educational program as provided by RSA 507-F:6, III and VI;
- (5) Implementing training for managers to make them aware of the provisions of RSA 126-K;
- (6) Maintaining an adequate number of trained employees to supervise the sale of tobacco products to assure compliance with RSA 126-K;
- (7) The violation was by a new employee with instruction from management, but not having attended a formal education program;
- (8) Established management policies of ensuring persons of questionable age are checked as to age before sales of tobacco products;
- (9) Training for those checking IDs in the detection of false or altered documents;
- (10) Publicizing responsible sales of tobacco products; and
- (11) The display of any correct form of identification by the purchaser in any sale or attempted purchases of tobacco products.

(g) The commission or presiding officer shall decide each case after the hearing is closed by a preponderance of the evidence, and after considering both aggravating and mitigating factors presented during any administrative hearing.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 206.03 Penalty Administration.

(a) After hearing testimony and considering all evidence presented, including aggravating and mitigating factors, the commission shall reach a decision on administrative action to be taken with respect to any administrative hearing within 5 working days of the final hearing, or within 5 days of a legal opinion sought in conjunction with an adjudicative proceeding conducted pursuant to Liq 205.11 and Liq 205.12.

(b) Administrative penalties shall follow the guidelines in Part Liq 603 or RSA 126-K, IV and V, as applicable.

(c) The commission shall enforce any penalty within 10 working days after reaching a decision on administrative action.

Source. (See Revision Note at chapter heading for Liq 200) #5180, eff 7-22-91; ss by #6545, eff 7-23-97; ss by #6667, eff 1-1-98

Liq 206.04 Rehearing.

(a) Any party to an adjudicatory hearing may petition the commission for a rehearing within 5 calendar days of being notified of the commission's decision.

(b) The commission shall grant a rehearing only in cases when the petitioner demonstrates that:

- (1) The decision rendered was contrary to statute or rule;
- (2) The petitioner was not allowed at the hearing to present evidence material to issues of fact or law;

- (3) The decision was contrary to a final and binding settlement agreement; or
- (4) Procedures for adjudicatory hearings detailed in liquor rules were not followed and that this materially affected the decision to the detriment of the petitioner.
- (c) Rehearings shall be held by at least a quorum of the commission.
- (d) Rehearings shall be scheduled within 10 business days of the granting of a petition for rehearing.
- (e) Rehearings shall only concern those issues enumerated in the petition for rehearing.
- (f) The commission shall decide any action to be taken as a result of a rehearing within 5 working days of the rehearing, or within 5 days of a legal opinion sought in conjunction with the rehearing.
- (g) The commission shall not enforce any administrative penalty prior to deciding upon any petition for rehearing, or during the rehearing process.

Source. #6667, eff 1-1-98

PART Liq 207 PETITIONS FOR REVOCATION

Liq 207.01 Petition for Revocation.

- (a) The governing body of any city or town which has accepted the provisions of RSA 663:5, I(b), (c), and (d), may petition the commission for the revocation of a liquor license located within that community.
- (b) The petition shall:
 - (1) Be in writing;
 - (2) Be sent to the chairman of the liquor commission;
 - (3) Be limited to a single licensed location; and
 - (4) State clearly:
 - a. The name and address of the petitioner and their representative, if any;
 - b. Why the petition should be adopted;
 - c. Pertinent factual data supporting the petition; and
 - d. Views or arguments to be considered.
- (c) A copy of the petition, with or without supporting documentation, shall be mailed to the licensee by certified mail or hand delivered to the licensed premise.
- (d) Two copies of the petition and all supporting documentation shall be filed with the commission.

Source. #7061, eff 7-23-99

Liq 207.02 Commission Response.

- (a) Within 10 working days after submission of the complete petition the commission shall consider it and:
 - (1) Require specific written information be furnished to clarify the petition, if necessary;
 - (2) Deny the petition in writing, stating the reasons therefore; or
 - (3) Schedule a revocation hearing within 10 working days from the date of commission acceptance of the petition and notify the petitioner and licensee by telephone and certified mail;
- (b) The licensee notice shall include a copy of the petition and all supporting documentation.

Source. #7061, eff 7-23-99

Liq 207.03 Denial of Petitions.

- (a) The petition shall be denied for any of the following:
 - (1) Lack of factual information documenting the charges in the petition;
 - (2) Failure of the petitioner to notify the licensee of the alleged practices leading to the petition and/or allow the licensee opportunity to correct said practices; or
 - (3) The facts and/or practices alleged in the petition not being sufficient to allow revocation.
- (b) The petition shall not be denied for:
 - (1) The licensee not receiving notice sent as required in Liq 207.01(c);
 - (2) The alleged problems being caused by a manager with or without the knowledge of the licensee; or
 - (3) The alleged problems being caused by patrons on the premises.

Source. #7061, eff 7-23-99

Liq 207.04 Revocation Hearings. The commission shall hold revocation hearings initiated under this section subject to the provisions of Liq 205, with the exception that:

- (a) Liq 205.03, Liq 205.04, and Liq 205.05 shall not apply; and
- (b) Liq 205.12(f)(6) and (7) shall not apply.

Source. #7061, eff 7-23-99

Liq 207.05 Grounds for Holding Revocation Hearings. Revocation hearings shall be held when the petitioner alleges that:

- (a) There is continual or longstanding disregard of state law or administrative rules at the licensed business; or

(b) The location of the business is not appropriate considering either the nature of the business as currently being operated, the nature of the neighborhood, or the number of similar businesses in the neighborhood, as required by RSA 178:24, VIII(g), as shown by:

- (1) Negative economic impact directly attributable to the business on neighboring businesses, other than competitive;
- (2) Reduction of neighborhood property values attributable to the business;
- (3) Negative impact on the quality of life of area residents, as shown by:
 - a. Increased traffic attributable to the licensed business;
 - b. Litter attributable to the licensed business;
 - c. Harassment or threatening behavior by patrons at the business toward residents or passers by; or
 - d. Increased crime or disorderly behavior in the neighborhood directly attributable to the licensed business;

- (c) The applicant is not financially responsible as required by RSA 178:24, VIII(b);
- (d) The business is not being operated primarily for the purposes indicated by the license type;
- (e) The licensee has failed to meet the requirements of RSA 178:19, II(a)(1) or RSA 178:20, V(e)(1)(a);
- (f) The person or persons actually managing the business do not meet the requirements of RSA 178:24, VIII(f); or
- (g) The license holders do not meet the requirements of RSA 178:24, VIII(c).

Source. #7061, eff 7-23-99

Liq 207.06 Licensee Record. The commission shall consider the following commission records for the purposes of revocation:

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- (a) The record of violations of the licensee taken as a whole for the past 5 years; and/or
- (b) The truthfulness of the licensee in his original application and any amendments filed to it.

Source. #7061, eff 7-23-99

Liq 207.07 Evidence.

- (a) The commission shall consider as evidence:
 - (1) Police logs and reports;
 - (2) Documented complaints made to:
 - a. Local or state police;
 - b. Other local officials; or
 - c. State officials or the commission;
 - (3) Orders, correspondence, or other documents from town officials to the licensee and any responses;
 - (4) Police and court records concerning either the licensee, licensed premise, or persons in charge;
 - (5) Petitions or other statements by area residents or neighboring businesses;
 - (6) Commission records of licensee conduct; and
 - (7) Records demonstrating licensee non-compliance with:
 - a. Zoning requirements;
 - b. Health or safety requirements; or
 - c. Other local or state ordinances.
- (b) The commission shall not consider:
 - (1) Undocumented complaints, whether from officials or the public; or
 - (2) Complaints which the licensee was given no chance to correct.
- (c) The licensee may introduce exculpatory evidence for the commission's consideration.

Source. #7061, eff 7-23-99

Liq 207.08 Revocation. The commission shall revoke the license as required by the petitioners upon finding that:

- (a) A preponderance of the evidence presented indicates that the facts alleged in the petition for revocation are substantially correct; and
- (b) The facts alleged in the petition demonstrate at least one of the following:
 - (1) The business is not in compliance with the requirements of RSA 178:24, or other licensing requirements for the business;
 - (2) The demonstrated character and/or ability of the person or persons actually managing the business on a day to day basis is not sufficient to ensure that the business is operated in compliance with the laws and statutes of the state, commission, or locality; or
 - (3) Continual or long standing disregard of the business for state laws or administrative rules.

Source. #7061, eff 7-23-99

CHAPTER Liq 300 APPLICATION DE-LISTING AND LISTING PROCEDURES

Statutory Authority: RSA 176:14, RSA 176:13, II and RSA 177:7.

Revision Note:

Document #5180, effective 7-22-91, made extensive changes to the wording and format of Chapter Liq 300. Document #5180 supersedes all prior filings for the sections in this chapter. The filings prior to Document #5180 include the following documents:

- #94, filed 12-05-73, as in effect 8-31-73 under 1973, 507:4
- #727, eff 12-18-75
- #2137, eff 9-30-82
- #2931, eff 12-26-84 - EXPIRED 12-26-90
- #5043, eff 1-11-91

Please note that the rules in former Liq 300 were out of effect between 12-26-90 and 1-11-91.

Filed as part of Document #5043, former rules Liq 301.01, Liq 302.01 through 302.15, Liq 303.01 through 303.04, Liq 304.01, Liq 305.01 through 305.03, and Liq 306.01 have all been amended and incorporated into different sections of Liq 300 by Document #5180.

PART Liq 301 SYSTEM ESTABLISHED

Liq 301.01 Purpose. The purpose of this chapter is to set forth the manner in which vendors of spirits and wines and manufacturers of wines apply to have their items sold to the State of New Hampshire, and the manner in which the State of New Hampshire lists and de-lists spirits and wine for sale in the state.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 301.02 Definition of Terms. The following terms shall be construed as set forth below:

- (a) "Available wines" means wines which are not listed under Liq 304.02, but that are registered by a brand code number and offered to licensees through the commission.
- (b) "TTB" means the Tax and Trade Bureau of the United States Treasury Department.
- (c) "Bailment inventory" means vendor or manufacturer-owned inventory stored in a warehouse in New Hampshire and used to fill commission orders on an as-needed basis.
- (d) "Brand code" means a number assigned by the commission to each size and brand of a product for identification purposes.
- (e) "Broker" means an agent of a liquor or wine vendor providing services to the vendor on a commission basis.
- (f) "Class" means spirits and wine items having common characteristics grouped for statistical purposes.
- (g) "Dessert wine" means wine that has been fortified to an alcoholic content of over 15.5% by having brandy or spirits added.
- (h) "Fiscal month" means a period of time consisting of either 5 or 4 fiscal weeks commencing July 1 of each fiscal year, each fiscal week ending on Sunday at midnight which follow a 5, 4, 4, repetitive pattern where the first fiscal month is 5 fiscal weeks, the second fiscal month is 4 weeks and the third fiscal month is 4 weeks, repeated through out the fiscal year ending June 30 at midnight.
- (i) "Full distribution" means that a product is available to be ordered by all New Hampshire state liquor stores.
- (j) "Gross profit" means the difference between sales dollars and the average purchase order costs.
- (k) "Holiday listing" means a limited number of spirits and wine items in special packaging intended for sale during the fiscal months of October, November and December in commission retail stores and from warehouses.
- (l) "Limited distribution" means that a product is marketed only in commission-designated state stores.

(m) "Listed item" means spirits and wines approved pursuant to Liq 303 - 306 for sale in commission liquor stores and/or from warehouses.

(n) "Prepared cocktail" means a spirit-based product named as and designed to duplicate a drink normally prepared by a bartender for the on premise trade. This term does not include proprietary products.

(o) "Primary listing" means any SKU of a table wine that achieves an annual gross profit that exceeds the gross profit for the 325th listed SKU, arranged in order of gross profit, in the state retail stores.

(p) "Point of sale merchandising" means advertising and display of a product within the store in which that product is sold.

(q) "Primary source" means the domestic distiller, producer, owner of the commodity at the time it became a marketable product, bottler or exclusive agent of any such distributor or owner. In the case of imported products the primary source of supply means either the foreign producer, owner, bottler or agent or the prime importer or the exclusive agent in the United States or the foreign distiller, producer or owner.

(r) "Proof unit" means 1/2 of one percent alcohol by volume at 68 degrees Fahrenheit.

(s) "Proprietary" means used, made, or marketed by one having the exclusive legal right.

(t) "Regular listing" means spirits and wine sold in commission retail stores and from warehouses.

(u) "SA620 report" means a computerized consecutive 12 fiscal month statistical report, generated at the end of each fiscal month by the commission, indicating the total gross profit by item and total by class.

(v) "Secondary listing" means any SKU of a table wine that achieves an annual gross profit that exceeds the gross profit for the 750th listed SKU, arranged in order of gross profit, in the state retail stores.

(w) "SKU" means a stock keeping unit.

(x) "Specialty listing" means spirits and wine sold in designated commission stores and from warehouses.

(y) "Spirits" means a potable beverage containing alcohol primarily obtained through distillation.

(z) "Supplier" means a natural or other person who is licensed as a vendor, manufacturer, or representative.

(aa) "Table wine" means "wine-table" as defined in RSA 175:1, LXIX.

(bb) "Test market" means the sale of a product for a period of 6 fiscal months during which that product is marketed in commission stores to determine consumer acceptance and product profitability.

(cc) "Vermouth" means a wine-based product which has been mixed with herbs and has an alcohol content of greater than 15.5% by volume.

(dd) "Vintage" means the year that wine grapes are harvested.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss and moved by #6515, eff 7-1-97 (formerly Liq 301.03); ss by #7085, eff 8-27-99; ss by #8243, eff 12-31-04

PART Liq 302 - LISTING APPLICATION PROCEDURE

Liq 302.01 Application Procedure. Suppliers wishing to have their products considered for listing by the commission shall adhere to the following procedures:

(a) Each listing for a spirit shall first meet the criteria of Liq 304.04 prior to application for listing;

(b) Each request to have a spirit or wine item considered for listing shall be submitted on a vendor specification form 220-a to the commission, attention of the chairman;

(c) Suppliers shall include the following on form 220-a:

- (1) Date submitted;
- (2) Brand name;
- (3) Proposed effective date of the listing;
- (4) Warehouse designation;
- (5) Type of product;
- (6) Age/vintage of product, where applicable;
- (7) Alcohol content/proof of product, where applicable;
- (8) Whether the product is domestic or imported;
- (9) Name and address of the distiller;
- (10) Name and address of the bottler;
- (11) Whether the product is sold under any other label;
- (12) Reason for submittal such as new product, change of product;
- (13) Volume of product container;
- (14) Case description and number of units in the case;
- (15) Units in the selling package, including the volume of the single unit;
- (16) Vendor no. and Uniform Price Code;
- (17) A blank line for the N H state code to be assigned by the commission;
- (18) Pallet/tier quantity;
- (19) Case weight;
- (20) Net cost F.O.B. ship point;
- (21) U. S. freight costs;
- (22) Ocean freight costs;
- (23) Marine Insurance costs;
- (24) Other charges including bailment charges;
- (25) Insert net;
- (26) Total invoice cost;
- (27) Case dimensions including length, width, and height;
- (28) Minimum shipping quantity;
- (29) Last previous quote;

- (30) Date of last quote;
- (31) Case increase or decrease in cost;
- (32) Shipping information, including shipping point(s);
- (33) Invoice information including terms;
- (34) Name, address and license number of designated liquor and wine representative;
- (35) Name, address and license number of supplier;
- (36) Signature of supplier or executive officer; and
- (37) Broker's commissions.

(d) All costs shall reflect actual case costs and related transportation and bailment expenses. Costs such as broker's commissions shall be born by the vendor and shall not be charged to the commission.

(e) Only one brand shall be submitted on a form. Multiple sizes of the same brand may be submitted on the same form.

(f) Forms shall be filled out completely, in a legible manner, in non-fading, non erasable graphic such as ink or typewriter.

(g) In the event a supplier submits an incomplete form, such form shall not be processed. The submitting party shall be notified of the omissions pursuant to the provisions of RSA 541-A:29 and the commission shall request the additional information needed.

(h) In addition to the completed 220-a form, the request shall include:

- (1) The label of each product; and
- (2) A marketing letter which supplies the following:
 - a. Projected annual case sales and gross profit;
 - b. Case sales performance in other markets;
 - c. Case sales trend in immediate past 18 fiscal months;
 - d. Pricing history in the past 18 fiscal months;
 - e. Statement by the vendor of current and future ability to supply the product;
 - f. Statement by the vendor of marketing program to support the product, including media advertising program and point of sale merchandising and advertising copy;
 - g. A photograph of the product;
 - h. A copy of the label registration required by the BATF;
 - i. Verification of the primary source producer or manufacturer as defined by Liq 301.03(s) of a product; and
 - j. Exclusive agent agreement if the product is submitted by other than the primary producer or manufacturer.

- (i) Each application shall be time and date stamped upon receipt.
- (j) Samples shall not be presented to the commission unless requested for analysis.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #5289, eff 1-1-92; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 302.02 Notification of Decision.

- (a) Suppliers shall be notified of any commission action regarding applications within 45 days of the action.
- (b) Suppliers whose products are listed shall be notified of the brand code number assigned to their products.
- (c) Suppliers whose products are not accepted for listing shall be informed of the reason(s) for that decision.
- (d) Decisions shall be based upon the criteria in Liq 304 through Liq 306, as applicable.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

PART Liq 303 SPIRITS LISTING PROCEDURE

Liq 303.01 Purpose. The purpose of this part is to develop and maintain a uniform and systematic manner by which the commission shall secure spirits for sale to licensees and the public.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 303.02 Test Market.

(a) Before listing any spirit product for limited or full distribution, the commission shall subject that product to a 6 fiscal month test market to ensure that demand for that product exists.

(b) In the event of an emergency that creates short supply of a popular category, the commission may choose to forego the 6 fiscal month test market, and list a spirit product for immediate distribution.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 303.03 Test Market Procedure.

- (a) The commission shall accept, in one brand size only, all eligible broker submittals for the test market.
- (b) To be eligible for test marketing, the product shall meet the following requirements:
 - (1) The product shall not have been de-listed pursuant to Liq 308 in any size in the state of New Hampshire within the past 12 fiscal months;
 - (2) The product shall be available for inventory;
 - (3) The product shall have been in demand by consumers in other retail markets;
 - (4) The product shall have an assured continuity of supply; and
 - (5) The product shall meet all applicable requirements of the rules in this chapter.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 303.04 Test Market Performance/Listing.

- (a) In order to be listed for full distribution, the minimum gross profit production during the 6 fiscal month test market period shall be determined and posted annually for each class by the commission on or before July 1st.
- (b) Vendors shall be responsible for promoting the product to produce the minimum gross profit required during this period;
- (c) Failure to attain this amount shall result in de-listing of the product as provided by Liq 308.02(a)(7);
- (d) Vendors shall be responsible for advertising their product during the test market period in order to produce the required gross profit, including in-store merchandising.
- (e) Vendors of items succeeding in the test market shall complete the listing process by requesting in writing that their products be listed, with the types of listing desired.
- (f) Items failing in the test market shall not be approved for additional test marketing in any size for a period of one year from the date the product was first available for sale in the commission stores.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 303.05 Additional Sizes.

- (a) Additional sizes of a listed spirit brand shall be listed by the commission upon written request by the vendor if the following conditions are met:
- (1) The listed brand shall have a gross profit that exceeds the gross profit requirement of its class by 50 per cent either at the conclusion of the test market period or for the current consecutive 12 fiscal month period at the time of the request;
 - (2) In the event more than one size of the brand are listed, each shall separately have a gross profit equal to or greater than the gross profit determined and posted by the commission for its class for the current consecutive 12 fiscal month period; and
 - (3) The new size is securely packaged.
- (b) Factors which indicate secure packaging shall include but not be limited to:
- (1) The sturdiness and construction of the case;
 - (2) The cap and seal on the container; and
 - (3) The shape of the container conforms to shelf standards.
- (c) The new approved size shall then meet the test market performance criteria as outlined in Liq 303.04(a).

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 303.06 Change in Size.

- (a) The commission shall allow a change in the size of a currently listed product upon written request of the vendor if the following conditions are met:
- (1) The listed product has a gross profit of \$25,000 or more for the current consecutive 12 fiscal month period at the time of the request; and
 - (2) The new size meets the requirement set forth in Liq 303.05(a)(3).

(b) Requests for change in size of the container shall include:

- (1) The name and address of the vendor making the request;
- (2) The product for which the change is made; and
- (3) The current size and the proposed size of the product for which the request is made.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 303.07 Change in Container.

(a) The commission shall allow a change in the shape of the container of a currently listed product upon written request of the vendor, if the requested package meets the requirements set forth in Liq 303.05(a)(3).

(b) Requests for change in shape of the container shall include:

- (1) The name and address of the vendor making the request;
- (2) The product for which the change is made; and
- (3) The current shape and the proposed shape of the product for which the request is made.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 303.08 Change in Proof.

(a) A request from a vendor or manufacturer for a change in the alcohol content of a product shall be treated as a request for de-listing of the original product and a new listing for the replacement, if the change in alcohol content is greater than or equal to 10 proof units.

(b) Vendors or manufacturers shall notify the commission in writing of changes in alcohol content of less than 10 proof units.

(c) Requests for change in proof of greater than 10 proof units shall include:

- (1) The name and address of the vendor making the request;
- (2) The product for which the change is made;
- (3) The current proof and the proposed proof of the product for which the request is made; and
- (4) The size of the container for which the request is made.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

PART Liq 304 WINE LISTING PROCEDURE

Liq 304.01 Purpose. The purpose of this part is to establish a uniform system for listing wines for sale to licensees and the public.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99; ss by #8243, eff 12-31-04

Liq 304.02 Requests for Listing.

(a) The commission shall list wines that have been purchased from a manufacturer, vendor or broker who has been designated as the primary source per RSA 176:7.

- (b) A primary source who wishes to have a table wine listed shall submit a completed form 220-a to the commission.
- (c) There shall be no limit on the number of applications for regular listing of available wines pursuant to Liq 302.01 on form 220-a that may be made by a primary source.
- (d) To be eligible for listing, a table wine shall meet the following requirements:
- (1) The product shall be available for inventory;
 - (2) The product shall have been in demand by consumers in other retail markets;
 - (3) The product shall have an assured continuity of supply;
 - (4) The product shall meet all applicable requirements of the rules in this chapter;
 - (5) A copy of the label shall be provided, and
 - (6) A copy of the TTB label registration shall be provided.
- (e) Table wines not listed in any other type of listing in the state may be offered for sale by a primary source through the commission to licensees.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #5289, eff 1-1-92; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99; ss by #8243, eff 12-31-04

Liq 304.03 Listing Procedure for State Retail Stores.

- (a) In order to be eligible to be listed as a primary, secondary or specialty listing in the commission retail stores, a table wine shall meet the following requirements:
- (1) The table wine listed as a primary, secondary or specialty listing in the commission retail stores, shall be subject to a 6 fiscal month review to ensure that demand for that product continues.
 - (2) The table wine shall maintain the minimum gross profit production during a 6 fiscal month period which shall be determined and posted annually for each class by the commission on or before July 1st.
 - (3) The product shall be available for inventory;
 - (4) The product shall have an assured continuity of supply, and
 - (5) The product shall meet all applicable requirements of the rules in this chapter.
- (b) Primary listed table wine shall be distributed to all of the state retail stores.
- (c) Secondary listed table wine shall be distributed to state retail stores on a space available basis.
- (d) Specialty listed table wine shall be distributed to state retail stores on a space available basis as follows:
- (1) Specialty wines shall be selected for regular listing by demonstrated consumer demand in other retail markets, sales performances in the national market, and potential profitability, but the decision to list shall not be limited to these factors.
 - (2) State retail stores may carry available specialty wines registered pursuant to Liq 304.02 which have limited demand but are essential to round out the product-line offered to retail customers and/or licensees; and
 - (3) Such specialty wines shall receive limited distribution in designated state stores at the discretion of the commission.
- (e) In the event of an emergency that creates short supply of a popular category, the commission may list a table wine for immediate distribution.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #5289, eff 1-1-92; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99; ss by

#8243, eff 12-31-04

Liq 304.04 De-Listing Procedure for State Retail Stores.

(a) The minimum gross profit production during a 12 fiscal month period shall be determined and posted annually for primary, secondary and specialty listed table wine by the commission on or before July 1st.

(b) Any table wine listed as a primary, secondary or specialty listing in the commission retail stores, shall be subject to a 6 fiscal month review to ensure that demand for that product exists.

(c) Failure to attain an amount of gross profit equal to half of the annually posted gross profit production for primary, secondary and specialty listed table wine shall result in de-listing of the product as provided by Liq 308.03.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99; ss by #8243, eff 12-31-04

Liq 304.05 Additional Sizes.

(a) Additional sizes of a primary or secondary listed wine brand shall be listed in the state's retail stores upon written request by the primary source, if the following conditions are met:

(1) The listed brand shall have a gross profit that exceeds the gross profit requirement of its class by 50 per cent for the current 6 fiscal month period at the time of the request.

(2) In the event more than one size of the brand are listed, each shall separately have a gross profit equal to or greater than the gross profit determined and posted by the commission for its class for the current 6 fiscal month period.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99; ss by #8243, eff 12-31-04

Liq 304.06 Change in Container.

(a) The commission shall allow changes in the shape of the container of a currently listed product upon written request of the primary source, if the requested package meets the requirements set forth in Liq 303.05(a)(3).

(b) Requests for change in shape of the container shall include:

(1) The name and address of the vendor making the request;

(2) The product for which the change is made; and

(3) The current shape and the proposed shape of the product for which the request is made.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99; ss by #8243, eff 12-31-04

PART Liq 305 DESSERT WINES AND VERMOUTH

Liq 305.01 Listing.

(a) Dessert wines and vermouths shall be selected for listing by demonstrated consumer demand in other retail markets, sales performance in the national market, and potential profitability, but the decision to list shall not be limited to these factors.

(b) Gross profit shall not be the sole determinant for selection.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

PART Liq 306 SPECIALTY ITEMS/SPECIAL ORDERS

Liq 306.01 Specialty Listing.

- (a) Requests from NH licensed manufacturers, vendors, or their licensed representatives for specialty listing may be made at any time during the year. A marketing letter, as outlined in Liq 302.01(f) shall be submitted with the request.
- (b) Commission designated stores shall carry selected specialty items.
- (c) Specialty items shall include:
- (1) Products which have limited but steady use by citizens and on-premise licensees;
 - (2) Products in which small quantities are used in preparing food or mixed drinks;
 - (3) Products with limited production or distribution; and
 - (4) New Hampshire produced products which satisfy the special needs of tourists.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99; ss by #8243, eff 12-31-04

Liq 306.02 Holiday Listing.

- (a) The commission shall accept submittal of items for holiday listing consideration each year.
- (b) Suppliers shall be notified through their local licensed liquor and wine representative of the holiday listing period.
- (c) The notice shall include the dates for which the listing is requested.
- (d) Submittals for holiday listing shall include guaranteed delivery date(s) for the product.
- (e) Holiday items shall be selected for listing, not by gross profit, but by availability for key sales periods and how they will round out the customer selection for holiday purchases.
- (f) Factors which show well rounded products offerings shall include but not be limited to:
- (1) Products' retail price ranges;
 - (2) Holiday packaging which has sold well in previous years; and
 - (3) Popular items packaged in a gift pack.
- (g) Listing of a product shall not be automatically repeated from year to year.
- (h) Items not received by the delivery date(s) specified in the listing submittal shall be de-listed, and any shipment of the product refused, unless the administrator of sales and marketing certifies to the commission that:
- (1) The product is necessary to round out the holiday listings, and
 - (2) The product will, in spite of late delivery, sell out during the holiday period.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 306.03 Special Orders.

- (a) Retail customers may place requests with the commission for items not currently listed.
- (b) Reasonable effort shall be made by the commission to obtain the item in a timely manner, subject to the following conditions:
- (1) When ordering, the customer shall provide a complete description of the item;
 - (2) Each order shall be for a minimum of one case of the item;

- (3) Full payment, which shall include transportation costs, shall be submitted prior to the purchase of the item by the commission;
- (4) Once full payment is submitted, a special order shall not be canceled by the customer and no refunds shall be given; and
- (5) Special orders for retail customers shall be shipped to a commission store designated by the customer for pick up.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

PART Liq 307 ADMINISTRATIVE LIMITATIONS AND PROHIBITIONS

Liq 307.01 Cost Changes by Vendor/Manufacturer.

- (a) Cost changes by vendors and manufacturers may be filed 4 times a year;
- (b) To file for a cost change, a completed form 220-a shall be delivered to the commission on the following quarterly schedule:
 - (1) March 1 for a cost change effective May 1;
 - (2) June 1 for a cost change effective August 1;
 - (3) September 1 for a cost change effective November 1; and
 - (4) December 1 for a cost change effective February 1.
- (c) Should any due date fall on a Saturday, Sunday or New Hampshire observed holiday, the next working day shall be considered the due date for notification of cost changes.
- (d) Cost increase filings received after the due date shall be returned as unacceptable.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 307.02 Swaps Prohibited. Exchanges of new items for listed items shall be prohibited, and this provision shall include a permanent or temporary change in:

- (a) The size of the same brand unless the provisions of Liq 303.05(a) or Liq 304.04(e) are complied with; or
- (b) The brand for another brand in any class.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 307.03 Listing Limitations.

- (a) The commission shall list every product with a brand code.
- (b) A wine which is marketed by the supplier under a different vintage(s) shall be considered a different product for purposes of brand codes.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

PART Liq 308 DE-LISTING PROCEDURE

Liq 308.01 Purpose. The purpose of this part is to set forth the criteria necessary for the commission to de-list a currently listed item, or to remove an item from state liquor stores.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 308.02 De-listing Criteria.

(a) In addition to considerations previously set forth in this chapter in Liq 303.04(a), the commission shall de-list an item for any of the following reasons:

- (1) Gross profit of a distilled spirit product, prepared cocktail or mixed drink is less than the gross profit determined and posted by the commission for its class for the previous 12 consecutive fiscal months as recorded in the monthly SA620 gross profit reports;
- (2) The listing fee required by RSA179:56 for a dessert wine, table wine, or vermouth has not been paid;
- (3) Gross profit of a specialty item is less than the gross profit determined and posted by the commission for its class based on the following ratio of the gross profit criteria for each product segment:
 - a. Popular brands – 75 per cent;
 - b. Premium brands – 50 per cent;
 - c. Super premium brands – 33 per cent; and
 - d. Ultra premium brands – 25 per cent;
- (4) The product becomes unavailable to the commission for any reason;
- (5) The vendor or manufacturer of the product requests that the product be de-listed;
- (6) The product fails to reach the required gross profit during the test market period;
- (7) Unjustified cost changes result in an excessive increase passed on to the consumer such as added broker fees, higher than average freight charges or other similar increases.

(b) The commission shall remove an item from sale in state liquor stores for any of the following reasons:

- (1) Gross profit of a dessert wine, table wine, or vermouth for the previous 12 consecutive fiscal months as recorded in the monthly SA620 gross profit reports is less than \$6,500 total, \$3250 of which shall be obtained through state store sales; or
- (2) Specialty wines no longer meet the requirements of Liq 306.01 (e);

(c) For the purposes of delisting or removal from state liquor stores, the period for necessary gross profit of an item shall begin with the date the product is first available for sale in commission stores.

(d) Certified mail shall be used by the commission when notifying a vendor or manufacturer of their product's de-listing.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 308.03 Warning Status.

(a) At the end of each fiscal month, the commission shall review the gross profit report and warn vendors and manufacturers by certified mail of a pending de-listing when their product has not met the required gross profit for the class, but has produced at least 85% of the minimum requirement.

(b) The warning notice shall contain:

- (1) The name of the product, the code, and the size;
- (2) The current gross profit and the required gross profit for the product;
- (3) The date by which the required gross profit shall be met; and
- (4) Indication that the product shall be de-listed if it has not attained the required minimum gross profit for its class.

(c) After the warning notice has been issued, the product, to remain listed, shall thereafter produce at least the minimum gross profit for the class by the end of 3 full fiscal months following the receipt of the notice.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 308.04 Sale of De-listed Products. Upon de-listing of a product, prices of existing state inventory shall be reduced by the commission if necessary to liquidate it.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

PART Liq 309 DE-LISTING REVIEW PROCESS

Liq 309.01 Purpose. The purpose of this part is to set forth the manner by which a manufacturer or vendor shall appeal the decision of the commission to de-list a product or to refuse listing of a product.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

Liq 309.02 De-listing Review Procedure.

(a) If a delisted product attains at least 85% of the gross profit requirements of Liq 308.02, vendors and manufacturers may request a review of a de-listing decision by submitting a letter to the commission stating the reason(s) for the review within 15 days from the receipt of the notice.

(b) The commission shall respond in writing setting forth their decision with regard to the de-listing review and the reasons for their decision within 10 days from the receipt of the letter of appeal.

(c) Certified mail shall be used by both parties in the de-listing review procedure.

(d) The commission shall base their review on good cause which shall include but shall not be limited to the following criteria:

- (1) The product is packaged in a unique bottle or other container;
- (2) The product is a unique or proprietary item;
- (3) The price of the product fits the consumer requirements;
- (4) The product is manufactured or bottled in New Hampshire, and therefore shall receive preferential treatment pursuant to RSA 176:12;
- (5) Certain extenuating circumstances outside the control of the company such as strikes and clerical errors; and
- (6) The commission's supply of the product was shown to be inadequate during the test period to produce the required gross profit.

(e) If good cause is shown, The commission shall:

- (1) Overturn de-listing;
- (2) Grant an extension for no more than 6 consecutive fiscal months; and
- (3) At the end of said extension review the product for de-listing purposes.

(f) Any appeals concerning a de-listing review and responses thereto shall be requested as provided by Liq 205.10(a), and conducted pursuant to Liq 206.11 and Liq 206.12.

Source. (See Revision Note at chapter heading for Liq 300) #5180, eff 7-22-91; ss by #6515, eff 7-1-97; ss by #7085, eff 8-27-99

CHAPTER Liq 400 RULES GOVERNING LICENSEE OPERATIONS

Statutory Authority: 176:14

REVISION NOTE

Document #5043, effective 1-11-91, made extensive changes to the wording and format of Chapter Liq 400. Document #5043 supersedes all prior filings for the sections in this chapter. The filings prior to Document #5043 for former Liq 400 include the following documents:

- #727, eff 12-18-75 #2137, eff 9-30-82
- #1251, eff 9-27-78 #2594, eff 1-20-84
- #1532, eff 2-13-80 #2742, eff 6-14-84
- #1582, eff 5-25-80 #2931, eff 12-26-84
- #1833, eff 10-13-81 #4041, eff 4-22-86
- #4548, eff 12-19-88

All of Chapter Liq 400 except for the rules in former Sections Liq 402.10, 402.13, and 404.13 expired on 12-26-90. The rules in former Sections Liq 402.10, 402.13 and 404.13 were repealed by Document #5043.

Many rules in Chapter Liq 400 filed as part of Document #5043 are amended and renumbered version of former rules in this chapter. The sections in Chapter Liq 400 filed as part of Document #5043 are listed below with their former number if applicable.

<u>New Number</u>	<u>Former Number</u>	<u>New Number</u>	<u>Former Number</u>
Liq 401.01	Liq 401.16	Liq 405.15	Liq 405.17
401.02	401.20	405.16	405.18
		405.17	405.19
Liq 402.01	Liq 402.01	405.18	405.20
	---	405.19	405.21
402.02		405.20	405.22
Liq 403.01	Liq 403.11	405.21	405.23
		405.22	405.24
Liq 404.01	Liq 404.05	405.23	405.25
404.02	404.23	405.24	405.26
404.03	---	405.25	405.29
404.04	---	405.26	405.30

<u>New Number</u>	<u>Former Number</u>	<u>New Number</u>	<u>Former Number</u>
		405.27	405.31
Liq 405.01	Liq 405.01	405.28	405.32
405.02	405.02	405.29	405.33
405.03	405.03	405.30	405.34
405.04	405.04	405.31	405.35
405.05	405.05	405.32	405.36
405.06	405.06	405.33	---
405.07	405.07	405.34	---
405.08	405.08	405.35	---
405.09	405.09	405.36	---
405.10	405.10	405.37	---
405.11	405.12	405.38	---
405.12	405.14	405.39	---
405.13	405.15	405.40	---
405.14	405.16	405.41	---

PART Liq 401 DEFINITIONS

Liq 401.01 Definition of Terms. For this chapter only, the following terms shall be construed as set forth below:

(a) "Bailment" means a system providing for delivery of vendor owned liquor and wine by the vendor's agent at a NHSLC owned or licensed liquor and wine warehouse for transfer to state owned liquor stores or retail licensees.

(b) "Bailment warehouse" means the holder of a NH liquor and wine warehouse license under contract to the NHSLC to provide bailment services, or the NHSLC or contracted agent providing such services at NHSLC owned warehouse facilities.

(c) "Acceptable payment" means payment by cash, approved credit card, approved debit card, or pre-approved check.

(d) "Approved credit" means a sale on terms pursuant to Liq 900.

Source. (See Revision Note at chapter heading for Liq 400) #5043, eff 1-11-91; ss by #5180, eff 7-22-91; rpld by #6391, eff 11-28-96; ss by #7258, eff 5-2-00; ss by #8243, eff 12-31-04

Liq 401.02 Bailment Warehouse Fees.

(a) Bailment warehouse fees shall be paid by vendors unless exempted by statute or rule. Vendor fees for bailment warehouse services shall be specified by contract between the NHSLC and the bailment warehouse(s).

(b) Contracted fees shall be charged to all vendors equally by the bailment warehouse(s).

(c) The NHSLC shall charge the same fees as contracted in (b) above at NHSLC owned warehouses except that no fee shall be charged on liquor and wine products manufactured in NH by any vendor who:

(1) Is licensed as a liquor manufacturer pursuant to RSA178:6, a rectifier pursuant to RSA178:7, or a wine manufacturer pursuant to RSA178:8;

(2) Maintains a federally bonded liquor warehouse in the state; and

(3) Maintains an inventory equal to 30 days average sales for each brand code registered with the commission.

(d) The NHSLC shall make available to vendors the contracted fees charged by bailment warehouses.

Source. #7258, eff 5-2-00; ss by #8243, eff 12-31-04

Liq 401.03 Vendor Inventory.

(a) Liquor and wine vendors shall maintain at a bailment site designated by the commission inventory equal to 30 days average sales for each brand code registered with the commission.

(b) The NHSLC shall issue administrative notices of violation to vendors when inventory shortages cause out of stock situations.

Source. #7258, eff 5-2-00; ss by #8243, eff 12-31-04

Liq 401.04 Inactive Brand Codes. Vendors shall remove all products which do not have an active NHSLC brand code from bailment within 60 days.

Source. #7258, eff 5-2-00; ss by #8243, eff 12-31-04

Liq 401.05 Damaged Products. Vendors shall remove or have destroyed all products that are damaged from bailment within 60 days.

Source. #7258, eff 5-2-00; ss by #8243, eff 12-31-04

Liq 401.06 Commission Control of Bailment Product. Products with active NHSLC brand codes shall not be removed from bailment except to be delivered to NHSLC control or for shipment out of state with written permission from the NHSLC, which shall be granted for stock in excess of NHSLC requirements.

Source. #7258, eff 5-2-00; ss by #8243, eff 12-31-04

PART Liq 402 PURCHASING AND SUPPLYING

Liq 402.01 Purchase of Supplies of Liquor or Wine from the Commission.

- (a) All licensee orders to be picked up from a licensed or commission warehouse shall use the following procedure:
- (1) Orders shall be submitted to the commission office using one of the following methods:
 - a. In writing providing the information required by Liq 402.01(b)(1);
 - b. Through a licensed warehouse's internet ordering system which interfaces with the commission's computer system as required by Liq 803; or
 - c. Through the commission's internet ordering system;
 - (2) All orders shall be picked-up at a date and time set by the warehouse pursuant to the order placed by the licensee;
 - (3) All orders shall be picked up:
 - a. By a licensed carrier who will make the delivery to the licensee; or
 - b. By the retail licensee, their employee, or other designated individual, only with presentation of a copy of the retail license at pickup.
 - (4) Orders shall be on approved credit or shall be accompanied by acceptable payment; and
 - (5) All transportation charges shall be paid by the licensee.
- (b) For all orders to be picked up at a state store licensees shall submit a written or a telephone order to the state store providing:
- (1) The license number;
 - (2) The licensee name;
 - (3) The brand code(s);
 - (4) The brand name(s);
 - (5) The brand size(s); and
 - (6) Number of cases; or number of bottles, if available.
- (c) All orders shall be picked-up at the store by the licensee or designee at a date and time set by the state store.
- (d) Order approval, processing and invoicing shall be on approved credit or orders shall be paid in full upon pickup by acceptable payment.
- (e) Orders to be picked directly from the state store shelves by a licensee shall be subject to the following conditions:
- (1) Store management shall have the right to limit quantities to licensees so that at least half the product shall remain available to the public;
 - (2) Orders shall be on approved credit or paid at the register by an acceptable form of payment; and
 - (3) Licensees picking directly from the state store shelf shall pay retail price, which for the purposes of this rule means:
 - a. For off premises licensees, the price listed in the quarterly price list for off-premises licensees; or
 - b. For on -premises licenses the prevailing shelf price at the time of the sale.
- (f) Citizens may elect to use a special order to obtain supplies not listed with the commission using the following procedure:
- (1) A quote may be obtained by submitting a customer order inquiry containing the following to a state store or the commission office:

- a. Customer name;
- b. Customer address;
- c. Customer phone number;
- d. Liquor store for order pick up;
- e. Brand name;
- f. Manufacturer's name;
- g. Country of origin;
- h. Number of cases desired; and
- i. Bottle size;

- (2) The commission shall obtain a quote from a licensed vendor and return the quote to the citizen;
- (3) An order may be placed before the expiration date of the quote by the citizen;
- (4) The order shall be submitted to a store or the commission office; and
- (5) All orders shall be picked up and paid for at the store designated.

(g) Nothing in these rules shall be construed as to prohibit on-premises and off-premises licensees or citizens from purchasing, at their own risk, through permitted direct shippers.

(h) Errors in ordering, shipping or receiving shall be reported, processed and the supplies returned within three days of their receipt.

(i) Errors in an order from the warehouse shall be resolved by contacting the commission office.

(j) Errors in an order from a state store shall be resolved at the store where the sale was made.

(k) Incomplete orders, orders submitted without payment or not in compliance with Liq 900 shall not be processed and shall be returned stating the reasons therefore.

Source. (See Revision Note at chapter heading for Liq 400) #5043, eff 1-11-91; ss by #5180, eff 7-22-91; ss by #6391, eff 11-28-96, EXPIRED: 11-28-04

New. #8243, eff 12-31-04

Liq 402.02 Prohibition on Solicitation of Gifts From Manufacturers, Liquor Vendors, Table Wine Vendors, and Wholesale Distributors. No retail licensee shall solicit, receive or accept any money, merchandise, equipment, or anything else of value from any liquor or wine manufacturer, liquor and wine vendor, liquor and wine representative or liquor and wine sales person, except promotional materials, samples, or services explicitly authorized by statute or rule.

Source. (See Revision Note at chapter heading for Liq 400) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (formerly Liq 402.03), EXPIRED: 11-28-04

New. #8243, eff 12-31-04

Liq 402.03 "A thing of value" means, for the purposes of RSA 179:28, a thing provided to a retail licensee by a beverage industry member which bears substantial brand advertising and which is used in a product display of beverages. The term does not include any thing used in the dispensing or refrigeration of beverages.

Source. #7779, eff 10-18-02; ss by #8243, eff 12-31-04

Liq 402.04 Licensee Entertainment. Retail licensee entertainment by alcohol industry members shall not be considered a violation of RSA Title XIII, provided such entertainment is deductible as a business entertainment expense under the Internal Revenue Code.

Source. #7779, eff 10-18-02; ss by #8243, eff 12-31-04

PART Liq 403 SIGN RESTRICTIONS

Liq 403.01 "Neon sign" means, for the purposes of RSA Title XIII, a sign constructed from tubing containing neon or other noble gas used to advertise alcoholic products.

Source. (See Revision Note at chapter heading for Liq 400) #5043, eff 1-11-91; rpld by #6391, eff 11-28-96

New. #7779, eff-10-18-02; ss by #8243, eff 12-31-04

Liq 403.02 Neon Sign Advertising. Brand advertising of liquor or beverages by means of neon signs shall not be permitted in NH.

Source. (See Revision Note at chapter heading for Liq 400) #5043, eff 1-11-91; rpld by #6391, eff 11-28-96

New. #7779, eff-10-18-02; ss by #8243, eff 12-31-04

PART Liq 404 PREMISES

Liq 404.01 Gambling. No licensee shall use, or allow to be used, the premises for the illegal sale of lottery tickets or games of chance, gambling, or booking of horses or sports events.

Source. (See Revision Note at chapter heading for Liq 400) #5043, eff 1-11-91; ss by #6391, eff 11-28-96, EXPIRED: 11-28-04

New. #8243, eff 12-31-04

Liq 404.02 Grocery or Convenience Stores Combination Licenses.

(a) Licensees licensed as grocery stores under RSA 178:16 shall have and maintain readily available to the public representative grocery stock which includes:

- (1) Bread products;
- (2) Meat products, whether fresh or canned;
- (3) Dairy products, including milk;
- (4) Cereal products, whether hot or cold;
- (5) Vegetables, whether canned or fresh;
- (6) Fruit, whether canned or fresh; and
- (7) Snack foods.

(b) The following limitations shall apply:

- (1) Hardware, fishing tackle, so called sundry items and the like shall not be counted grocery stock for the purposes of the minimum required wholesale inventory; and
- (2) Partially used or open containers of food shall not be counted as grocery stock for the purposes of the minimum required wholesale inventory, with the exception of deli meats, cheeses, and salads.

Source. (See Revision Note at chapter heading for Liq 400) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 404.03), EXPIRED: 11-28-04

New. #8243, eff 12-31-04

Liq 404.03 Use of Cocktail Lounges. The cocktail lounge shall be maintained solely as such except when:

- (a) All alcoholic beverage and liquor is secured or removed from the cocktail lounge; and

(b) No liquor is served, sold, or consumed in the cocktail lounge.

Source. (See Revision Note at chapter heading for Liq 400) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 404.04), EXPIRED: 11-28-04

New. #8243, eff 12-31-04

Liq 404.04 Curbside Service; Retail Delivery.

(a) For the purposes of this rule curb service means any delivery of beverage, wine or liquor to any location which is not specifically authorized by rule or statute.

(b) Curb service of liquor, wine or beverage shall be prohibited.

(c) Notwithstanding the provisions of Liq 404.05(a) and (b), all off-sale combination and retail table wine licensees and their agents who are authorized by statute to deliver beverage or table wine shall be able to travel from town to town or from place to place in the same town carrying prepaid or COD orders for delivery of any beverage or table wine they are licensed to sell provided:

(1) The order was received at their place of business prior to the loading of the vehicle;

(2) The licensee or employee has in their possession in the vehicle:

a. A copy of the combination or retail table wine license; and

b. A delivery invoice showing the quantities, type, origin and destination of the alcoholic beverage or table wine being delivered;

(3) The beverage or table wine is delivered to a physical building or residence; and

(4) The beverage or table wine is invoiced and delivered only to a person meeting the requirements of RSA 179:5.

(d) In no case shall any beverage, table wine or liquor be transferred or delivered to a person on a street, sidewalk or other way.

Source. (See Revision Note at chapter heading for Liq 400) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 404.05), EXPIRED: 11-28-04

New. #8243, eff 12-31-04

Liq 404.05 Authorization For Other Areas Licensing Criteria.

(a) Holders of on-sale licenses, other than vessel, dining car or rail car licenses, may extend service of beverage and liquor to clearly defined areas provided:

(1) Service is extended to rooms on the contiguous premises as defined by RSA 175:1, LIV, patio areas which are clearly defined, swimming pools with clearly defined areas, other clearly defined areas which the licensee may designate for alcoholic beverage service;

(2) They have petitioned in writing pursuant to Liq 205.10 to the commission for approval of alcoholic beverage service to these areas; and

(3) They have received permission pursuant to Liq 205.10 from the commission in writing granting permission for such service.

(b) Clearly defined areas for the purpose of this rule shall be so constructed as to place physical barriers to indicate to patrons exactly which locations are authorized for the service of alcoholic beverages. The physical barriers shall be ropes, shrubbery which is tall enough to be a physical barrier so as to be construed to be a fence, fences, railings, gazebos, tents with side walls, tents or gazebos with a physical barrier set around them or other similarly clearly defined area.

(c) The holder of a bed and breakfast, restaurant, full service restaurant or convention center license may extend service of beverage and liquor to an outside cafe style area provided they meet the following criteria:

- (1) The area is contiguous to the licensed premises and clearly defined as defined in Liq 404.05(a) and (b);
- (2) The area proposed for service of alcoholic beverages has been approved by the appropriate agency of the town or city it is located in, or the town or city supplies the licensee a letter indicating they have no objection to the proposed cafe style area;
- (3) They have petitioned pursuant to Liq 205.10 in writing to the commission for approval of alcoholic beverage service to these areas; and
- (4) They have received permission pursuant to Liq 205.10(a)(1)b. from the commission in writing granting permission for such service.

(d) The holder of a golf course license may extend service of liquor or beverage to the leased, rented or owned premises of a golf facility's fairways provided a service plan is submitted and approved.

(e) "Service plan" for the purposes of Liq 404.05(c) means a written proposal, offered by a golf facility licensee, outlining the method and manner of service of alcoholic beverages on property owned, leased or rented by the licensee.

(f) Approval of a service plan shall be based upon the requirements of Liq 509.01 for mobil service bars and shall include consideration of communication from a local community objecting or not objecting to the plan.

Source. #5289, eff 1-1-92; ss and moved by #6391, eff 11-28-96 (from Liq 404.06); amd by #7779, eff 10-18-02; ss by #8243, eff 12-31-04

Liq 404.06 Felon Exception Approvals.

(a) A licensee shall petition the commission pursuant to Liq 205.10 if the licensee wishes to have a convicted felon approved as a person in charge of the premises.

(b) The petition shall include the full name including any aliases, address, date and place of birth of the applicant to be approved.

(c) For the purposes of Liq 404.06(a) "a person in charge" means:

- (1) Any manager;
- (2) A person left in charge of a licensed premise in the absence of the owner; or
- (3) Any person who sells, serves or handles alcoholic beverages as a part of their employment.

(d) A licensee desiring a convicted felon to be approved by the commission pursuant to RSA 179:23, V as a person in charge as defined by Liq 404.06(c) shall submit copies of the following documents:

(1) A notarized copy of the felony complaint to substantiate the conviction for which the exception is desired; and

(2) Either of the following:

a. A letter from the convicted felon's parole or probation officer stating that:

1. At least 6 months have passed since the person was placed on parole or probation;
2. The person has not been convicted of any further crime during that 6 month period other than traffic violations; and
3. The individual is allowed by the conditions of their probation or parole to serve, sell, or otherwise handle alcoholic beverages; or

b. In the case of a convicted felon who is not on parole or probation, the licensee shall submit:

1. Proof from the court of jurisdiction, corrections facility or other controlling authority that the person was not or is no longer on parole or probation; and
2. Either of the following:

- (i) A current copy of the person's criminal history and motor vehicle record; or
- (ii) An affidavit of the individual attesting that they have not been convicted of any further crime, other than traffic violations.

(e) An applicant for a license who is convicted of a felony other than abduction, arson, incest, manslaughter in the first degree, mayhem, murder, rape, robbery, or as a result of trafficking in drugs may petition the commission pursuant to Liq 205.10 to have an exception granted pursuant to RSA 178:4.

(f) The petition shall include the full name including any aliases, address, date and place of birth of the applicant to be approved.

(g) The following categories of persons who have been convicted of a felony, which is not specifically excluded by Liq 404.06(e) shall be approved pursuant to RSA 178:4 prior to or concurrently with any license being issued:

- (1) An officer or director of a corporation;
- (2) A stockholder owning 5% or more of the outstanding shares of a corporation;
- (3) A partner in a partnership or a partner owning 5% or more of a partnership with over 20 partners; and
- (4) A sole proprietor.

(h) Each individual desiring an exception approval pursuant to RSA 178:4 shall submit the following documents:

- (1) A notarized copy of the felony complaint to substantiate the conviction for which the exception is desired;
- (2) A letter from the person's parole or probation officer stating that:
 - a. At least 5 years passed since the person was placed on parole or probation;
 - b. The person has not been convicted of any further crime, other than traffic violations, during that five year period; and
 - c. The individual is allowed by the conditions of their probation or parole to serve, sell, or otherwise handle alcoholic beverages; or
- (3) In the case of a convicted felon who was not or is no longer on parole or probation the applicant shall submit:
 - a. Proof from the court of jurisdiction, corrections facility or other controlling authority that the person was not or is no longer on parole or probation;
 - b. A copy of the person's criminal history and motor vehicle record; and
 - c. An affidavit of the individual attesting that they were not convicted of any further crime during that five year period - other than traffic violations.

(i) All petitions shall be filed as required by Liq 205.08.

Source. #5289, eff 1-1-92; ss by #6391, eff 11-28-96, EXPIRED: 11-28-04

New. #8243, eff 12-31-04

Liq 404.07 Safekeeping of Licenses.

(a) "Safekeeping" means a voluntary surrendering by a licensee of the privileges granted by the license without surrendering the license on a permanent basis to provide for a moratorium on all administrative rule and statutory licensing requirements of that license type during the time the license is listed in safekeeping.

(b) Licensees not utilizing the privileges granted by their license for extended periods of time, such as closing for the season, closing for the remainder of a license term or closing for more than 30 days shall submit their license to the commission for safekeeping.

(c) Licensees not wishing to utilize the privileges granted by their license for specific periods of time may submit their

license to the commission for safekeeping.

(d) A license shall be considered received for safekeeping on the date:

- (1) It is actually received at the commission offices with a letter signed by the licensee requesting that the license be placed in safekeeping; or
- (2) The license is listed "in safekeeping" on the daily "reports of overdue accounts list" under the licenses surrendered section.

(e) No licensee shall utilize any of the privileges granted by their license during the time their license is in safekeeping.

(f) To be returned from safekeeping a licensee shall request the commission or an investigator to return the license from safekeeping, either orally or in writing.

(g) A licensee shall meet all statutory and administrative rule requirements for licensure for the type of license currently held before the license shall be returned from safekeeping.

Source. #5289, eff 1-1-92, EXPIRED: 1-1-98

New. #8243, eff 12-31-04

PART Liq 405 PUBLIC SAMPLING OF BEVERAGE/LIQUOR/WINE PURSUANT TO RSA 179:44

Statutory Authority: RSA 179:44

Liq 405.01 Definitions.

(a) "Beverage/liquor/wine public sampling" for the provisions of this part means a licensee giving to the public, free of charge, samples of beverage/wine/liquor for tasting for promotional purposes.

(b) "Licensee" for the provisions of this part means a holder of an on-sale, off-sale, liquor or wine vendor, liquor or wine representative, domestic wine manufacturer, beverage vendor, beverage manufacturer, wholesale distributor, and brewpub license. Holders of off premises special licenses under RSA 178:18 and one day licenses under RSA 178:22 are not licensees for the purposes of this part.

Source. #6091, INTERIM, eff 9-19-95, EXPIRED 1-17-96

New. #6187, eff 2-21-96; ss and moved by #6391, eff 11-28-96 (formerly Liq 406.01), EXPIRED: 11-28-04

New. #8243, eff 12-31-04

Liq 405.02 Beverage/Liquor/Wine Public Sampling Notification. The commission shall be notified prior to any beverage/liquor/wine public sampling by the licensee providing the samples.

Source. #6091, INTERIM, eff 9-19-95, EXPIRED 1-17-96

New. #6187, eff 2-21-96; ss and moved by #6391, eff 11-28-96 (formerly Liq 406.02), EXPIRED: 11-28-04

New. #8243, eff 12-31-04

Liq 405.03 Liquor/Wine Purchases, Restrictions.

(a) All liquor/wine used for public sampling shall be purchased from the commission by the licensee providing the samples under their license.

(b) All beverage used for public sampling on a licensed premise shall be that which has been approved for sale in this state, pursuant to RSA 179:33, I & II and Liq 506.09 and obtained under the provisions of title XIII.

(c) Unused beverage/liquor/wine shall be added to the purchasing licensee's inventory after the tasting.

(d) All beverage/ wine/ liquor used for public sampling which is not purchased by the on- or off-sale licensee on whose premise the public sampling is held shall be removed from the on or off-sale premise immediately after the public sampling by

the licensee who purchased the product.

(e) The licensee purchasing the beverage/wine/liquor shall maintain records for at least 60 days, available to the commission, of the quantities of beverage/liquor/wine by brand used for public sampling.

Source. #6091, INTERIM, eff 9-19-95, EXPIRED 1-17-96

New. #6187, eff 2-21-96; ss and moved by #6391, eff 11-28-96 (formerly Liq 406.03), EXPIRED: 11-28-04

New. #8243, eff 12-31-04

Liq 405.04 Who May Conduct Tastings/Responsibility.

(a) On-sale and off-sale licensees other than off sale special licensees and on sale one day licensees may conduct or host beverage/liquor/wine public sampling on their licensed premises.

(b) Liquor/wine vendors, liquor/wine representatives, domestic wine manufacturers, beverage vendors, beverage manufacturers, wholesale distributors, and brewpubs shall only conduct public sampling in conjunction with on-sale or off-sale licensees on the on or off sale licensed premises.

(c) The licensee on whose premise the public sampling occurs and the licensee conducting the sampling shall both be equally responsible for ensuring that all requirements are met under this title.

(d) The licensee on whose premise a public sampling is being conducted and the licensee conducting the sampling shall not allow:

- (1) Any person under 21 years of age to consume alcohol products;
- (2) Any intoxicated person to consume alcohol or remain on the premises where the tasting is being conducted; and
- (3) Free servings other than as provided in 406.05(a) and (b).

Source. #6091, INTERIM, eff 9-19-95, EXPIRED 1-17-96

New. #6187, eff 2-21-96; ss and moved by #6391, eff 11-28-96 (formerly Liq 406.04), EXPIRED: 11-28-04

New. #8243, eff 12-31-04

Liq 405.05 Serving Sizes, Restrictions.

(a) Servings at public samplings shall not exceed 1/2 ounce for any liquor or fortified wine, 2 ounces for any table wine, and 4 ounces for any beverage.

(b) Hours of tasting shall be during legal hours of sale for the licensed premise;

Source. #6091, INTERIM, eff 9-19-95, EXPIRED 1-17-96

New. #6187, eff 2-21-96; ss and moved by #6391, eff 11-28-96 (formerly Liq 406.05), EXPIRED: 11-28-04

New. #8243, eff 12-31-04

Liq 405.06 Advertising. All advertising for beverage/liquor/wine public sampling shall be in conformance with state laws and commission rules.

Source. #6091, INTERIM, eff 9-19-95, EXPIRED 1-17-96

New. #6187, eff 2-21-96; ss and moved by #6391, eff 11-28-96 (formerly Liq 406.06), EXPIRED: 11-28-04

New. #8243, eff 12-31-04

CHAPTER Liq 500 RULES RELATING TO PARTICULAR LICENSEES

Statutory Authority: RSA 176:14

REVISION NOTE

Document #5043, effective 1-11-91, made extensive changes to the wording and format of Chapter Liq 500. Document #5043 supersedes all prior filings for the sections in this chapter. The filings prior to Document #5043 for former Liq 500 include the following documents:

#727, eff 12-18-75
 #2137, eff 9-30-82
 #1532, eff 2-13-80
 #2742, eff 6-14-84
 #1833, eff 10-13-81
 #2931, eff 12-26-84

All of the rules in former Chapter Liq 500 expired on 12-26-90.

Many rules in Chapter Liq 500 filed as part of Document #5043 are amended and renumbered versions of former rules in this chapter. The sections in Chapter Liq 500 filed as part of Document #5043 are listed below with their former number if applicable.

<u>New Number</u>	<u>Former Number</u>	<u>New Number</u>	<u>Former Number</u>
Liq 501.01	Liq 502.01	Liq 504.01	Liq 508.07
501.02	502.02		
501.03	502.03	Liq 505.01	Liq 509.01
501.04	502.04	505.02	509.02
501.05	502.05	505.03	509.03
501.06	---	505.04	509.04
501.07	502.09	505.05	509.05
501.08	502.10	505.06	509.06
501.09	502.11	505.07	509.07
501.10	502.12	505.08	509.08
501.11	502.13	505.09	509.09
501.12	502.14	505.10	509.10
501.13	502.15		
501.14	502.16	Liq 506.01	Liq 510.01
501.15	---	506.02	510.02
		506.03	510.03
Liq 502.01	505.01	506.04	510.04
502.02	505.02	506.05	510.05
502.03	505.06	506.06	510.06
502.04	505.09	506.07	510.07
502.05	505.10	506.08	---
502.06	---	506.09	---
502.07	---	506.10	---
		506.11	---
Liq 503.01	507.01		
503.02	507.03	Liq 507.01	---
503.03	507.04	507.02	---
503.04	507.08	507.03	---
503.05	507.13	507.04	---
503.06	507.16	507.05	---
503.07	---	507.06	---
		507.11	---

PART Liq 501 CLUBS

Liq 501.01 Definitions. As used in this part, unless a different meaning is clearly intended from the context:

(a) "Club member" means any person who has full privileges in the club, a vote in its affairs and the right to run for office.

(b) "Auxiliary member" means an individual recognized and defined in the by-laws of a private club who has canteen and other club privileges, but who is not a full voting member of the club.

(c) "Guest" means an adult person who is accompanied by a club member or auxiliary member and registered in the club guest book.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 501.02 Roster of Members. Club licensees shall have a roster of their members and auxiliaries with their addresses for inspection by the commission or its investigators at any time that the club is open. The roster shall be kept on the licensed premises.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 501.03 Sons of the American Legion, Veterans and Social Club Auxiliary Member Cocktail Lounge Privileges.

(a) Clubs having auxiliaries associated with them may extend cocktail lounge privileges to the membership thereof.

(b) American Legion clubs having Sons of the American Legion affiliates may also extend membership privileges to members thereof.

(c) In no case shall any non-member have cocktail lounge privileges, except that members, a member of the Sons of the American Legion, and auxiliary members of a club licensed under RSA 178:20, V,(h) shall be entitled to cocktail lounge privileges at any other like national fraternal club in this state provided, that member, member of the Sons of the American Legion, or auxiliary member has on his person and displays on request a current membership card of that same national fraternal organization.

(d) The by-laws of the private club which grant auxiliary membership status to a group of individuals shall be on file with the commission offices to provide for formal recognition of the club's auxiliary members by the commission.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #5289, eff 1-1-92; ss by #6391, eff 11-28-96

Liq 501.04 People to Whom Liquor May be Served In Veterans and Social Clubs. No beverages or liquor shall be sold to the general public or to any other persons except members, guests, members of the Sons of the American Legion, or auxiliary members of a club in this state affiliated with the same national fraternal organization and licensed under 178:20 V, (h) provided that member, member of the Sons of the American Legion, or auxiliary member has on his person, and displays on request, a current membership card of that same national fraternal organization.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #5289, eff 1-1-92; ss by #6391, eff 11-28-96

Liq 501.05 Guests and the Guest Book Requirements For Veterans and Social Clubs.

(a) The guest book shall contain the name and address of the guest together with the name of the accompanying member, member of the Sons of the American Legion, or auxiliary member and the date of attendance. For the purposes of this rule, "address" means the city or town and state.

(b) Each member, member of the Sons of the American Legion, or auxiliary member may be accompanied by up to 4 guests at any one time.

(c) Such guests may remain on the club premises in the company of such member, member of the Sons of the American Legion, or auxiliary member but only so long as such member, member of the Sons of the American Legion, or auxiliary member shall remain in the club.

(d) The guest book shall be open for inspection by commission investigators at all times.

(e) Guest books shall be written legibly and maintained on the premises for at least one year.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #5289, eff 1-1-92; ss by #6391, eff 11-28-96

Liq 501.06 Access Restricted. The entrance to a private club shall be restricted by a bell or buzzer system in order to gain entrance to the club.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 501.07 Records Available for Inspection. Club licensees shall have all their records available for inspection including financial records, and such records shall be kept in the English language.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 501.08 Date for Submission of Report; Forms.

(a) All club licensees shall make a sworn return to the commission once each month, showing the income from liquor sold and expenses chargeable to that part of the license as reported on form 233.

(b) All such reports shall be forwarded to the commission prior to the 15th day of the following month.

(c) Each club licensee filing pursuant to paragraphs (a) and (b) shall supply on form 233 the following:

(1) Name, address, number of members, license number and the month and year of the reporting period;

(2) A statement of profit and loss for the reporting period, including:

a. Income from sale of liquor and beverage;

b. Dues, miscellaneous income and total income; and

c. A computation of the cost of goods sold including:

1. Beginning monthly inventory of liquor, beverage, bar supplies, miscellaneous and their total;

2. Monthly purchases of liquor, beverage, bar supplies, miscellaneous and their total;

3. Total monthly merchandise available; and

4. Total cost of ending monthly inventory of liquor, beverage, bar supplies, and miscellaneous.

(3) Operating expenses for the reporting period including:

a. Rent, salaries, heat, lights, water and telephone;

b. Insurance and interest, repairs and alterations;

c. Janitorial services and supplies;

d. Taxes, charitable donations, licenses, transportation, club socials and member benefits, entertainment, loss and waste; and

e. Total expenses.

(4) Computation of profit and loss for the month including:

a. Gross profit or loss; and

b. Net profit or loss.

(5) Balance sheet for the reporting period including first of the month and last of the month figures for:

a. Assets, including:

1. Checking accounts;
 2. Savings account;
 3. Cash on hand;
 4. Petty cash or change fund;
 5. Merchandise inventory;
 6. Bonds;
 7. Real estate; and
 8. Furniture and equipment;
- b. Total of the above assets;
- c. Liabilities, including:
1. Accounts payable;
 2. Notes payable;
 3. Mortgage payable;
 4. Taxes payable; and
 5. Surplus;
- d. Total liabilities and surplus; and
- (6) The date, reporting officer's signature, title, and expiration date of office term.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #5180, eff 7-22-91; ss by #6391, eff 11-28-96

Liq 501.09 Beano Games.

(a) Club licensees shall forward written notification to the commission at least five days prior to holding beano games as defined by RSA 287-E.

(b) No liquor or beverage shall be sold by any club licensee during and for 15 minutes following the close of beano games on each approved date when such affairs are open to the public.

(c) Beano games conducted in approved rental halls may be conducted concurrently with the operation of the club canteen and shall be treated as rentals under the provisions of Liq 502.15.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 501.10 Minutes of Meetings; Financial Statement Retained. Minutes of all club meetings and monthly financial statements of club operations covering a period of 3 years prior to the current date shall be retained on the club premises and made available to the commission, its examiners, or investigators at any time.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 501.11 Application for Membership. Application for club membership shall be made in writing and such application shall include name, address, date of application and signature of applicant. Application cards shall be retained on the club premises and made available to the commission or its investigators at any time.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 501.12 Beverages and Liquor Served.

All beverages and liquor consumed on the club premises shall be those which are sold by the club except private groups may bring in and serve, or, if a one day license holder, sell their own liquor and beverage in approved rental halls or rooms.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 501.13)

Liq 501.13 Rental of Club Rooms.

(a) Club licensees having halls or rooms on the premises available for rentals shall have such halls or rooms licensed by the commission, pursuant to RSA 178:20, V(h)(3), prior to any rental or any supplemental license being issued.

(b) These rooms or halls shall have separate:

- (1) Toilet facilities; and
- (2) Entrances and exits from the club proper.

(c) Club and rental areas must be completely separated during the period of rental.

(d) Club licensees shall notify the commission in writing at least five days before the date of any rental.

(e) This notification shall include:

- (1) The name of the individual or organization desiring to rent the hall, and
- (2) The date and time of the rental.

(f) Club licensees shall be responsible for the maintenance of order and compliance with state laws and town ordinances governing these assemblies.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 501.14 Advertisements.

(a) Club licensee advertisements for club affairs to be held on their licensed premises shall contain the statement "FOR MEMBERS AND THEIR GUESTS ONLY". The lettering of such statement shall be at least as large as any other lettering in the advertisement.

(b) Attendance at such affairs shall be limited to members and guests only; and

(c) No advertising shall invite the general public and non-members to attend.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 501.15 Transfers.

(a) All petitions, pursuant to RSA 178:22, for transfer of a club license shall be received in the commission's offices at least 5 days prior to the event.

(b) Transfers shall not exceed 3 consecutive days and 6 total days for any organization during their license year.

Source. (See Revision Note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

PART Liq 502 HOTELS

Liq 502.01 Service Bars. Hotel licensees may have auxiliary service bars in any hotel areas licensed for service and sale of alcoholic beverages.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #5180, eff 7-22-91; ss and moved by #6391, eff 11-28-96 (from Liq

502.02)

Liq 502.02 Minimum Opening Requirement For Hotels.

- (a) When open for business the holder of a hotel liquor license shall be open for business at least five days per week.
- (b) Exceptions to this rule shall be granted for limited periods of time on specific written request to the commission.
- (c) Written requests for an exception to Liq 502.02(a) shall include:
 - (1) The name and address and license number of the business;
 - (2) The proposed opening schedule; and
 - (3) The signature of the owner or manager.

(d) Approval shall be granted for specific periods of time requested by the licensee, provided the requested hours do not conflict with any other statute or rule.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (formerly Liq 502.04)

Liq 502.03 Service and Preparation of Food. The holder of a hotel full service restaurant license or his employees shall prepare, cook and serve the food for the restaurant. In no case shall the food concession be leased or rented out to any other person.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (formerly Liq 502.06)

PART Liq 503 RESTAURANTS

Liq 503.01 Account of Business.

- (a) The holder of a restaurant liquor license shall file and preserve his individual sales slips and maintain a complete and accurate account of business, separated in such manner that the commission upon audit may determine the total amount of sales of food as compared to the sales of beverage, liquor and incidentals.
- (b) Such license holder shall maintain purchase orders, sales slips and register tapes.
- (c) All sales shall be recorded on a cash register which separates sales of liquor and beverage from sales of food.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 503.02)

Liq 503.02 Certification Form.

(a) A certificate form covering food, beverage and liquor sales made by the licensee during the previous calendar year shall be filed by each licensee licensed pursuant to RSA 178:19, II(a)(1) with the commission between January 15 and February 15 of each year. All restaurant sales shall be noted on said certificate form which will be furnished by the commission.

- (b) The licensee shall supply on certificate form (No.17) the following:
 - (1) Name, address, and liquor license number of the business;
 - (2) Dates of the business period covered;
 - (3) Restaurant and cocktail lounge sales of food and sundry items;
 - (4) Total sales of beverage and liquor in the restaurant and cocktail lounge;
 - (5) Combined total sales of restaurant and cocktail lounge; and
 - (6) Signature of the individual, all partners, members or designated manager of a limited liability company, or president or secretary of a corporation, as applicable;

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 503.03)

Liq 503.03 Minimum Opening Requirement For Full Service Restaurants.

- (a) The holder of a full service restaurant liquor license shall be open for business at least five days per week.
- (b) Exceptions to this rule shall be granted for limited periods of time on a specific written request to the commission:
- (c) Written requests for exceptions to Liq 503.03(a) shall include:
 - (1) The name, address and license number of the of the business;
 - (2) The proposed opening schedule; and
 - (3) The signature of the owner or manager.

(d) Approval shall be granted for specific periods of time requested by the licensee provided the requested hours do not conflict with any other statute or rule.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 503.04)

Liq 503.04 Service and Preparation of Food. The holder of a restaurant license or his employees shall prepare, cook and serve the food for the restaurant. In no case shall the food concession be leased or rented out to any other person.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #5180, eff 7-22-91; ss and moved by #6391, eff 11-28-96 (formerly Liq 503.07)

PART Liq 504 RESERVED

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; rpld by #6391, eff 11-28-96

PART Liq 505 ONE DAY LICENSES ISSUED PURSUANT TO RSA 178:20, V(1).

Liq 505.01 Definitions. As used in this part, unless a different meaning is clearly intended from the text:

- (a) "One day license holder" means a holder of a one day license for voluntary non-profit organizations.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 505.02 Conflict of Rules. One day license holders shall comply with the provisions of a one day license rule when it conflicts with another rule.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 505.03 Hours of Service. Hours of service shall be noted on the license and no beverage or liquor shall be sold or consumed except during those hours.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 505.05)

Liq 505.04 Records to be Maintained.

(a) One day license holders shall maintain records showing the amount of money derived from the sale of beverage or liquor or both, the expense incurred in making such sales and the distribution of profits realized from said sales.

(b) Said records shall be made available for audit on request by the commission, its examiners or investigators at any time subsequent to the issuance of a license.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss

and moved by #6391, eff 11-28-96 (formerly Liq 505.08)

Liq 505.05 Surrender of License.

(a) If the commission's investigator suspends the one day license for sales contrary to public safety, one day license holders shall:

- (1) Surrender their license on demand to any investigator of the commission; and
- (2) Shall immediately cease all sales of beverage and liquor.

(b) Sales contrary to public safety shall include multiple violations of RSA 179:5 and or violations of RSA 179:50 or 179:51.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (formerly Liq 505.09)

PART Liq 506 WHOLESALE DISTRIBUTORS, BEVERAGE MANUFACTURERS, BEVERAGE VENDORS, BEVERAGE VENDOR IMPORTERS, BEVERAGE SOLICITORS AND OTHER LICENSEES

Liq 506.01 Rebates and Discounts.

(a) No holder of a wholesale distributor's or beverage representative's license shall give or grant any rebate or discount except such as are given or granted by them to all licensees for similar purchases, as reflected in prices and discount schedules posted with the commission.

(b) All rebates or discounts shall be shown on invoices, sales slips, delivery slips and office records.

(c) Discounts not posted with the commission and false credits for defective beverage shall be considered violations of this section.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 506.02 Sale or Delivery in Less than Case Lots. Holders of wholesale distributor's licenses shall sell or deliver beverage in original or equivalent containers as prepared for the market by the manufacturer.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 506.03)

Liq 506.03 Equipment, Furniture, Fixtures and Property.

(a) Holders of a beverage vendor's or beverage vendor importer's license, beverage manufacturer's or wholesale distributor's license or his beverage representative may:

- (1) Lend, install or service or cause to be installed or serviced, equipment commonly known as taps, rods, and hose connections from the barrel to the backtin, where the faucets and taps are mounted, or permanent dispensing system; and
- (2) Lend or give such washers, clamps, bungs, that are necessary to cause such tapping equipment to function properly and also furnish knobs designating brands of beer dispensed in outlets.

(b) In no case shall installations be made or services given to any other part of the dispensing system such as coils, faucets, compressors, gas, air gauges, cooling equipment or other parts of such equipment necessary for proper function of the complete dispensing system.

(c) Holders of off sale licenses may loan pumps and tapping equipment for use at picnics and outings for non licensees or one day license holders.

(d) No holder of an on-sale or off-sale license shall knowingly hire or employ as a contractor, any person who holds a license issued under RSA Title XIII, except as allowed by RSA 179:11, III.

(e) Nothing in this rule shall prohibit a holder of a beverage vendor or beverage vendor importer, beverage manufacturer or wholesale distributor's license or his beverage representative from instructing a licensee in the proper method

of using or cleaning of equipment.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 506.04)

Liq 506.04 Sale on Credit. No wholesale distributor shall sell beverage on credit except to those persons holding retail licenses and then in accordance with RSA 179:13.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #5180, eff 7-22-91; ss and moved by #6391, eff 11-28-96 (from Liq 506.05)

Liq 506.05 Deposits, Rebates.

(a) Any deposits on beverage containers, and conditions for redemption, shall be included on wholesale distributor's price postings for said beverages.

(b) Rebates for returned containers shall:

- (1) Be clearly shown on invoices; and
- (2) Not exceed the deposits charged for said containers.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 506.06)

Liq 506.06 Keg Registration.

(a) Any NH licensee selling draught beer kegs to the public shall affix a NHSLC keg registration form to each keg sold which contains:

- (1) The trade name and license number of the seller;
- (2) The name of the clerk making the sale;
- (3) The name, address, and date of birth of the purchaser;
- (4) The type of identification card used to verify the data required by (3) above; and
- (5) The i.d. number of the document;
- (6) A statement of the purchaser's legal responsibilities; and
- (7) The dated signature of the purchaser.

(b) Licensees shall not affix any keg registration form until it has been completely filled out.

(c) Licensees shall keep a copy of the keg registration form for at least one year from date of purchase.

(d) The NHSLC keg registration forms shall be available for inspection by commission investigators or examiners.

(e) Licensees shall obtain keg registration forms only from the New Hampshire liquor commission.

(f) Licensees shall either:

- (1) Deliver the keg to the purchaser at the time the NHSLC keg registration form is signed and affixed to the keg;
or
- (2) Deliver the keg only to the person who signed the keg registration form; and
- (3) Obtain a signed and dated delivery receipt which shall be retained with the licensee copy of the keg registration form.

(g) After 31 March, 2001 a NH licensee accepting any return of a keg from the public which does not have a keg registration form affixed shall:

- (1) Obtain the name, address, and date of birth of the person returning the keg;
- (2) Note the type of identification card used to verify the data required by (1) above;
- (3) Note the i.d. number of the document; and
- (4) Report this information to the bureau of liquor enforcement within 5 business days.

(h) Licensees who violate the provisions of these rules shall be subject to the penalties provided under Liq 603.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 506.07); ss by #7423, eff 2-1-01

Liq 506.07 Wholesale Distributor Transfer and Receipt From Other Than Beverage Vendor or Beverage Vendor Importer.

(a) Wholesale distributors receiving alcoholic beverage from other than a beverage vendor or beverage vendor importer shall report within 48 hours to the commission and to the concerned beverage vendor or beverage vendor importer in writing on the wholesalers letterhead all particulars of the transaction, including the date of transfer, the shipping party, the quantity shipped, and the sender's invoice number and its date.

(b) Wholesale distributors transferring alcoholic beverages to an out of state entity or other entity shall within 48 hours report to the commission and to the concerned beverage vendor or beverage vendor importer in writing on the wholesaler's letterhead all particulars of the transaction, including the date of transfer, the quantity transferred, the party transferred to and the wholesale distributor's invoice number of the transfer.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 506.08)

Liq 506.08 Licensing. Each beverage vendor or beverage vendor importer to be licensed in the State of New Hampshire shall be the manufacturer of the beverage to be sold within the state, except when a manufacturer designates another person to be exclusively licensed to vend their beverages within the state of New Hampshire.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 506.09)

Liq 506.09 Registration; Territories. Beverage vendors, beverage vendor importers, brew pubs, and beverage manufacturers shall provide the commission with the following information to receive approval for the brand of beverage and package size prior to shipping into or selling any beverage within the state:

- (a) A copy of the label;
- (b) A copy of the federal label approval, if required, to produce such label;
- (c) A certified alcoholic content analysis performed at 60 degrees Fahrenheit by volume;
- (d) Package size approval requests;
- (e) A copy of all territorial agreements between the vendor and the wholesale distributors; and
- (f) Any other information which may be required by federal law, rule, or state statute.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss and moved by #6391, eff 11-28-96 (from Liq 506.10)

Liq 506.10 Forms; Filing Deadlines.

(a) Beverage vendors, beverage vendor importers, brew pubs and other licensed suppliers of beverage shall report to the commission all shipments of beverage sold to, transferred to, and returned for credit by each wholesale distributor within the state, by the 10th of the month covering sales for the preceding month.

(b) Each beverage vendor, beverage vendor importer, brew pub or other licensed supplier of beverage shall supply on forms supplied by the commission the following:

- (1) The vendor's name, address, license number and reporting period dates;

- (2) The names, addresses, and of each wholesale distributor to whom alcoholic beverages were shipped;
- (3) The number of packages, quantity of each type of package and size of each type of package shipped to or returned for credit by each wholesale distributor licensed in this state; and
- (4) Signature of the person making and remitting the report.

(c) Wholesale distributors shall report to the commission all shipments of beverage sold or transferred at retail or wholesale or returned to beverage vendors or other suppliers, by the 10th of the month covering sales for the preceding month.

(d) Each wholesale distributor shall supply on form 246 and supported by forms 248 schedule A, 249 schedule B, 250 schedule C, 251 schedule D, 252 schedule E, 253 schedule F, 254 schedule G, and 255 schedule H supplied by the commission the following information:

- (1) Name, address, license number and reporting period of the licensee;
- (2) The number and sizes of barrels and cases or other packages:
 - a. On hand at the first of the month;
 - b. Purchased or received during the month;
 - c. Returned from the retailer;
 - d. Computed as the total available during the month;
 - e. On hand at the end of the month;
 - f. Computed as the difference between total available and on hand at end of month; and
 - g. Lost and/or wasted;
- (3) Deductions on which additional fees as provided by RSA 178:28 are exempt, including:
 - a. Returns from the retailer;
 - b. Sales outside N.H.;
 - c. Returns to beverage vendors, beverage vendor importers, manufacturers, brew pubs, or other licensed supplier; and
 - d. Total of deductions on which additional fee pursuant to RSA 178:28 is exempt.
- (4) Net quantity on which additional fees pursuant to RSA 178:28, I is to be paid, including:
 - a. Total gallonage per package type; and
 - b. Net gallonage on all package types.
- (5) Total additional fee due;
- (6) Total additional fee due plus adjustment vouchers;
- (7) Balance due; and
- (8) Signature and date.

(e) Beverage manufacturers within the state shall report to the commission all beverages sold or furnished, by the 10th of the month covering sales or other distribution for the preceding month pursuant to RSA 178:30.

(f) Each beverage manufacturer shall supply on a form supplied by the commission the following:

- (1) The manufacturer's name, address, license number and reporting period dates;
- (2) The number of packages, quantity of each type of package and size of each type of package shipped to each retailer licensed in this state and sold at retail; and

- (3) Signature of the person making and remitting the report.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #5180, eff 7-22-91; ss and moved by #6391, eff 11-28-96 (from Liq 506.11)

Liq 506.11 Beverage Manufacturers Tax Reporting; Filing Deadlines.

(a) Each beverage manufacturer shall report to the commission all quantities of beverage sold directly to the public, consumed in an authorized hospitality room, distributed or sold to employees for their consumption, or transferred to the premise of any restaurant authorized under RSA 178:10, II and issued pursuant to RSA 178:18, II, RSA 178:19,II(a)(1), or RSA 178:20, V(q) by the 10th of the month covering sales or transfers for the preceding month.

- (b) This report shall include the following:

- (1) The beverage manufacturer's name, address, and license number;
- (2) The month being reported;
- (3) The dates of each transfer of beverage to the vessel or restaurant premise ; and
- (4) For each transfer reported:
 - a. If transferred directly to the vessel or restaurant serving tanks:
 1. The name of the brand transferred;
 2. The total number of gallons;
 3. The total loss and waste in gallons; and
 4. The total number of gallons transferred or sold to the restaurant; and
 - b. If transferred in kegs or other approved packages:
 1. The brands transferred;
 2. The packages transferred, with quantity of each package; and
 3. The total gallons transferred;
- (5) The total sales to the public for off premise consumption, including for each brand sold:
 - a. The total of each package type sold; and
 - b. The total gallons sold;
- (6) The total of sales or distributions to employees for consumption, which shall include for each brand:
 - a. The total of each package type; and
 - b. The total gallons;
- (7) The total additional fees required by RSA 178:30, I;
- (8) Signature of the owner, a partner, Limited Liability Company member or manager, or a corporate officer; and
- (9) An attached copy of the beverage manufacturer's monthly or quarterly BATF brewers report of operations covering the period of the report.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #5180, eff 7-22-91; ss and moved by #6391, eff 11-28-96 (from Liq 506.12)

Liq 506.12 Wine Manufacturer Requirements. Each wine manufacturer licensed under RSA 178:6 shall purchase wine

for blending only from a holder of a table wine vendor license issued pursuant to RSA 178:7.

Source. #5289, eff 1-1-92; ss and moved by #6391, eff 11-28-96 (from Liq 506.13)

Liq 506.13 Bill and Hold Procedures.

(a) For the purposes of this rule "bill and hold" shall mean a contractual agreement between any retail licensee and a wholesale distributor for sale of beverage in more than one delivery based upon the current price on file with the commission, pursuant to RSA 179:33, IV at the time of initial delivery, and a certain minimum quantity of beverage ordered, paid for and completely delivered within 10 calendar days of the first delivery date.

(b) Pursuant to RSA 179:33, III all original bill and hold invoices shall:

- (1) Be dated with the date of first delivery of the product to the licensee;
- (2) Be noted with the phrase "delivery for bill and hold" and the invoice number;
- (3) State the terms of the bill and hold contract which shall at least include:
 - a. The bill and hold invoice number;
 - b. The last date of delivery allowed for the product to be received for a bill and hold order as defined by Liq 506.13(a);
 - c. The last date that payment shall be received at the wholesale distributor's place of business for a bill and hold order as defined by Liq 506.13(a); and
 - d. A statement that if the bill and hold provisions as defined by Liq 506.13(a) are not met exactly, that the bill and hold invoice shall be voided by the wholesale distributor and replaced by separate invoices for each delivery of beverage, priced at the cost for that quantity of beverage, as filed with the commission pursuant to RSA 179:33, IV on that delivery date.
- (4) Be legibly receipted with the amount of payment, the date of the payment and who received payment on behalf of the wholesale distributor.

(c) All bill and hold contracts shall be between the wholesale distributor and the retail licensee. Settlement of any dispute arising therefrom shall be the sole responsibility of the contracting parties.

(d) Any bill and hold merchandise not delivered on the initial delivery shall remain the property of the wholesale distributor and be stored on the licensed premises of the wholesale distributor.

(e) No pre-paid bill and hold orders for beverage shall be permitted. A retailer may place funds on account with a wholesale distributor, which may be applied to invoices once the beverage is delivered, but shall not be encumbered by undelivered orders.

(f) If a wholesale distributor fails to complete the terms of the bill and hold agreement they shall invoice the retailer for the amount of beverage actually received at the bill and hold price.

(g) If a retailer refuses to complete the terms of the bill and hold agreement the wholesale distributor shall invoice the retailer for the amount of beverage actually received at the standard or base price in effect and filed with the Commission pursuant to RSA 179:33, IV at the time of the original bill and hold order.

(h) Disputed bills, reported to the commission as delinquent pursuant to RSA 179:13, shall be handled as provided by RSA 179:13, III.

Source. #5289, eff 1-1-92; ss by #6391, eff 11-28-96

Liq 506.14 Ownership and Pricing of Beverage Product; Prepaid Orders.

(a) For the purposes of RSA Title XIII and commission administrative rules, ownership of beverage product shall transfer from:

- (1) The wholesale distributor to the retail licensee upon delivery by the wholesale distributor and acceptance by

the retailer, or upon pick up of beverage at the wholesale distributor's place of business by the retailer; and

(2) The beverage vendor or beverage vendor importer to the wholesale distributor on the date of delivery at the wholesale distributor's premises, or upon pick up of beverage at a beverage vendor's, beverage vendor importer's or wholesale distributor's place of business by the wholesale distributor.

(b) Pursuant to RSA 179:33, IV prices charged for beverage products shall be those posted with the commission effective the date of transfer of ownership of the beverage product, except for those invoices of beverage product issued pursuant to the provisions of Liq 506.14.

(c) All prices and terms, including bill and hold shall be:

(1) Registered with the commission pursuant to RSA 179:41; and

(2) Made available to all retailers on an equal basis.

(d) No other prices and terms shall be offered to retailers than those filed with the commission pursuant to RSA 179:41.

(e) No pre-paid orders for beverage shall be permitted. A retailer may place funds on account with a wholesale distributor, which may be applied to invoices once the beverage is delivered, but shall not be encumbered by undelivered orders.

Source. #6391, eff 11-28-96

Liq 506.15 Brew Pub Reporting Forms; Filing Deadlines.

(a) Each brew pub shall report to the commission all quantities of beverage produced, transferred to the bonded area, sold or transferred to any licensed wholesaler by the 10th of the month covering sales or transfers for the preceding month.

(b) Each brew pub shall supply on a form supplied by the commission or an approved equivalent document the following:

(1) The brew pub's name, address, and license number;

(2) The month being reported;

(3) The dates of each batch of beverage brewed;

(4) For each batch brewed:

a. The total number of barrels or gallons;

b. The total loss and waste in barrels or gallons; and

c. The total number of barrels or gallons transferred or sold to the bonded area;

(5) The total, in gallons, of all beverages transferred to the bonded area for the tax month reported;

(6) Quantities in gallons sold to wholesalers, which shall also be reported on forms 258 and 334 listed by invoice;

(7) The total fees required by RSA 178:10-a; and

(8) Signature of the owner, a partner, or a corporate officer.

(c) A copy of the brewpub's monthly BATF brewer's report of operations for the period reported shall be attached;

(d) If the brewpub files quarterly BATF brewer's report of operations:

(1) Copies of the brewpub's biweekly BATF tax forms for the period shall be attached; and

(2) A copy of the quarterly BATF report shall be submitted to the commission when filed.

Source. #6391, eff 11-28-96

PART Liq 507 CATERER'S ON AND OFF SITE LICENSES

Liq 507.01 Definitions. For purposes of this part, the following terms shall be construed as set forth below:

(a) "Private group" means an assembly of persons gathered for a designated social or business occasion, present by reservation or invitation, and shall in no way be construed to mean the general public.

(b) "Public building" means any building, excluding all private residences, maintained and available for any person, group or organization, including:

- (1) Retail business establishments when not open to the public;
- (2) A licensed premise provided there is a physical barrier between the licensed business and the catered area; and
- (3) Tents, gazebos, or other defined outdoor areas provided two separate toilet facilities are located within the immediate vicinity.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 507.02 Notification.

(a) Caterers and off-site caterers shall notify the commission in writing at least 5 business days before the date of any scheduled event at which alcoholic beverages will be served on premises currently licensed for this purpose.

(b) The licensee shall supply the following:

- (1) Name, address, liquor license number and phone number of the business;
- (2) Name of the clients, dates, times, and locations in the case of an off-site caterer of the functions.
- (3) Signature of the licensee or his manager.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 507.03 Application For Additional Sites.

(a) At least 10 business days prior to a function off site caterers shall apply for approval of any permanent or temporary site not previously approved for the service of alcoholic beverages

(b) The licensee shall supply on a form provided by the commission the following information and documentation:

- (1) Name, address, liquor license number of the business.
- (2) Names of the client, type of event, address of the client.
- (3) Name of the building or site, address, owner of the site and his address.
- (4) Proof of authority to occupy the premises and the building capacity pursuant to Liq 702.03 (a)(1).
- (5) Proof of compliance with the fire codes pursuant to Liq 703.03 (a)(2).
- (6) Proof of compliance with health codes pursuant to Liq 703.03 (a)(5).
- (7) Proof of compliance with RSA 179:19, II & III with regard to entertainment.
- (8) Signature of the applicant under the penalties of RSA 641:3 .

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 507.04 Restrictions on Serving.

(a) Holders of a caterer's or off-site caterer's licenses shall serve alcoholic beverages only to private groups.

(b) Notwithstanding the provisions of paragraph (a), the holder of a caterer's supplemental license issued pursuant to RSA 178:20, V(e)(1)(B) may serve the public provided that:

- (1) They have petitioned the commission pursuant to Liq 205.10(a)(1) for permission to utilize a supplemental license date at least 5 days prior to the scheduled event giving the date, times of the event and nature of any entertainment to be conducted on the premises;
- (2) At such times as they are serving liquor or beverage to the public they shall serve food; and
- (3) They shall not simultaneously serve both the public and private groups unless they have separate toilet facilities, entrances, exits and a complete separation shall be effected between the public groups and the private group portion of the premise during the period of the supplemental license.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #5289, eff 1-1-92; ss by #6391, eff 11-28-96

Liq 507.05 Certification Form.

(a) A caterer licensed pursuant to RSA 178:20 V(e)(1), shall file commission certification of caterer's sales certificate form covering food, beverage and liquor sales made by the licensee during the previous calendar year with the commission between January 15 and February 15 of each year.

(b) Pursuant to paragraph (a) the licensee shall supply the following:

- (1) Name, address, liquor license number of the business;
- (2) Dates of the business period covered;
- (3) Total caterers sales of food and sundry items;
- (4) Total sales of beverage and liquor;
- (5) Combined sales of sundries, catered food and beverage and liquor.
- (6) The signature of the individual, all partners, or president or secretary of a corporation.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #5180, eff 7-22-91; ss by #6391, eff 11-28-96

Liq 507.06 Account of Business.

(a) The holder of an on-site caterer's license shall file and preserve his individual sales slips and maintain a complete and accurate account of business, separated in such manner that the commission upon audit can determine the total amount of sales of food as compared to the sales of beverage, liquor and incidentals.

(b) Such license holder shall maintain purchase orders, sales slips and register tapes. The cash register shall be of a type capable of registering sales of liquor and beverage separately from those of food.

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; ss by #6391, eff 11-28-96

Liq 507.07 Service and Preparation of Food. RESERVED

Source. (See Revision note at chapter heading for Liq 500) #5043, eff 1-11-91; rpld by #5289, eff 1-1-92

PART Liq 508 AGENCY STORES

Liq 508.01 Purpose. The purpose of these rules is to set forth the requirements for agency liquor stores as provided for in RSA 177:9 in towns where there is no state store and where the voters of the town have voted to allow the sale of liquor in state stores under RSA 175:7.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.02 Definitions.

(a) "Agency store" means a liquor outlet not owned or operated by the N.H. state liquor commission but licensed by the commission for the purpose of selling packaged liquor to the general public for off-premise consumption and operated in conjunction with another business.

(b) "Agent" means the individual, partnership, association, corporation, or limited liability company licensed as an agency store.

(c) "Business plan of operations" means a full detailed plan for the operation of the agency store for the term of the license, including but not limited to the hours of operation, staffing, inventory, merchandise to be carried, markup and/or pricing policy, a plan of the liquor sales and display area, and advertising or merchandising plans.

(d) "Special seasonal agency store" means an agency store licensed for only 6 months meeting the requirements of Liq 508.02 (a).

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.03 General Conditions.

(a) The agent shall be responsible for:

- (1) Providing a building or sales space;
- (2) Paying all utilities and rent;
- (3) Supplying all fixtures;
- (4) Paying any and all expenses incidental to the operation of the agency store.

(b) The commission shall determine the towns in which agency stores may legally be established.

(c) The commission shall only establish agency stores:

- (1) In a municipality which has voted in favor of the operation of state liquor stores under RSA 175:7;
- (2) In towns with no state liquor store; and
- (3) When the proposed agency store is at least 5 road miles from a state liquor store or any existing agency store.

(d) The commission shall, at least annually, review the towns where agency stores may be established and determine whether establishment of agency stores in any of those towns is in the state's interest.

(e) There shall be no presumption that any agency store license will be renewed at its expiration. All renewals shall be solely at the commission's discretion.

(f) In the case of non-renewal of an agency store license, the commission shall have no obligation, financial or otherwise, to the agency store operator.

(g) In the case that the commission shall decide to not renew an agency store license, either to award said license to another agent or to discontinue agency operations in the town, the commission shall notify the agency store operator at least 30 days prior to his license expiration.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.04 Special Seasonal Agency Stores.

(a) The commission shall choose towns in which to issue 6-month special seasonal agency store license based on seasonal tourist population and the sales volume at existing state and agency liquor stores in the same areas.

(b) The 5-road mile spacing requirement in Liq 508.03(c)(3) for location of agency liquor stores shall apply to seasonal agency stores.

- (c) The commission shall apply the same selection criteria and method of advertising for and selecting seasonal agency stores as for regular agency stores.
- (d) The commission shall not buy back any stock remaining at the end of the seasonal license period.
- (e) Seasonal license applicants shall include plans for off season storage of liquor in their proposed business plan of operations.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.05 Agency Store Discounts/Compensation.

- (a) All agency stores shall receive a purchase discount allowance of 8% from commission retail prices.
- (b) No other compensation shall accrue.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.06 Status of Agency Store Operator and Employees.

- (a) Agents and their employees shall not:

- (1) Be considered commission employees; or
- (2) Be entitled to any benefits of employment from the State of New Hampshire.

(b) An agency store shall, upon entering an agency agreement with the state, agree to hold harmless and indemnify the State of New Hampshire for any actions brought against it as a result of negligent or intentional conduct of the agency store.

- (c) All agency store personnel shall meet the requirements of RSA 179:23.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.07 Days and Hours of Operation.

- (a) Agency stores shall be considered off-sale licenses for the purposes of maximum operating hours.

(b) Agency stores and seasonal agency stores shall be open to the public as specified in their business plan of operations, but not less than 40 hours per week.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.08 Temporary Closures.

(a) Any agency store that plans to be closed or not operate scheduled hours as called for in their accepted business plan of operations shall send written notice to the commission at least 7 days in advance of the closing or change in scheduled hours of operation.

(b) The notice shall state the reason for the closure or change of hours of the agency store, the date of closing or schedule change, and the date the of the intended reopening.

- (c) In an emergency, written notice including a full explanation shall be filed as soon as possible.

(d) Failure to notify the commission shall result in administrative action by the commission whereby the commission shall consider suspension or revocation of the agency store operation.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.09 Advertising and Promotion. Agency stores shall be subject to the same restrictions on advertising and promotion which apply to off-sale combination licenses and retail table wine licenses found in RSA 179.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.10 Sales Restrictions. The retail off-sale provisions of RSA 179 shall apply to agency stores.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.11 Prices.

(a) All agency stores shall submit a plan of operation to the commission, which shall include their proposed pricing policy, which shall be adhered to during the term of the license.

(b) This pricing policy may only be modified with the written permission of the commission.

(c) All spirits sold by the agency store shall be priced the same as or higher than as sold in state liquor stores.

(d) Agency operators may use a depletion or post-off price that is being offered at a state liquor store.

(e) There shall be no ceiling limitation as to pricing by the agency store.

(f) De-listed products may be discounted at the same level as in state liquor stores.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.12 Inventory.

(a) The agency store may carry in its inventory any size and code which is listed in the general commission price list.

(b) Agency stores shall carry an inventory as detailed in the business plan of operations accepted by the commission.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.13 Purchasing of Liquor.

(a) Merchandise shall be purchased directly from the commission in a manner agreed to prior to licensing.

(b) No returns other than wrong or defective merchandise shall be allowed.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.14 Store Operations. The agent or his commission-approved manager shall manage and operate the store according to the terms of the business plan of operations accepted by the commission..

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.15 Storage Facilities; Premises. The agent shall, at the agent's expense, provide premises which contain sufficient selling area and protective storage space for the store operation as detailed in the agent's business plan of operations accepted by the commission.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.16 Sales Agent Selection Procedure.

(a) When the commission shall determine a location meeting the requirements of RSA 177:11 and Liq 508.03 (c) in which it wishes to establish an agency store or seasonal agency store, it shall seek applications from the public in the following manner:

- (1) The commission shall advertise the location in a daily newspaper in the county where the agency store is to be located and in at least one daily newspaper circulated statewide.
- (2) The commission shall also notify the town clerk of the commission's intention; and
- (3) The commission shall request that notice be posted at the town hall or other appropriate locations.

(b) The advertisement and notice shall include:

- (1) General selection criteria and procedures for selection and appointing a retail sales agent as required by Liq 508.16(d) and (e) and Liq 508.17;
- (2) Deadline for receiving applications; and
- (3) How to obtain additional information.

(c) The commission shall evaluate all applications and select the applicant which, in its judgement shall:

- (1) Provide the greatest revenue to the state, and
- (2) Provide the best service to the public, considering the following factors:
 - a. Price;
 - b. Selection;
 - c. Hours of operation;
 - d. Location; and
 - e. Sales area and layout.

(d) The commission shall give finalists advance notice of the public meeting when the commissioners shall appoint an agent using the selection criteria required by RSA 177:11, IV found in Liq 508.16 and Liq 508.17.

(e) The appointment of the agent shall be based on the criteria established by RSA 177:11, IV, Liq 508.16, and Liq 508.17.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.17 Agency Store Sales Agent Selection Criteria.

(a) A sales agent applicant shall:

- (1) Submit a business plan of operations detailing how the proposed agency store would operate during the term of the license;
- (2) Be a citizen;
- (3) Be at least 21 years of age;
- (4) Have had the experience of 3 years of owning and operating a business operation;
- (5) Be a resident of the State;

(b) The agency store shall be operated as an adjunct to an existing business.

- (c) The priority of business type selection shall be:
- (1) First to retail grocery outlets with combination licenses;
 - (2) Then to convenience stores having a combination license;
 - (3) Then to pharmacies having a combination license; and
 - (4) Then to other retail outlets as defined by RSA 175:1, LX.
- (d) The existing adjunct business should have an operation realizing at least \$500,000 in gross sales annually.
- (e) Other agency applicant selection criteria shall include:
- (1) Retail business experience at the current location;
 - (2) Retail experience at other locations;
 - (3) Whether the applicant, or his designated manager, has:
 - a. A record of felony conviction;
 - b. Conviction of crime relating to money management fraud;
 - c. A history of conviction of crimes relating to the abuse of alcohol or controlled substances;
 - d. A history of violations of the provisions of RSA179 at the proposed location or at other licensed locations;
 - e. Proof that the applicant, if convicted of a felony, meets the requirements of RSA 178:25 for exception.
 - (4) Financial ability to purchase or lease and equip the retail liquor store at a commission approved location; and
 - (5) Ability to provide the necessary funds to meet the operating expenses of the retail liquor store.
- (f) All agency store applicants submitting an application for an agency store license shall fulfill all requirements for a licensee as required by Liq 700.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.18 Annual Agency Store License Renewal Review.

- (a) The commission shall not automatically renew agency store licenses .
- (b) Agency store operators shall file with the commission revised business plans of operation 2 months prior to license expiration.
- (c) Existing businesses meeting the requirements of Liq 508.17 in a town where an agency store is licensed may file a business plan of operations with the commission, with a request that the commission evaluate the plan before reissuing an agency store license.
- (d) The commission shall evaluate all business plans of operation on file prior to renewing an agency store license, and award the license to the operator who appears to be of greatest benefit to the state pursuant to Liq 506.16(c).
- (e) The commission shall not relicense agency store operations which do not adhere to their accepted business plan of operations and any commission approved changes to it.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.19 Sales Agent Vacancy. The commission shall discontinue or seek sales agent applications for an agency store location that has a sales agent vacancy.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq 508.20 Prohibitions. No sales agent, partner of a sales agent or officer or director of a sales agent shall be employed by a business that is licensed as a vendor, manufacturer, broker, importer, warehouser, representative or distributor of liquor or beverages.

Source. #5261, eff 10-30-91; EXPIRED 10-30-97

New. #6666, eff 1-1-98

Liq PART 509 GOLF FACILITY

Liq 509.01 Beverage Sales From Mobile Service Bars on Golf Fairways.

(a) Golf facility licensees may apply to provide service of beverage to patrons on the fairways from mobile service bars provided a service plan as defined in Liq 404.05 (a)(2) has been submitted.

(b) A "mobile service bar" for the purposes of this rule shall mean any golf cart or other similar vehicle, which is staffed by a person meeting the requirements of RSA 179:23, IV & V and which has been outfitted for storage, cooling or refrigeration, sale and service of beverage in cans or bottles.

(c) No golf facility licensee shall sell or otherwise provide alcoholic beverage or liquor to patrons on any portion of the golf course without prior approval by the commission.

(d) Licensees holding a golf facility license may petition the commission, pursuant to Liq 205.10(a)(1)/Liq 406.06 to be approved for beverage sales and service from one or more mobile service bars on the golf course.

(e) The commission shall only grant permission to golf facility licensees for mobile service bars under the following conditions:

- (1) All individuals selling, serving or dispensing beverage from mobile service bars shall meet the requirements of RSA 179:23 IV or V.
- (2) All beverage and liquor possessed and consumed on the premises shall be that sold by the licensee;
- (3) A sufficient number of employees shall be deployed to adequately control and insure adherence to all statutes and rules for the serving, sale and consumption of beverage on the golf course;
- (4) No service or consumption of any alcoholic beverage shall be allowed in parking lots, except in areas approved for service of liquor and beverage pursuant to RSA 178:21 and Liq 404.06;
- (5) No licensee nor their employees shall allow patrons to leave the premise with liquor or beverage; and
- (6) Only one drink shall be served to an individual at a time, pursuant to RSA 178:20, I.

(f) Licensees may have their mobile service bar privilege suspended or revoked in addition to any other administrative penalty imposed by the commission for a violation of statute or rule which stems from service or sale of beverage from mobile service bars on the fairways.

Source. #6391, eff 11-28-96

RULE	STATUTE
Liq 301.02	RSA 176:13
Liq 306.01	RSA 176:13
Liq 304	RSA 176:13
Liq 401 - 402	RSA 176:11, RSA 176:13; RSA 176:14
Liq 403	RSA 176:14; RSA 179:25
Liq 404.01	RSA 179:19, VI
Liq 404.02	RSA 178:15; RSA 175:1, XXXVI
Liq 404.03	RSA 179:22, II
Liq 404.04	RSA 179:18, I
Liq 404.05	RSA 178:24
Liq 404.06	RSA 178:4; RSA 179:23, V
Liq 404.07	RSA 175:1, LX-a
Liq 405	RSA 179:44, II
Liq 506.06	RSA 179:5-a