



Relative to delinquent payment of accounts by on premises and off premises licensees.

Relative and Applicable Statutes and Rules:

RSA 179:13

1. Purpose.

The 2022/2023 legislative session brought several changes to the New Hampshire alcohol licensed community. The changes discussed below were contained in SB 98-FN and amend RSA 179:13, I and RSA 179:13, III and have an effective date of July 1, 2023. This Industry Circular will review the law change. The New Hampshire Liquor Commission, Division of Enforcement and Licensing (Commission) has provided this guidance document to inform the industry of the changes in the law and to answer questions from the public.

2. Authority.

Administrative Rule Liq. 201¹ gives the Commission the authority to interpret statutes and administrative rules. This question falls within the authority of the Commission. The purpose of Title XIII is to provide an orderly and controlled environment for the manufacture, wholesale and retail sale of alcoholic beverages. To that extent the General Court has charged the Commission with the fair and reasonable interpretation of the statutes and the administrative rules established under law.

3. Discussion of the Issues.

RSA 179:13, I - Alcoholic Beverages; Enforcement; Delinquent Payments.

A. Those impacted by the change contained in paragraph I are wholesale distributors, brew pubs, nano brewers, and beverage manufacturer licensees. Paragraph I previously required these industry members to report to the commission the name and license number of any on-premises or off-premises licensee who is delinquent in making payment of accounts over a total of \$100 dollars within 10 days, including Sundays and holidays, from the date of delivery of beverages on the premises of such on-premises or off-



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premises licensee or on the premises of a liquor/wine/beverage warehouse storing the beverages for an on-premises or off-premises licensee.

The law change increases the amount of the reportable delinquency by the industry members listed above from \$100 to \$250.

B. SB 98-FN also changed paragraph III of RSA 179:13. RSA 179:13 not only requires wholesale distributors, brew pubs, nano brewers, and beverage manufacturer licensees to report any delinquent on-premises or off-premises licensee whose delinquency exceeds \$250, but it places a corresponding duty upon the commission to advise all industry members listed in the statute of any on-premises or off-premises delinquency reported to the Commission of \$250 or more. This is referred to as “The List” by the Commission.

C. The timely and accurate reporting of delinquent licensees is as critical as the consequences of being placed on the “list” because deliveries are prohibited to the licensees placed on the list in RSA 179:13, I. “No holder of a beverage manufacturer license, beverage vendor license, brew pub license, nano brewery license, or wholesale distributor license shall **knowingly** make any delivery of beverages to any licensee whose payments for purchases of beverages are reported as delinquent under this section. **An industry member that delivers alcohol to a licensee placed on the list risks administrative action by the Commission against their license.**

D. RSA 179:13, III gives the Commission the authority to “withhold names of delinquent licensees under circumstances in which there is a dispute over payments, an agreement to liquidate which has been approved by the Commission, or other reason which the Commission may deem proper.”

4. Questions and Additional Information.

The following are representative of some questions liquor manufacturers might have regarding the law change.



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Q. Is 179:13 a new statute?

A. No. RSA 179:13 has been in effect for many years and is a well-established statutorily prescribed requirement. SB 98 made a very narrow change to the statute by increasing the amount of a reportable delinquency from \$100 to \$250. Existing practices and requirements laid out in the statute remain unchanged.

Q. I am an existing beverage wholesaler. Store X is a great customer and purchases a tremendous amount of product from us. Somebody there dropped the ball and the account owes us \$5,000. I don't want to anger them by reporting them delinquent... do I need to advise the commission?

A. If the on-premises or off-premises licensee is delinquent and falls within the days of delinquency matrix listed in the statute they must be reported. Failure to do so exposes the wholesaler to possible administrative action.

More Questions? - Industry members who have questions about the policy changes outlined above should contact the Unit at the Division of Enforcement & Licensing at 603-271-3929.

i 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.