



John H. Lynch  
Governor

## New Hampshire Liquor Commission

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Joseph W. Mollica  
Chairman

Mark M. Bodi  
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Michael R. Milligan  
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June 08, 2011

Jill Sieveking, Acting Director  
Office of Legislative Services  
Room 109, State House  
Concord NH 03301

RE: Adoption of Liquor Rules 1100

I, Joseph W. Mollica, Chairman of the New Hampshire Liquor Commission, hereby certify that the enclosed is a true copy of our Liquor Rules 1100 adopted by the New Hampshire Liquor Commission on Wednesday, June 08, 2011.

These rules are to take effect at 12:01 AM on June 09, 2011.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Mollica".

Joseph W. Mollica, Chairman  
NH Liquor Commission

Adopt Liq 1100, previously effective 1-1-99 (Document #6924), and expired 1-1-07, to read as follows:

## CHAPTER Liq 1100 RULES RELATING TO DIRECT SHIPMENT

### PART Liq 1101 CHAPTER DEFINITIONS

Liq 1101.01 Definition of Terms. The following terms shall be construed for the purposes of this chapter as set forth below:

- (a) "Addressee" means the person named on a direct delivery invoice;
- (b) "Licensed common carrier" means the holder of a carrier license issued by the NH liquor commission;
- (c) Direct shipper means a holder of a direct shipper permit issued by the NH liquor commission;
- (d) "Direct shipper permit" means a permit issued by the NH liquor commission to an individual, corporation, partnership, or limited liability company which holds a valid liquor license in another state, to ship beverages, wine, or liquor directly to NH consumers or licensees via NH licensed common carrier;
- (e) "Retail price" means the price the consumer paid to the direct shipper for beverage, wine, or liquor shipped by direct shippers into NH. The term shall include all charges except the actual amount paid by the direct shipper to a licensed common carrier for delivery; and
- (f) "Wine manufacturer" means the holder of a TTB winery permit who only sells wines manufactured under that permit.

### PART Liq 1102 OVERLYING CONDITIONS FOR PERMITS

Liq 1102.01 Completing Forms. Whenever a person is required to complete a form, as described in RSA 178 and this chapter, the following provisions shall apply:

- (a) Forms shall be filled out completely and truthfully;
- (b) Forms shall be completed in a legible manner;
- (c) Forms shall be completed in non-fading, non-erasable graphic such as ink or typewritten;
- (d) Forms shall be signed by the business owner, a partner, corporate officer, or member of a limited liability corporation; and
- (e) In the event an applicant fails to comply with an application rule or statute, such applicant's application shall not be processed and the application form and any submitted fee shall be returned to the applicant with the reasons for the application not being processed. Notification shall be made in writing and within 10 working days.

Liq 1102.02 Incomplete Forms Rejected. In the event a person submits an incomplete form, such form shall not be processed. The application form and any submitted fee shall be returned to the applicant with the reason for return and a contact number noted.

Liq 1102.03 Fees, Form of Payment.

(a) Payment shall be made in the form of United States currency, a check, money order, other negotiable instrument payable upon demand, or electronic or credit/debit payment as approved by the NH liquor commission for the total amount due for each permit sought.

(b) Such instrument described in paragraph (a) above shall be made payable to the "State of New Hampshire-Liquor Commission". A suitable alternative term, including but not limited to "State of NH", "State Liquor Commission", or "Liquor Commission", shall not be cause for refusal to accept such instrument, providing it does not lend itself to endorsement of the instrument by any other party other than the state of New Hampshire, nor for any private individual or purpose.

(c) Any payment made to the NH liquor commission by check which is returned as unpayable for any reason including any penalty assessment required by RSA 6:11-a shall be replaced by cash, money order or certified check within 24 hours, excluding weekends and holidays, after notification of the licensee or one of their employees, or proceedings for suspension or revocation of the permit shall be initiated.

(d) Direct shipper permit holders who ship less than 5 shipments into NH during a 12 month permit period may, after the permit period has ended, request a refund in writing from the NH liquor commission. The NH liquor commission shall refund 20% of the permit fee paid multiplied by 5 minus the number of shipments made during the permit period.

Liq 1102.04 Applicant Information Required.

(a) A photocopy of the applicant's home state license to sell alcoholic beverages shall be attached to the permit application.

(b) A copy of the applicant's registration from his or her state or other governing authority of domicile to conduct business shall be attached to the permit application.

(c) If the applicant is requesting the \$100 wine manufacturer direct shipper permit provide:

(1) A copy of the applicant's TTB wine manufacturer permit; and

(2) Certify on the NH permit application that the applicant only sells wine manufactured under that TTB permit .

(d) The applicant shall provide on a form supplied by the commission:

(1) Business legal name and trade name under which the business shall operate in NH;

(2) Whether the business is a single proprietorship, partnership, corporation, or limited liability company;

(3) Business phone number;

- (4) Business mailing address, and the business physical address if different from the mailing address;
- (5) The names and addresses of the business owners if a single proprietorship or partnership, or the names and addresses of the corporate officers or members in the case of a corporation or limited liability company; and
- (6) A statement certifying that the business shall operate under NH statutes including Title 13 and the rules of the NH liquor commission.

Liq 1102.05 Permit Renewals. Renewal of permits shall be the responsibility of the permittee. Failure of the NH liquor commission to notify the permittee shall not extend the existing permit or excuse shipment into NH without a permit.

#### PART Liq 1103 SHIPMENT AND FEE REPORTING

Liq 1103.01 Direct Shipping Reports and Fees Due. Each direct delivery shipper permittee shall file at the NH liquor commission offices no later than the fifteenth calendar day of the month following each month for which there are shipments into NH:

- (a) A completed shipment report;
- (b) Copies of all invoices delivered to NH; and
- (c) Required direct shipment fee payments covering all deliveries into NH for the preceding month.

#### Liq 1103.02 Direct Shipper Shipment Report.

- (a) The NH liquor commission shall provide to each direct delivery permittee at or prior to initial permit issuance a Direct Shipper Shipment Report form.
- (b) The permittee shall include the following on the Direct Shipper Shipment Form:
  - (1) The direct shipper name;
  - (2) The direct shipper address;
  - (3) The direct shipper permit number;
  - (4) The month covered by the form;
  - (5) The number of invoices shipped into NH during the month;
  - (6) The dollar total of the above invoices, including shipping, and with shipping subtracted;
  - (7) The total direct shipment fee owed; and
  - (8) A signature, with the notation that the signature is made attesting to the accuracy of the tax report under the provisions of RSA 641:3.
- (c) The permittee shall attach to the Direct Shipper Shipment Report either:

(1) Copies of invoices showing:

- a. The names and addresses of the individuals to whom the alcoholic beverages were shipped;
- b. The brands of products shipped and the quantities of each brand;
- c. The prices charged for each brand;
- d. The licensed common carrier used to deliver the alcoholic beverages; and
- e. The licensed common carrier tracking number used to identify each shipment; or

(2) A report containing the information required above.

PART Liq 1104 LICENSED COMMON CARRIER REQUIREMENTS FOR DIRECT SHIPMENTS

Liq 1104.01 Record Keeping Requirements. Licensed common carriers delivering alcohol from direct delivery permittees shall maintain copies of adult signatures for each delivery of alcoholic beverages for a period of not less than 6 months from the date of delivery, and make such signatures available upon request to NH liquor commission auditors or investigators.

Liq 1104.02 Delivery Requirements. Licensed common carriers delivering alcohol from direct delivery permittees shall:

(a) Require an adult signature on a signature form or other format approved by the NH liquor commission; and

(b) Refuse delivery when:

- (1) An adult refuses to personally accept and sign for the alcohol; or
- (2) The addressee or the adult receiving the shipment appears to be:
  - a. Under age 21;
  - b. Legally intoxicated;
  - c. Under the influence of drugs; or
  - d. Meets any criteria of Title 13 which would make such delivery of alcohol illegal by a NH licensee.

Liq 1104.03 Warehouse Requirements for Direct Delivery Shipments.

(a) A warehouse license shall not be required for direct shipped alcohol, provided that alcohol is not stored any longer than required for transfer from a delivery vehicle to the next scheduled local delivery vehicle;

(b) When an adult is not available to sign for the initial delivery attempt, a licensed common carrier may hold the product for delivery not more than 7 calendar days without NH liquor commission approval.

(c) Alcohol which is refused or undeliverable shall, within 7 calendar days of receipt in NH:

(1) Be returned to the direct delivery shipper; or

(2) The NH liquor commission shall be notified and the alcohol held for NH liquor commission pick up and disposal.

Liq 1104.04 Commission Notification. The NH liquor commission shall provide licensed common carriers with lists of direct shipper permittees upon request, and at least monthly provide a list of unauthorized direct shippers from whom delivery is prohibited.

Liq 1104.05 Illegal Products. Licensed common carriers shall only deliver alcohol in NH which has been shipped by holders of NH direct shipper permits, the NH liquor commission, or NH liquor licensees. Any other deliveries shall be deemed violations of RSA 178:1, I, and shall be prosecuted as such by the NH liquor commission.

Liq 1104.06 Illegal Delivery. The NH liquor commission through its investigators shall prosecute both the individual and the company involved in any delivery violating the provisions of RSA 179:1 or RSA 179:5, I.

Liq 1104.07 Examination of Premises. Licensed common carriers shall provide auditors or investigators of the NH liquor commission:

(a) Full access, without prior notice, to all areas licensed for alcohol shipments; and

(b) With reasonable notice, all shipment and delivery records, including signature records, for all alcohol shipments.

#### PART Liq 1105 DELIVERY RECEIPTS / IDENTIFICATION REQUIREMENTS

Liq 1105.01 Delivery Signature Forms. Each shipment of alcohol into NH from a direct shipper permittee shall be clearly marked as "Alcoholic Beverages Adult Signature Required."

Liq 1105.02 Carrier Shipment Reporting and Signature Retention. Licensed common carriers shall report delivery of packages of alcoholic beverages from direct shipper permittees to the NH liquor commission monthly so as to arrive by the 10<sup>th</sup> of the month following delivery and retain adult signature records for at least 6 months from the date of delivery.

#### PART Liq 1106 LICENSEE PURCHASES FROM DIRECT SHIPPER PERMITTEES

Liq 1106.01 Request to Purchase. NH licensees who wish to obtain products from direct shippers shall request permission from the NH liquor commission by sending a written request to the marketing department of the NH liquor commission, including:

(a) The name of the product or products which the licensee wishes to purchase;

(b) The vintage year of the product, if appropriate, .

(c) The name of the direct shipper from whom the licensee wishes to purchase the product;

(d) The quantity of product the licensee wishes to purchase; and

- (e) Whether the licensee wants permission for a single order or to purchase from this source on an on going basis.

Liq 1106.02 Product Availability Determination. The marketing department of the NH liquor commission shall:

- (a) Determine if the products which the licensee wishes to purchase are currently available from the NH liquor commission, and notify the licensee that the product is currently available; or
- (b) Forward the licensee request to the NH liquor commission with an attached report including:
1. Whether the products are listed with the NH liquor commission but currently out of stock:
  2. Whether the product is a limited allocation item; or that the product is not listed with the NH liquor commission for sale: and
  3. A recommendation as to whether or not approval of the request would harm NH liquor commission revenue.

Liq 1106.03 Commission Determination. The NH liquor commission shall, in a public meeting, determine whether or not to approve the licensee request for purchase from a direct shipper based on the following:

- (a) Financial impact on commission and state revenue;
- (b) Impact on business relationships with NH state suppliers; and
- (c) If the NH liquor commission would profit by listing and selling the products to the licensee.

Liq 1106.04 Licensee Notification. The NH liquor commission shall notify the licensee in writing whether or not the request for purchase has been approved, and of any conditions which the NH liquor commission may attach to any approvals issued. A copy of the notice shall be sent to the direct shipper(s) named in the request.

Appendix:

<b>Rule</b>	<b>Statute Implemented</b>
Liq 1100	RSA 178:27
Liq 1102	RSA 178:27, RSA 178:29
Liq 1103	RSA 178:27, RSA 179:33 III
Liq1104 and 1105	RSA 178:27, RSA 179:5 I
Liq 1106	RSA 178:27, RSA 179:33 III