

CHAPTER Liq 400 RULES GOVERNING LICENSEE OPERATIONS

Statutory Authority: RSA 176:14; RSA 178:4; RSA 178:11; RSA 178:28; RSA 179:15; RSA 179:23; RSA 179:25; and RSA 179:44

Adopt with amendment Liq 401 effective 7-18-14 (Document #10643), to read as follows:

PART Liq 401 DEFINITIONS

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

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

(b) "Approved credit" means a sale on terms pursuant to Liq 900;

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

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

(e) "Commission" means "commission" as defined in RSA 175:1 XXIV, namely "the state liquor commission";

(f) "Thing of value" means, for the purposes of ~~RSA 179:28~~ these rules, 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;

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 commission and the bailment warehouse(s).

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

(c) The commission shall charge the same fees as contracted in (b) above at commission owned warehouses except that no fee shall be charged on liquor and wine products manufactured in NH produced by any vendor who is licensed as a liquor manufacturer pursuant to RSA 178:6, a rectifier pursuant to RSA 178:7, or a wine manufacturer pursuant to RSA 178:8, selling less than 15,000 9-liter-equivalent total cases annually within New Hampshire.

~~(1) Is licensed as a liquor manufacturer pursuant to RSA 178:6, a rectifier pursuant to RSA 178:7, or a wine manufacturer pursuant to RSA 178:8;~~

~~(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 commission shall make available to vendors the amount of the contracted fees charged by bailment warehousemen.

Liq 401.03 Vendor Inventory.

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

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

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

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

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

PART Liq 402 PURCHASING AND SUPPLYING

Readopt with amendment Liq 402.01 effective 6-30-21 (Document # 13225), to read as follows:

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, or commission liquor store shall use the following procedure:

- (1) Orders shall be submitted through the commission's internet ordering system;
- (2) Orders shall be on approved credit or shall be accompanied by acceptable payment;
- (3) All orders shall be picked up at a date and time set by the warehouse or store;
- (4) All orders shall be picked up:

a. At the warehouse by a licensed carrier who will make the delivery to the licensee; or

b. At the store or warehouse by the retail licensee, their employee, or other designated individual, only with presentation of a copy of the retail license at pickup; and

(5) The licensee shall pay all transportation charges for warehouse orders;

_____ (b) Orders to be picked directly from the commission liquor store shelves by a licensee shall be subject to the following conditions:

(1) Orders shall be on approved credit or paid at the register by an acceptable form of payment; and

(2) Licensees picking directly from the 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 licensees the prevailing shelf price at the time of the sale.

(c) Any customer 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 selecting special order, identifying the desired supply, completing, and submitting a Form M-2 “Contact Us” (revised x/2024) to a commission liquor store or the commission office at <https://www.liquorandwineoutlets.com/About-Us/Contact-Us>;

(2) The commission shall obtain a quote from a licensed vendor and return the quote to the customer;

(3) The customer may place an order for the product referenced in the quote before the expiration date of the quote;

(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.

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

(e) Errors in ordering, shipping, billing, or receiving shall be reported, processed, and the supplies returned within 30 days of their receipt.

(f) Errors in an order from the warehouse shall be resolved pursuant to Liq 906.02 by contacting the commission office.

(g) Errors in an order from a commission liquor store shall be resolved pursuant to Liq 906.02 at the store where the sale was made.

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

Adopt with amendment Liq 402-404 effective 7-18-14 (Document #10643), to read as follows:

Liq 402.02 Prohibition on Solicitation of Gifts From any Holder of a Beverage Manufacturer License, Brew Pub License, Wholesale Distributor License, or Beverage Vendor License. No retail licensee shall solicit, receive, or accept any money, merchandise, equipment, or anything else of value from any holder of a beverage manufacturer license, brew pub license, wholesale distributor license, or beverage vendor license, except promotional materials, samples, or services explicitly authorized by statute or rule.

Liq 402.03 Licensee Entertainment. Retail licensee entertainment by alcohol industry members shall not be considered a violation of RSA ~~179:195~~ 180, provided such entertainment is deductible as a business entertainment expense under the Internal Revenue Code.

PART Liq 403 SIGN RESTRICTIONS

Liq 403.01 "Neon sign" means, for the purposes of ~~RSA these rules 175-180~~, a sign constructed from tubing containing neon or other noble gas used to advertise alcoholic products.

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

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, illegal gambling, or wagering.

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~~_____~~ Liq 404.02 Grocery or Convenience Stores Combination Licenses.

(a) Licensees licensed as grocery stores under RSA 178:18 shall have and maintain readily available to the public representative grocery stock not less than \$3,000 wholesale value as provided in RSA 175:1, XXXVI, which includes 6 of the following 11 categories:

- (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;
- (7) Snack foods;-
- (8) Household goods;
- (9) Automotive supplies;
- (10) Hardware and fishing tackle; and
- (11) Personal care items.

(b) 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.

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

(a) All alcoholic beverages, specialty beverages, wine, and liquor is secured or removed from the cocktail lounge; and

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

Liq 404.04 Retail Delivery.

 _____(a) All off-premises combinations and retail table wine licensees, and their agents who are authorized to deliver tobacco products, e-cigarettes, fortified wines, table wines, domestic wines, beverage, or specialty beverages, all as defined in RSA 175:1, shall be able to travel within the state carrying prepaid or cash on delivery ~~COD~~ orders for delivery of any products 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 fortified wines, table wines, domestic wines, beverage, or specialty beverages being delivered;

(3) The fortified wines, table wines, domestic wines, beverage, or specialty beverages are delivered to a physical building or residence; and

(4) The fortified wines, table wines, domestic wines, beverage, or specialty beverages are invoiced and delivered only to a person who is not prohibited from receiving a delivery under~~meeting the requirements of~~ RSA 179:5.

(b) In no case shall any fortified wines, table wines, domestic wines, beverages, or specialty beverages be transferred or delivered to a person on a street, sidewalk, or **other right of way**.

Liq 404.05 Authorization For Other Areas Licensing Criteria.

(a) Holders of on--premises licenses may extend service of fortified wines, table wines, domestic wines, beverage, or specialty beverages, 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, or other clearly defined areas which the licensee designates for alcoholic beverage service;

(2) They have petitioned in writing pursuant to Liq 205 14 to the commission for approval of alcoholic beverage service to these areas; and

(3) They have received permission pursuant to Liq 205. 14 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 set out 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.–14 in writing to the commission for approval of alcoholic beverage service to these areas; and

(4) They have received permission pursuant to Liq 205.14from the commission in writing granting permission for such service.

(d) The holder of a sports recreation facility 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 by the commission.

(e) "Service plan" for the purposes of Liq 404.05(d) means a written proposal, offered by a sports recreational facility golf course 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 mobile service bars and shall include consideration of communication from a local community objecting or not objecting to the plan.

_____Liq 404.06 Felon Exception Approvals.

_____(a) An applicant for a liquor 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- by filing a letter with the division of enforcement to have an exception granted pursuant to RSA 178:4.

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

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_____(c) Each individual who has been convicted of a felony, which is not specifically excluded by Liq 404.06(a) who seeks an exception approval pursuant to RSA 178:4 shall submit the following documents prior to any license being issued:

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

(~~a~~2) A letter from the person's parole or probation officer stating that:

1a. At least 5 years passed since the person was placed on parole or probation;

2b. The person has not been convicted of any further crime, other than violation level traffic offenses, during that 5 year period; and

3e. The individual is allowed by the conditions of their probation or parole to serve, sell, or otherwise handle alcoholic beverages; or

(~~b~~3) In the case of a convicted felon who was not or is no longer on parole or probation the applicant shall submit:

1a. 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;

2b. A copy of the person's criminal history and motor vehicle record; and

3e. Complete and submit Form L-002 “Affidavit” (revised X/24) attesting that they were not convicted of any further crime during that 5 year period, other than violation level traffic offenses.

(2)d. The individual submitting the affidavit shall:

(a+) Sign and date the form; and

(b2) Have the form notarized and certify “I declare, under the provisions of Title XIII and punishable under RSA 641:3 (Unsworn Falsification), that I am authorized to sign on behalf of the business entity providing this report; that I have examined all of the information provided on or with this report; that any information I give may be investigated as allowed by law; that the information is true, correct, and complete to the best of my knowledge and belief and made in good faith.”~~by the individual’s signature that the information on the form is true and correct to the best of the individual’s knowledge and belief, subject to the penalty for making unsworn false statement under RSA 641:3.~~

——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 specific extended periods of time, ~~such as~~ including but not limited to closing for the season, closing for the remainder of a license term, or closing for more than 30 days shall submit their license a request, electronically or in hard copy, to the commission ~~for that the license be placed in~~ safekeeping status.

~~(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 file a request with the commission or an investigator to return the license from safekeeping .~~

~~(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.~~

Readopt w/ amend Liq 405, effective 1-6-17 (Document #12081), to read as follows:

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

Liq 405.01 Definitions.

(a) "Beverage, liquor, or wine public sampling" for the provisions of this part means a licensee giving to the public, free of charge, or selling for a fee, samples of beverages, wine, or liquor as authorized by their license for tasting for promotional purposes.

(b) "Licensee" for the provisions of this part means a holder of an on-premises, off-premises, liquor or wine vendor, liquor or wine representative, domestic wine manufacturer, liquor manufacturer, rectifier, beverage vendor, beverage manufacturer, wholesale distributor, or brewpub license who seeks to provide samples.

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

Liq 405.03 Liquor and Wine Purchases, Restrictions.

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

(b) All beverages used for public sampling on licensed premises 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 RSA 175 through-180.

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

(d) All beverage, wine, and liquor used for public sampling which is not purchased by the on- or off-premises licensee on whose premises the public sampling is held shall be removed from the - premises immediately after the public sampling by the licensee who purchased the product.

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

Liq 405.04 Who May Conduct Tastings and Responsibility.

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

(b) Liquor and wine vendors, liquor and wine representatives, domestic wine manufacturers, liquor manufacturers, rectifiers, beverage vendors, beverage manufacturers, wholesale distributors, and brew pubs shall conduct public sampling in conjunction with on-premises or off-premises licensees on their ~~on or off premises~~-licensed premises.

(c) Wine manufacturers, liquor manufacturers, beverage manufacturers, and brew pubs may conduct public sampling at a farmers’ market in a clearly defined area after the completion and submission~~of the information required by~~ Form A-009 Farmers Market (revised x/2024).⁵

~~(d)~~ (d+) The licensee shall file and preserve individual sales slips and list of samples tasted and maintain a complete and accurate account of business in such a manner that the commission upon audit can determine the total amount of sales.

~~(e)~~ (e2) The individual submitting Form A-009 shall:

a. Sign and date the form; and

b. Certify “I declare, under the provisions of Title XIII and punishable under RSA 641:3 (Unsworn Falsification), that I am authorized to sign on behalf of the business entity providing this report; that I have examined all of the information provided on or with this report; that any information I give may be investigated as allowed by law; that the information is true, correct, and complete to the best of my knowledge and belief and made in good faith.”~~by the individual’s signature that the information on the form is true and correct to the best of the individual’s knowledge and belief, subject to the penalty for making unsworn false statement under RSA 641:3.~~

~~(f)~~ (f) The licensee on whose premises the public sampling occurs and the licensee conducting the sampling shall both be equally responsible for ensuring that all requirements are met under RSA 175-180.

~~(g)~~ (ge) The licensee on whose premises 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 Liq 405.05(a) and (b).

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 premises, or the hours of the farmers’ market.

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

APPENDIX

RULE	STATUTE
Liq 401	RSA 176:14 VIII(c)

Liq 402	RSA 178:28
Liq 403	RSA 179:25
Liq 404	RSA 176:14 VII(c); 178:4; RSA 179:15
Liq 405	RSA 179:44