

CHAPTER Liq 1000 RULES RELATING TO TOBACCO

Repeal Liq 1001, effective 1-6-17 (Document #12082), as follows:

~~PART Liq 1001 TOBACCO SAMPLING~~

~~Liq 1001.01 Proof of Age. No sampler, as defined in RSA 126-K:2, IX, shall provide any tobacco products, e-cigarettes, or liquid nicotine to any person without confirming that person's age under the provisions of RSA 126-K:3.~~

~~Liq 1001.02 Distribution. No samples of tobacco products, e-cigarettes or liquid nicotine shall be distributed in any manner other than directly from a sampler to a consumer of legal age.~~

Adopt new Liq 1001 -to read as follows:

PART 1001 SEIZURE OF TOBACCO PRODUCTS

Liq 1001.01 Definitions.

(a) "Division" means the New Hampshire liquor commission's division of enforcement and licensing;

(b) "Licensee" means licensee as defined in RSA 175:1, XLI;

(c) "Seizure-in-Place" means the seizure of items by the division pursuant to RSA 178:19-g or RSA 78:18 whereby the items are in the constructive possession and custody of the division but remain physically located on the premises of the licensee; and

(d) "Tobacco products" means tobacco products as defined in RSA 175:1, LXIV-d.

Liq 1001.02 Seizure-in-Place Determination. The division shall order seizure-in-place of tobacco products if the division determines that:

(a) there is probable cause that the tobacco products may be seized pursuant to RSA 178:19-g(a) or 178:19-g(b); and

(b) the tobacco products are located on or within the premises of a licensee; and

(c) immediate removal of the tobacco products would create a logistical or operational burden on the division.

Liq 1001.03 Securing Seized Evidence. If the division orders seizure in place of tobacco products pursuant to Liq 1001.02, the following steps shall be employed:

(a) The division, with input from the licensee, shall designate a location within the licensed premises where the seized tobacco products shall be stored during the period of seizure. The designated location shall be a place where the tobacco products:

(1) Can be stored securely;

- (2) Can remain unmoved; and
- (3) Will not interfere with the licensee's normal business operations.
- (b) The division shall package and seal all seized tobacco products in boxes, bags, or other appropriate containers with evidence seals, tape, or other tamper-evident methods.
- (c) The division shall create an inventory of the seized tobacco products, which shall include:
 - (1) The product name or brand for each item;
 - (2) The quantity of each item;
 - (3) The container where each item is located; and
 - (4) The description of how the item is secured.
- (d) The division shall provide a copy of the inventory to the licensee.
- (e) The division shall photograph or record video footage of each seized item and of all items in the final secured location.
- (f) The division shall provide to the licensee a commission order detailing the licensee's requirements and responsibilities during the seizure-in-place, including storage and security requirements.

Liq 1001.04 Restrictions on Movement During Seizure-in-Place. Tobacco products seized pursuant to RSA 178:19-g and ordered by the division to be seized-in-place shall remain in the designated location identified in Liq 1001.03(a) unless removal is required by:

- (a) An emergency where removal of the tobacco products is required to protect persons or property; or
- (b) Storage or location logistics, as determined and approved by the division; or
- (c) An order from the commission or a court of competent jurisdiction.

Liq 1001.05 Emergency Movement Procedure. In the event of an emergency pursuant to Liq 1001.04(a), the licensee shall, as soon as practicable or within twenty-four hours of the emergency situation, whichever is sooner:

- (a) Notify the division;
- (b) Document the reason for movement of the seized tobacco products, including:
 - (1) The entity or person that authorized the movement;
 - (2) The new location of the seized tobacco products; and

(3) Details of the locations, people, and steps taken to move the seized tobacco products from the original location to the new location.

(c) Photograph or video record footage of the original location, the movement of the seized tobacco products, and the new location, to the extent possible.

Liq 1001.06 Hearing on Seizure-in-Place Order. Upon the filing by the licensee of a petition for review of the order for seizure-in-place, a hearing shall be held by the commission within seven calendar days and pursuant to CHAPTER Liq 200 PROCEDURAL RULES, as applicable.

Liq 1001.07 Disposition of Items Subject to Seizure-in-Place. If destruction of seized-in-place tobacco products is ordered by a court of competent jurisdiction and the court orders the logistics of the destruction of the tobacco products to be completed by the licensee, the licensee shall:

(a) Prior to destruction, receive written approval from the division on the:

(1) Method of destruction;

(2) Location of destruction; and

(3) Date and time of destruction.

(b) Provide a manifest of the destroyed tobacco products, photographs of the destroyed tobacco products, and all other documentation evidencing destruction or the requirements of subsection (a) above to the division within ten business days of destruction.

Liq 1001.08 Penalties. Any licensee who destroys, alters, or removes, or causes or allows the destruction, alteration or removal of tobacco products that are seized-in-place subject to a commission order in violation of that order shall be subject to penalties pursuant to Liq 602.01.

Repeal Liq 1002, effective 1-6-17 (Document #12082), as follows:

~~PART Liq 1002 DELIVERY OF TOBACCO PRODUCTS~~

~~**Liq 1002.01 License Required.** An applicant for a Tobacco Sampling License, Tobacco Vending Machine License or Retail Tobacco License shall follow the application process as described in Liq 700-705 and shall provide all information required in Liq 706.01.~~

Adopt new Liq 1002 to read as follows:

PART 1002 TOBACCO LICENSEE REPORTING REQUIREMENTS

Liq 1002.01 Tobacco Products Reporting Requirements for Tobacco Products Wholesalers and Manufacturers. No later than the fifteenth calendar day of each month, regardless of activity, the following forms shall be filed with the division documenting the previous month's activity:

(a) Tobacco Product Wholesalers Reporting Form A-510 shall be filed by tobacco products wholesaler licensees; and

(b) Tobacco Products Manufacturers Reporting Form A-500 shall be filed by tobacco products manufacturer licensees.

Liq 1002.02 Tobacco Products Reporting Requirements for Tobacco Products Retailers. The division shall assign a three-month reporting schedule for each retail tobacco licensee whereby the licensee shall file documentation as required every three months. No later than the fifteenth calendar day of the month following the close of each assigned three-month reporting period, regardless of activity, retail tobacco licensees shall file with the division Tobacco Product Retailers Reporting Form A-520 documenting the activity for the immediately preceding three-month period.

Liq 1002.03 Retention of Documents. Pursuant to RSA 178:19-a, VII, RSA 178:19-e, IV, and RSA 178:19-f, VI, licensees shall retain the following records for inspection by the division:

(a) Retail Tobacco Licensees shall retain:

- (1) All invoices and sales slips for all purchases and returns made to or from tobacco products wholesalers. The invoices and sales slips shall be separated by product category, product size, month, year, and business name; and**
- (2) All invoices and sales slips for all tobacco products sold or delivered to consumers. The invoices and sales slips shall be separated by product category, product size, month, and year.**

(b) Tobacco Products Wholesalers shall retain:

- (1) All invoices and sales slips for all purchases and returns made to or from tobacco product manufacturers. The invoices and sales slips shall be separated by product category, product size, month, year, and business name; and**
- (2) All invoices and sales slips for all tobacco products returned by and or sold or delivered to tobacco retailers or tobacco product wholesalers. The invoices and sales slips shall be separated by product category, product size, month, and year and business name.**

(c) Tobacco Products Manufacturers shall retain all invoices and sales slips for all sales made to tobacco products wholesalers. The invoices and sales slips shall be separated by product category, product size, month, year, and business name.

Repeal Liq 1003, effective 1-6-17 (Document #12082), as follows:

~~PART Liq 1003 PACKAGING~~

~~Liq 1003.01 Manufacturer's Packaging Required.~~ ~~Tobacco products, e-cigarettes and liquid nicotine shall be sold only in the original packaging as provided by the manufacturer and bearing all federally required warnings, except:~~

~~(a) Cigars which are not available in retail packaging may be sold by the piece as is customary in the industry; and~~

~~(b) Retailers, wholesalers, or subjobbers may repackaging tobacco products for resale in packaging equivalent to the manufacturer's original packaging bearing all required federal warnings.~~

Repeal Liq 1004, effective 1-6-17 (Document #12082), as follows:

~~PART Liq 1004 FEDERAL LAW AND RULE APPLICABILITY~~

~~Liq 1004.01 Federal Provisions. All New Hampshire tobacco licensees shall abide by all federal laws, regulations, and rules governing the sale, packaging, distribution and advertising of tobacco products, e-cigarettes and liquid nicotine.~~

APPENDIX

RULE	STATUTE
Liq 1001	RSA 178:19-g
Liq 1001.08	RSA 178:19-g; RSA 179:57, I
Liq 1002.01	RSA 178:19-e; RSA 178:19-f
Liq 1002.02	RSA 178:19-a
Liq 1002.03	RSA 178:19-a; RSA 178:19-e; RSA 178:19-f
Liq 1003 (repeal)	
Liq 1004 (repeal)	