CHAPTER 141
HB 1591-FN - FINAL VERSION

28Mar2024... 0840h
13Jun2024... 2253EBA

2024 SESSION

24-2271
12/05

HOUSE BILL *1591-FN*

AN ACT relative to fines for prohibited sales of tobacco.

SPONSORS: Rep. Hunt, Ches. 14

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill moves fines for tobacco-related violations from statute to administrative rules, adopted by the liquor commission.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to fines for prohibited sales of tobacco.

Be it Enacted by the Senate and House of Representatives in General Court convened:

141:1 Youth Access to and Use of Tobacco Products. Amend RSA 126-K:1 to read as follows:

126-K:1 Purpose.

The purpose of this chapter is to protect the citizens of New Hampshire from the possibility of addiction, disability, and death resulting from the use of tobacco products***, e-liquid, and alternative nicotine products,*** by ensuring that tobacco products***, e-liquid, and alternative nicotine*** products will not be supplied to persons under the age of 21. This chapter shall not apply to alternative treatment centers registered under RSA 126-X:7 or to individuals who have been issued a registry identification card under RSA 126-X:4 only with respect to the therapeutic use of cannabis; this chapter shall still apply to alternative treatment centers and these individuals with respect to tobacco products.

141:2 Definition. New Paragraph; Alternative Nicotine Product. Amend RSA 126-K:2, I to read as follows:

I. ***"Alternative nicotine product" means any noncombustible product containing nicotine (whether natural or synthetic) that is intended for human consumption, whether chewed, absorbed, dissolved, ingested, inhaled, or consumed by any other means. "Alternative nicotine product" does not include any e-cigarettes, e-liquid, or tobacco products, or any product regulated as a drug or device by the United States Food and Drug Administration under chapter V of the Food, Drug and Cosmetic Act.***

I-a. "Cigarette" means any roll for smoking made wholly or in part of tobacco, and wrapped in any material except tobacco.

141:3 Prohibited Tobacco and E-cigarette Sales. Amend RSA 126-K:4, I and II to read as follows:

I. No person shall sell, give, or furnish or cause or allow or procure to be sold, given, or furnished tobacco products, e-cigarettes, [~~or~~] e-liquid***, or alternative nicotine products*** to a person who has not attained 21 years of age. The prohibition established by this paragraph shall not be deemed to prohibit persons who have not attained 21 years of age employed by any manufacturer, wholesaler, sub-jobber, vending machine operator, sampler, or retailer from performing the necessary handling of tobacco products, e-cigarettes, or e-liquid during the duration of their employment.

II. Violations of this section shall be civil infractions punishable by administrative action of the commission against the licensee ***pursuant to rules adopted by the commission under RSA 541-A***. [~~The fines for violations of this section shall not exceed $250 for the first offense and $500 for the second offense. For the third offense, the commission shall issue a letter of warning detailing necessary corrective actions and an administrative fine ranging from $500 to $1500. In addition, the license to sell tobacco products of the manufacturer, wholesaler, sub-jobber, vending machine operator, or retailer where the offense occurred shall be suspended for a period of 10 consecutive days and not exceeding 30~~

~~consecutive days. For the fourth offense, the commission shall issue either an administrative fine and a suspension of a minimum of 10 consecutive days not to exceed 40 consecutive days, or a suspension. The administrative fine shall range from $750 to $3,000 while any suspension without a fine shall be 40 consecutive days. For any violation beyond the fourth, the commission shall revoke any license for the business or business entity at the location where the infraction occurred or any principal thereof for a period of one year from the date of revocation. The commission shall determine the level of the violation by reviewing the licensee's record and counting violations that have occurred within 3 years of the date of the violation being considered.~~]

141:4 Rolling Papers. Amend RSA 126-K:4-a to read as follows:

126-K:4-a Rolling Papers.

I. No person shall sell, give, or furnish rolling papers to a minor. Violations of this paragraph shall be civil infractions punishable by administrative action of the commission against the licensee ***pursuant to rules adopted by the commission under 541-A***. [~~The fines for violations of this paragraph shall not exceed $250 for the first offense, $500 for the second offense, and $750 for the third and subsequent offenses.~~]

II. No person under 21 years of age shall purchase, possess, or use any rolling paper. Any person who violates this section shall be guilty of a violation and shall be punished by a fine not to exceed $100 for each offense.

III. In addition to the civil penalty described in paragraph I, a person who violates this section shall be guilty of a violation for a first offense and a misdemeanor for each subsequent offense.

141:5 Distribution of Free Samples. Amend RSA 126-K:5 to read as follows:

126-K:5 Distribution of Free Samples.

I. No person may distribute or offer to distribute samples of tobacco products, e-cigarettes, [~~or~~] e-liquid***, or alternative nicotine products*** in a public place or to a person who has not attained 21 years of age. This prohibition shall not apply to sampling:

(a) In an area to which minors are denied access.

(b) In a store to which a retailer's license has been issued.

(c) At factory sites, construction sites, conventions, trade shows, fairs, or motorsport facilities in areas to which minors are denied access.

II. The commission shall adopt rules, pursuant to RSA 541-A, concerning the distribution of free samples of tobacco products, e-cigarettes, [~~or~~] e-liquid***, or alternative nicotine products*** to prevent their distribution to persons who have not attained 21 years of age.

III. Violations of this section shall be civil infractions punishable by administrative action of the commission against the licensee ***pursuant to rules adopted by the commission under RSA 541-A***. [~~The fines for the violations of this section shall not exceed $250 for the first offense and $500 for the second offense. For the third offense, the commission shall issue a letter of warning detailing necessary corrective actions and an administrative fine ranging from $500 to $1,500. In addition, the sampler's license shall be suspended for a period of 10 consecutive days and not exceeding 30 consecutive days. For the fourth offense, the commission shall issue either an administrative fine and a suspension of a minimum of 10 consecutive days not to exceed 40 consecutive days, or a suspension. The administrative~~

~~fine shall range from $750 to $3,000 while any suspension without a fine shall be 40 consecutive days. For any violation beyond the fourth, the commission shall revoke any license for the business or business entity at the location where the infraction occurred or any principal thereof for a period of one year from the date of revocation. The commission shall determine the level of the violation by reviewing the licensee's record and counting violations that have occurred within 3 years of the date of the violation being considered.~~]

141:6 Possession and Use of Tobacco Products, E-cigarettes, or E-Liquid by Persons Who Have Not Attained 21 Years of Age. Amend RSA 126-K:6 to read as follows:

126-K:6 Possession and Use of Tobacco Products, E-cigarettes, [~~or~~] E-Liquid ***or Alternative Nicotine Products*** by Persons Who Have Not Attained 21 Years of Age.

I. No person under 21 years of age shall purchase, attempt to purchase, possess, or use any tobacco product, e-cigarette, device, [~~or~~] e-liquid***, or alternative nicotine products***.

II. The prohibition on possession of tobacco products, devices, e-cigarettes, [~~or~~] e-liquid***, or alternative nicotine products*** shall not be deemed to prohibit minors employed by any manufacturer, wholesaler, sub-jobber, vending machine operator, sampler, or retailer from performing the necessary handling of tobacco products, devices, e-cigarettes, or e-liquids during the duration of their employment.

III. A person who has not attained 21 years of age shall not misrepresent his or her age for the purpose of purchasing tobacco products***, devices, e-cigarettes, e-liquid, or alternative nicotine products***.

141:7 Use of Tobacco Products, Devices, E-cigarettes, or E-liquids on Public Educational Facility Grounds Prohibited. Amend RSA 126-K:7 to read as follows:

126-K:7 Use of Tobacco Products, Devices, E-cigarettes, [~~or~~] E-liquids***, or Alternative Nicotine Products*** on Public Educational Facility Grounds Prohibited.

I. No person shall use any tobacco product, device, e-cigarette, [~~or~~] e-liquid***, or alternative nicotine products*** in any public educational facility or on the grounds of any public educational facility.

II. Any person who violates this section shall be guilty of a violation and, notwithstanding RSA 651:2, shall be punished by a fine not to exceed $100 for each offense.

141:8 Special Provisions. Amend RSA 126-K:8 to read as follows:

126-K:8 Special Provisions.

I.(a) No person shall sell, give, or furnish tobacco products, e-cigarettes, [~~or~~] e-liquid***, or alternative nicotine products*** to a person who has not attained 21 years of age who has a note from an adult requesting such sale, gift, or delivery. Tobacco products, e-cigarettes, [~~or~~] e-liquid***, or alternative nicotine products*** shall only be delivered to a person who provides an identification as enumerated in RSA 126-K:3 establishing that the person has attained 21 years of age.

(b) Each school shall establish a policy regarding violations of this paragraph. The policy may include, but not be limited to, mandatory education classes on the hazards of using tobacco products, e-cigarettes, [~~or~~] e-liquid***, or alternative nicotine products***, and suspensions and other penalties.

II. All tobacco products shall be sold in their original packaging bearing the Surgeon General's warning.

III. The sale of single cigarettes is prohibited.

IV. Violations of this section shall be civil infractions punishable by administrative action of the commission against the licensee ***pursuant to rules adopted by the commission under RSA 541-A***. [~~The fines for violations of this section shall not exceed $250 for the first offense and $500 for the second offense. For the third offense, the commission shall issue a letter of warning detailing necessary corrective actions and an administrative fine ranging from $500 to $1,500. In addition, the license to sell tobacco products of the manufacturer, wholesaler, sub-jobber, vending machine operator, or retailer where the offense occurred shall be suspended for a period of 10 consecutive days and not exceeding 30 consecutive days. For the fourth offense, the commission shall issue either an administrative fine and a suspension of a minimum of 10 consecutive days not to exceed 40 consecutive days, or a suspension. The administrative fine shall range from $750 to $3,000 while any suspension without a fine shall be 40 consecutive days. For any violation beyond the fourth, the commission shall revoke any license for the business or business entity at the location where the infraction occurred or any principal thereof for a period of one year from the date of revocation. The commission shall determine the level of the violation by reviewing the licensee's record and counting violations that have occurred within 3 years of the date of the violation being considered.~~]

V. In addition to the civil penalty described in paragraph IV, a person who violates this section shall be guilty of a violation for the first offense and a misdemeanor for each subsequent offense.

141:9 New Paragraph; Definition; Alternative Nicotine Product. Amend RSA 175:1 by inserting after paragraph IV the following new paragraph:

IV-a "Alternative nicotine product" means any noncombustible product containing nicotine (whether natural or synthetic) that is intended for human consumption, whether chewed, absorbed, dissolved, ingested, inhaled, or consumed by any other means. "Alternative nicotine product" does not include any e-cigarettes, e-liquid, or tobacco products, or any product regulated as a drug or device by the United States Food and Drug Administration under chapter V of the Food, Drug and Cosmetic Act.

141:10 Retail Tobacco License. Amend RSA 178:19-a to read as follows:

178:19-a Retail Tobacco License.

I. The commission may issue a retail tobacco license to a person engaged in the business of retail sales and distribution of tobacco products including e-cigarettes and ***alternative nicotine products*** in this state. Each retail outlet shall have a separate license regardless of the fact that one or more outlets may be owned or controlled by a single person.

I-a. The commission may issue a retail tobacco license to any business holding a license to sell alcoholic beverages under RSA 178 for an additional fee of $6 per licensed location.

II. A retail tobacco license shall be prominently displayed on the premises described in it.

III. The commission, when issuing or renewing a retail tobacco license, shall furnish a sign which shall read or be substantially similar to the following: "State Law prohibits the sale of tobacco products or e-cigarettes to persons under age 21. Warning: violators of these provisions may be subject to a fine."

IV. All sales of tobacco, including e-cigarettes, shall be recorded on cash registers. No additional registers shall be added during the remainder of the year without prior approval of the commission. No rebate shall be allowed for cash registers discontinued during the license year.

V. The fee for a retail tobacco license shall be as determined in RSA 178:29, II(e).

VI. 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, liquid nicotine, and alternative nicotine products.

VII. The commission may adopt rules under RSA 541-A necessary to effect the purposes of this section.

141:11 Effective Date. This act shall take effect January 1, 2025.

Approved: July 03, 2024
Effective Date: January 01, 2025