

SB 80-FN - AS INTRODUCED

2025 SESSION

25-0933

08/05

SENATE BILL

80-FN

AN ACT consolidating licensing, auditing, and enforcement responsibilities for wholesale and retail e-cigarettes sales under the liquor commission.

SPONSORS: Sen. Lang, Dist 2; Sen. Pearl, Dist 17; Rep. Almy, Graf. 17

COMMITTEE: Commerce

ANALYSIS

This bill consolidates licensing, auditing, and enforcement responsibilities for wholesale and retail e-cigarettes sales under the liquor commission.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT consolidating licensing, auditing, and enforcement responsibilities for wholesale and retail e-cigarettes sales under the liquor commission.

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

1 1 Notice to Liquor Commission. Amend RSA 78:23 to read as follows:

2 78:23 Notice to Liquor Commission. The commissioner shall provide notice to the liquor
3 commission of ***any violation of this chapter by*** a retailer, ~~[whose license has been suspended or~~
4 ~~revoked by the commission]~~ ***wholesaler, or manufacturer.***

5 2 Definitions; Tobacco Product. Amend RSA 126-K:2, XI to read as follows:

6 XI. "Tobacco product" means any product containing, ***made or derived from tobacco or***
7 ***nicotine that is intended for human consumption, including but not limited to cigarettes,***
8 ***electronic cigarettes, loose tobacco, smokeless tobacco, and cigars. Tobacco products shall***
9 ***not include premium cigars or any product that has been approved by the United States***
10 ***Food and Drug Administration for sale as a tobacco cessation product and is being***
11 ***marketed and sold exclusively for such approved use.*** ~~[or derived from tobacco including, but~~
12 ~~not limited to, cigarettes, smoking tobacco, cigars, chewing tobacco, snuff, pipe tobacco, smokeless~~
13 ~~tobacco, and smokeless cigarettes. "Tobacco product" shall not include drugs, devices, or combination~~
14 ~~products authorized for sale by the United States Food and Drug Administration, as those terms are~~
15 ~~defined in the federal Food, Drug, and Cosmetic Act.]~~

16 3 Definitions; E-Cigarette. Amend RSA 175:1, XXXI-a to read as follows:

17 XXXI-a. "E-cigarette" means any electronic smoking device composed of a mouthpiece, a
18 heating element, a battery, and electronic circuits that may or may not contain nicotine or e-liquid.
19 This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, or e-
20 pipes, or under any other product name, ***and e-liquid.*** "E-liquid" means any liquid, oil, or wax
21 product containing, but not limited to, nicotine or cannabis intended for use in devices used for
22 inhalation.

23 4 Tobacco Products; Definitions. Amend RSA 175:1, LXIV-d to read as follows:

24 LXIV-d. "Tobacco products" means ***any product containing, made, or derived from***
25 ***tobacco or nicotine that is intended for human consumption, including but not limited to***
26 ***cigarettes, e-cigarettes, loose tobacco, smokeless tobacco, and cigars. Tobacco products***
27 ***shall not include premium cigars or any product that has been approved by the United***
28 ***States Food and Drug Administration for sale as a tobacco cessation product and is being***
29 ***marketed and sold exclusively for such approved use.*** ~~[e-cigarettes, loose tobacco, and smokeless~~
30 ~~tobacco.]~~

LXIV-e. "Tobacco products manufacturer" means a person domiciled in the United States engaged in the business of importing, exporting, producing, or manufacturing tobacco products.

LXIV-f. "Tobacco products wholesaler" means any person engaged in the business of receiving, storing, purchasing, and selling tobacco products from any source for distribution to persons other than consumers, except those persons exempted from the tobacco tax under RSA 78:5.

~~[LXIV-e.]~~ ***LXIV-g. "Vending machine" means any self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco, cigarettes, or any other tobacco product.***

5 Licenses; Manufacture, Wholesale Sales. Amend RSA 178:2, I to read as follows:

I. The commission may issue licenses to individuals, partnerships, limited liability companies and partnerships, or corporations but not to unincorporated associations, on applications duly made therefor for the manufacture, warehousing, sale, offer for sale, or solicitation of orders for sale of liquor or beverages and for ***the manufacture, wholesale sales, or*** retail sales of tobacco products or e-cigarettes within the state, subject to the limitations and restrictions imposed by this title. The commission shall keep a full record of all applications for licenses, of all recommendations for and remonstrances against the granting of licenses, and of the action taken on such applications.

6 Retail Tobacco Licenses. Amend RSA 178:19-a to read as follows:

178:19-a Retail Tobacco ~~[License]~~ ***Licenses.***

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 ***retail*** 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).

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1 VI. All New Hampshire tobacco licensees shall abide by all federal laws, regulations, and
2 rules governing the sale, packaging, distribution and advertising of tobacco products, e-cigarettes,
3 liquid nicotine, and alternative nicotine products.

4 **VII. All retail tobacco licenses shall purchase their tobacco products from a**
5 **licensed tobacco products wholesaler as defined in RSA 175:1, LXIV-f.**

6 **VIII. Each retailer shall keep complete and accurate records of all tobacco stamps**
7 **purchased and all tobacco products manufactured, produced, imported, distributed,**
8 **bought, and sold in this state. Complete records shall be safely preserved for 3 years to**
9 **ensure permanency and accessibility for inspection by the liquor commission.**

10 **IX.** The commission may adopt rules under RSA 541-A necessary to effect the purposes of
11 this section.

12 7 New Sections; Tobacco Products; Licenses. Amend RSA 178 by inserting after section 19-d the
13 following new sections:

14 178:19-e Tobacco Products Manufacturer.

15 I. No tobacco products manufacturer shall engage in the business of selling or distributing
16 tobacco products, including e-cigarettes, in this state, unless it is registered with the secretary of
17 state, it has obtained a certificate of good standing from the department of revenue administration,
18 and it is licensed as a tobacco products manufacturer in this state, as applicable.

19 II. The fees for tobacco products manufacturer licenses and license renewals shall be as
20 determined in RSA 178:29, V-a(a) and (d):

21 III. Any tobacco products manufacturer of tobacco products, including e-cigarettes, that
22 ceases business operations requiring a license under this chapter during the license period shall
23 inform the liquor commission in writing and relinquish its license to the liquor commission within 30
24 days after ceasing business operations.

25 IV. Each manufacturer shall keep complete and accurate records of all tobacco tamps
26 purchased and all tobacco products manufactured, produced, imported, distributed, bought, and sold
27 in this state. Complete records shall be safely preserved for 3 years to ensure permanency and
28 accessibility for inspection by the liquor commission.

29 V. The commission shall adopt rules under RSA 541-A relative to this section.

30 178:19-f Tobacco Product Wholesaler.

31 I. No tobacco products wholesaler shall engage in the business of selling or distributing
32 tobacco products, including e-cigarettes, in this state, unless it is registered with the secretary of
33 state, it has obtained a certificate of good standing from the department of revenue administration,
34 and it is licensed as a tobacco products wholesaler in this state, as applicable.

35 II. A wholesaler shall have a separate license for each location.

36 III. The fees for wholesaler licenses and license renewals shall be as determined in RSA
37 178:29, V-a(a) and (d):

1 IV. All wholesale tobacco licensees shall purchase their tobacco products from a licensed
2 tobacco products manufacturer as defined in RSA 175:1 LXIV-f.

3 V. Any wholesaler of tobacco products, including e-cigarettes, that ceases business
4 operations requiring a license under this chapter during the license period shall inform the liquor
5 commission in writing and relinquish its license to the liquor commission within 30 days after
6 ceasing business operations.

7 VI. Each wholesaler, shall keep complete and accurate records of all tobacco stamps
8 purchased and all tobacco products manufactured, produced, imported, distributed, bought, and sold
9 in this state. Complete records shall be safely preserved for 3 years to ensure permanency and
10 accessibility for inspection by the liquor commission.

11 VII. The commission shall adopt rules under RSA 541-A relative to this section.
12 178:19-g Tobacco Product Seizure.

13 I. The commission with or without process may seize:

14 (a) Tobacco products taxed under RSA 78 that are possessed or controlled by a person for
15 the purpose of selling or removing the tobacco products in violation of this chapter or RSA 78;

16 (b) Tobacco products that are removed, deposited, or concealed by a person intending to
17 avoid payment of taxes imposed by RSA 78;

18 (c) An automobile, truck, boat, conveyance, or other type of vehicle used to remove or
19 transport tobacco products by a person intending to avoid payment of taxes imposed by RSA 78; and

20 (d) Equipment, paraphernalia, or other tangible personal property used by a person
21 intending to avoid payment of taxes imposed by RSA 78 found in the place where the tobacco
22 products are found.

23 II. An item seized under this section is forfeited to the state and remains in the custody of
24 the commission for disposition as provided by this section. The seized item is not subject to replevin.

25 III. The seizure, forfeiture, and sale of tobacco products or property under this section, with
26 or without court action, is not a defense to criminal prosecution for an offense or from liability for a
27 penalty under RSA 78 or this chapter.

28 8 Fees; Tobacco. RSA 178:29, V-a is repealed and reenacted to read as follows:

29 V-a. Annual tobacco licenses shall be as follows:

30 (a) Tobacco manufacturer, \$100.

31 (b) Tobacco vending machine license, \$35, plus \$6 for each machine.

32 (c) Tobacco sampling license, \$6.

33 (d) Tobacco product wholesaler, \$250.

34 9 New Paragraphs; Penalties; Tobacco. Amend RSA 179:58 by inserting after paragraph II the
35 following new paragraphs:

1 III. Any person who sells, offers for sale, or possesses with intent to sell in this state any
2 tobacco products or e-cigarettes without the appropriate license, as provided in this title, shall be
3 subject to criminal penalties as provided in RSA 21-J:39.

4 IV. Notwithstanding RSA 21-J:14, information regarding licenses issued pursuant to this
5 chapter and RSA 126-K shall be public records.

6 10 Effective Date. This act shall take effect July 1, 2025.

SB 80-FN- FISCAL NOTE
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AN ACT consolidating licensing, auditing, and enforcement responsibilities for wholesale and retail e-cigarettes sales under the liquor commission.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures*	\$0	In excess of \$340,000	In excess of \$358,000	In excess of \$368,000
<i>Funding Source(s)</i>	Liquor Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

METHODOLOGY:

This bill consolidates licensing, auditing, and enforcement responsibilities for wholesale and retail e-cigarettes sales under the Liquor Commission. The Liquor Commission assumes the bill would transfer licensing of retail, wholesale and manufacturing including licensing revenue from the Department of Revenue Administration (DRA) to the Commission. The Commission does not anticipate an licensing revenue as a result of the bill and notes the bill does not provide for transfer of positions from the DRA to the Commission and does not provide any funding to the commission to carry out the new responsibilities. The Commission believes four additional positions would be needed; two Investigator I positions, one Examiner II and one Licensure Specialist. The estimated annual cost for these positions is \$340,000 in FY 2026, \$358,000 in FY 2027, and \$368,000 in FY 2028. The Commission notes that DRA personnel are civilian positions and the Commission would employ law enforcement personnel including the necessary equipment not required for current DRA employees. In addition, the commission assumes it may need additional office space and new, secure, evidentiary storage space for any seizures made as a result of investigations. This storage space would be separate from current evidence storage areas used to carry out federal tobacco compliance programs. The Commission indicates it is unclear if it would utilize the licensing process, including hardware and software that is currently used by the DRA to carry out this responsibility.

The DRA assumes the bill would establish a requirement for wholesalers and manufacturers of tobacco products to be licensed with the Liquor Commission in addition to the DRA prior to engaging in business in this state. The DRA states as presently drafted, the bill could cause confusion between the licenses required which are both simply referred to as licenses, although in the proposed legislation, DRA's license is referred to incorrectly as a certificate of good standing. DRA suggested that RSA 78 be amended in the bill to refer to a tobacco tax license with the appropriate reference to avoid confusion. The DRA assumes the bill would not result in any additional administrative costs that could not be absorbed with the current operating budget.

AGENCIES CONTACTED:

Liquor Commission and Department of Revenue Administration