

July 2014

To: *All Faculty, Administrators, Staff and Students*

The Drug Prevention Program Certification for Institutions of Higher Education requires that Saint Anselm College adopt and implement a drug prevention program for all faculty, students and staff.

Saint Anselm College's Substance Abuse Policy for Faculty may be found on page 70 of the Edition 2010 revision of the *Faculty Handbook*. The policy for employees may be found in the current edition of the *Staff Handbook* (see table of contents). Students may find the drug and alcohol policy, along with standards of conduct and disciplinary sanctions on pages 58 – 60 of the 2013-2014 *Student Handbook*. Any violation will be handled through the appropriate disciplinary process outlined in each respective handbook.

The annual distribution of the following enclosed information is also required:

1. A description of the legal sanctions under local, New Hampshire State, and Federal law for the unlawful use, possession, or distribution of illicit drugs and abuse of alcohol.
2. A summary of the health risks associated with the use of illicit drugs and abuse of alcohol.
3. An overview of the services offered by Saint Anselm College geared to the identification, prevention, and rehabilitation of drug and alcohol abuse.

Questions or concerns may be addressed to Maura Marshall, *Director of Campus Health Services*; Mark Cronin, *Interim Dean of the College*; Dr. Alicia Finn, *Dean of Students*; or David M. Harrington, *Director of Human Resources*.

ALCOHOL AND OTHER DRUG SERVICES

College Health Services is available to provide students with confidential medical care, personal counseling and health education. They provide a multi-disciplinary approach with collaboration between nurses, nurse practitioners, doctors, counselors and refer to community resources when necessary.

All incoming freshman are required to take an evidence-based online alcohol education program entitled AlcoholEdu. Health Services also provides an anonymous screening for students to do a self-assessment at: www.mentalhealthscreening.org/screening/anselm.

College Health Services also offers a 2-hour class facilitated by a Licensed Alcohol and Drug Counselor on Friday afternoons, **C.H.O.I.C.E.S** (Choosing Health Options in College through Education and Support). The goal is to have students recognize the broader ramifications of their behavior with alcohol as well as possible long-term consequences. Sanctioned students must complete the BASICS program. B.A.S.I.C.S. (Brief Alcohol Screening and Intervention for College Students) is a personal 2-session motivational interviewing format with a counselor which uses a harm reductions approach with a goal of moving a student in the direction of reducing risky behaviors and harmful effects from drinking. Recommended for students referred for more in-depth evaluation or students who have been transported to the hospital for an alcohol or drug related issue.

The College offers an Employee Assistance Program (EAP) to provide employees with professional advice. Faculty and staff may contact AnthemEAP at 1-800-647-9151 or www.anthemead.com EAP services are provided at no cost to employees.

We offer referrals to many agencies and community providers and groups that have more extensive counseling and rehabilitation services.

CAMPUS HEALTH SERVICES

(For students)

Maura Marshall, APRN, MSN, *Director*
641-7029

Employee Assistance Program

(For faculty and staff)

AnthemEAP
1-800-647-9151
www.anthemead.com

Drugs Commonly Used/Abused on College Campuses - HEALTH RISKS

Central Nervous System Stimulants

Drugs	Immediate Effects	Most Common Complications	Potential for Dependence
Amphetamines (Benedrine, Dexedrine, methadrine, diet pills, MDMA, Ecstasy) Methamphetamine	Euphoria, increased alertness, talkativeness. Stimulates heart, increases adrenaline. Insomnia, restlessness.	Nervousness, paranoia, hallucinations, dizziness, tremors, decreased mental abilities, sexual impotence, seizures. Death from OD.	Psychological, physical, withdrawal
Cocaine (Cocaine powder, crack, freebased coke)	Brief euphoria increased energy and sense of power. Restlessness. Surface anesthetic, suppressed appetite.	Tremors. Nasal bleeding, inflammation, perforation. Toxic psychosis, seizures. Depression (particularly afterwards), confusion. Death from OD) (heart or respiratory failure) or impure supply.	Psychological
Nicotine	Relaxation, increased confidence, increased metabolism. Stimulates heart and nervous system.	High blood pressure, emphysema, bronchitis, heart disease. Cancer of lungs, lips and mouth.	Psychological, physical
Caffeine	Increased mental alertness. Increased blood pressure and respiration rate.	Nervousness, insomnia, dehydration, stomach irritation, fatigue after use, heart palpitations.	Psychological, physical

Central Nervous System Depressants

Drugs	Immediate Effects	Most Common Complications	Potential for Dependence
Alcohol (beer, wine, liquor, some medications for coughs, colds, and congestion)	Muscle relaxation, intoxication, depression, impaired motor control, impaired memory and judgment.	Dehydration, hangover, long-term liver, heart and brain damage. Overdose or mixing with other depressants can cause respiratory failure.	Psychological, physical
Tranquilizers (Valium, Librium, Equanil, Miltown)	Relief of tension and anxiety, drowsiness.	Hangover, menstrual irregularities, increase or decrease effect of other drugs. Mixing with alcohol or other depressants can be fatal.	Psychological, physical
Phencyclidine (PCP)	Loss of inhibition, excitement, muscle rigidity, loss of concentration and memory.	Visual disturbance, delirium, feelings of isolation and paranoia, violent behavior, psychosis.	Psychological
Barbiturates (Nembutal, Amytal, Seconal, phenobarbital)	Euphoria, relief of anxiety, loss of inhibition, muscle relaxation. Loss of motor control, drowsiness.	Lethargy, hangover, blurred vision, nausea, depression, seizures. Mixing with alcohol or other depressants can be fatal.	Psychological, physical
Date Rape Drugs (CHB, Ketamine Rohypnol)	Impaired motor function, Amnesia	Loss of consciousness, impaired motor function, amnesia, fatal resp. effects, CMA death	_____

Narcotics

Drugs	Immediate Effects	Most Common Complications	Potential for Dependence
Heroin, morphine, opium, codeine, methadone, Demerol	Euphoria, drowsiness, pain killer.	Respiratory and circulatory depression, dizziness, sweating, dry mouth lowered libido, complications from injection.	Psychological, physical
Methaqualone (Quaalude)	Euphoria, sedation, loss of inhibition, muscle relaxation. Loss of motor control, drowsiness.	Hangover, nausea, seizures. Mixing with alcohol or other depressants can be fatal.	Psychological, physical, withdrawal

Cannabis

Drugs	Immediate Effects	Most Common Complications	Potential for Dependence
Marijuana, hashish, tetrahydrocannabinol (THC)	Relaxation, altered sense of hearing, time, vision; euphoria, increased heart rate and appetite; dilated pupils, memory impairment.	Impaired driving ability. Possible lung damage. Reduced sperm count and sperm motility. May affect ovulation cycles. Damage from impure doses.	Psychological

Hallucinogens/psychedelics

Drugs	Immediate Effects	Most Common Complications	Potential for Dependence
LSD, psilocybin, MDA, mescaline (peyote), DMT, STP	Hallucinations, altered sense of time, space and visual perception. Nausea, disorientation, panic.	Depression, paranoia, physical exhaustion after use, psychosis ("freaking out"); exaggerated body distortion, fears of death, flashbacks, adverse drug reactions.	Psychological

Other

Drugs	Immediate Effects	Most Common Complications	Potential for Dependence
Inhalants (amyl nitrate, butyl nitrate, nitrous oxide, glue and paint)	Lowered blood pressure, relaxation of sphincter muscles, feeling of heightened sexual arousal.	Nitrates: headache, dizziness, accelerated heart rate, nausea, nasal irritation, cough, lost erection. Solvents: bone marrow, liver, kidney, heart, CNS impairment.	
Steroids	Not usually taken for mood modification but by athletes for muscle mass increase.	Blood disorders, liver problems, cancers, aggressive behavior, possibly psychosis.	

Note: Because of the burgeoning designer drug phenomenon and variations in drug use patterns in different geographic areas, this list cannot be all-inclusive. For information about any drug consult your college alcohol and drug treatment program or visit NIDA (National Institute on Drug Abuse) at www.drugabuse.gov.

SOURCE: Smith S & C Smith, The College Student's Health Guide. Ca. Westchester Publication Co. 1988

Sanctions under Local, State, and Federal Laws for the Unlawful Possession Or Distribution of Illicit Drugs and Alcohol

Prepared by

Ann Backus and Jeannine Eaton

New Hampshire College & University Council

First Edition, September 1990

Updated: August 1991, June 1992, August 1994, November 1999

Updated, January 2007, March 2011, June 2014 by Donald W. Davidson, Saint Anselm College, Campus Safety

Please note: This information was compiled to meet one of the requirements of the Drug-Free Schools and Campuses Act, specifically 34CFR Part 86, Subpart B – Institutions of Higher Education as follows:

86.100 The Institutions of Higher Education Drug Prevention program must include “a description of the applicable legal sanctions under Local, State, and Federal law for the unlawful possession or distribution of illicit drugs and alcohol.”

The information pertaining to the Federal laws was taken from Drugs of Abuse published by the U.S. Department of Justice and published again in the Appendix to the Drug-Free Schools and Campuses Act.

The State and local laws and sanctions were derived from appropriate legal documents. Because the information had to be abbreviated, only that information which is most pertinent to persons attending or employed by postsecondary institutions is included. For the complete text of laws, please consult the New Hampshire Revised Statutes Annotated, available at libraries and law offices and the listing of town and city ordinances available in the office of the town or city clerk.

FEDERAL TRAFFICKING PENALTIES

DRUG/SCHEDULE	QUANTITY	PENALTIES	QUANTITY	PENALTIES
Cocaine (Schedule II)	500 - 4999 gms mixture	First Offense: Not less than 5 yrs, and not more than 40 yrs. If death or serious injury, not less than 20 or more than life. Fine of not more than \$5 million if an individual, \$25 million if not an individual Second Offense: Not less than 10 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$8 million if an individual, \$50 million if not an individual	5 kgs or more mixture	First Offense: Not less than 10 yrs, and not more than life. If death or serious injury, not less than 20 or more than life. Fine of not more than \$10 million if an individual, \$50 million if not an individual. Second Offense: Not less than 20 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual. 2 or More Prior Offenses: Life imprisonment
Cocaine Base (Schedule II)	28-279 gms mixture		50 gms or more mixture	
Fentanyl (Schedule II)	40 - 399 gms mixture		400 gms or more mixture	
Fentanyl Analogue (Schedule I)	10 - 99 gms mixture		100 gms or more mixture	
Heroin (Schedule I)	100 - 999 gms mixture		1 kg or more mixture	
LSD (Schedule I)	1 - 9 gms mixture		10 gms or more mixture	
Methamphetamine (Schedule II)	5 - 49 gms pure or 50 - 499 gms mixture		50 gms or more pure or 500 gms or more mixture	
PCP (Schedule II)	10 - 99 gms pure or 100 - 999 gms mixture	100 gm or more pure or 1 kg or more mixture		
PENALTIES				
Other Schedule I & II drugs (and any drug product containing Gamma Hydroxybutyric Acid)	Any amount	First Offense: Not more that 20 yrs. If death or serious injury, not less than 20 yrs, or more than Life. Fine \$1 million if an individual, \$5 million if not an individual. Second Offense: Not more than 30 yrs. If death or serious injury, not more than 15 yrs. Fine \$2 million if an individual, \$10 million if not an individual		

Other Schedule III drugs	Any amount	First Offense: Not more than 10 years. If death or serious injury, not more than 15 yrs. Fine not more than \$500,000 if an individual, \$2.5 million if not an individual. Second Offense: Not more 20 yrs. Fine not more than \$500,000 if an individual, \$2 million if not an individual
All other Schedule IV drugs	Any amount	First Offense: Not more than 5 years. Fine not more than \$250,000 if an individual, \$1 million if not an individual. Second Offense: Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if not an individual.
Flunitrazepam (Schedule IV)	Less than 1gm	
All Schedule V drugs	Any amount	First Offense: Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual. Second Offense: Not more than 4 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.

FEDERAL TRAFFICKING PENALTIES – MARIJUANA

DRUG	QUANTITY	1 st OFFENSE	2 nd OFFENSE
Marijuana	1,000 kg or more mixture; or 1,000 or more plants	<ul style="list-style-type: none"> Not less than 10 years, not more than life If death or serious injury, not less than 20 years, not more than life Fine not more than \$4 million if an individual, \$10 million if other than an individual 	<ul style="list-style-type: none"> Not less than 20 years, not more than life If death or serious injury, mandatory life Fine not more than \$8 million if an individual, \$20 million if other than an individual
Marijuana	100 kg to 999 kg mixture; or 100 to 999 plants	<ul style="list-style-type: none"> Not less than 5 years, not more than 40 years If death or serious injury, not less than 20 years, not more than life Fine not more than \$2 million if an individual, \$5 million if other than an individual 	<ul style="list-style-type: none"> Not less than 10 years, not more than life If death or serious injury, mandatory life Fine not more than \$4 million if an individual, \$10 million if other than an individual
Marijuana	more than 10 kgs hashish; 50 to 99 kg mixture more than 1 kg of hashish oil; 50 to 99 plants	<ul style="list-style-type: none"> Not more than 20 years If death or serious injury, not less than 20 years, not more than life Fine \$1 million if an individual, \$5 million if other than an individual 	<ul style="list-style-type: none"> Not more than 30 years If death or serious injury, mandatory life Fine \$2 million if an individual, \$10 million if other than individual
Marijuana	1 to 49 plants; less than 50 kg mixture	<ul style="list-style-type: none"> Not more than 5 years Fine not more than \$250,000, \$1 million other than individual 	<ul style="list-style-type: none"> Not more than 10 years Fine \$500,000 if an individual, \$2 million if other than individual
Hashish	10 kg or less		
Hashish Oil	1 kg or less		

(Marijuana is a Schedule 1 Controlled Substance)

	First Offense	Second Offense
<p>Title 21 Section 844 (effective 11/29/90)</p> <p>Unlawful to possess a controlled substance with- out a prescription or as authorized by federal law.</p> <p>If controlled substance is a mixture which contains cocaine base, if</p> <ol style="list-style-type: none"> 1. 1st conviction and amount of crack possessed is greater than 5 grams. 2. 2nd conviction and amount of crack possessed is greater than 3 grams 3. 3rd or subsequent conviction and amount of crack possessed is less than 1 gram. 	<p>Imprisonment. Not more than 1 year; and fine of \$1,000 minimum.</p> <p>Imprisonment not less than 5 years, not more than 20 years, and fined a minimum of \$1,000.</p>	<p>Imprisonment not less than 15 days, not more than one year and fine of \$2,500 minimum.</p>
<p>Title 21 Section 859 (effective 11/29/90)</p> <p>Unlawful for any one at least 18 years of age to distribute a controlled substance to a person under twenty-one years of age.</p>	<p>Twice the maximum punishment authorized by Section 841 (b) (see chart) and at least twice any term of supervised release authorized by 841 (b) for same controlled substance, same schedule.</p>	<p>Three times maximum punishment authorized by 841 (b) and at least three times any term of supervised release authorized by 841 (b) for same controlled substance, same schedule.</p>
<p>Title 21 Section 860 (effective 11/29/90)</p> <p>Distribution or manufacture of controlled substance...in or within 1,000 feet of public or private school or college, or within 100 feet of public or private youth center, public swimming pool, or video arcade.</p>	<p>Twice the maximum punishment authorized by Section 841 (b) (see chart) and at least twice any term of supervised release authorized by 841 (b).</p>	<p>The greater of imprisonment for not less than 3 years, not more than life or three times the maximum punishment authorized by 841 (b) and at least three times any term of supervised release otherwise authorized by 841 (b).</p>

Sec. 862. Denial of Federal benefits to drug traffickers and possessors

-STATUTE-

(a) Drug traffickers

- (1) Any individual who is convicted of any Federal or State offense consisting of the distribution of controlled substances shall
- (A) At the discretion of the court, upon the first conviction for such an offense be ineligible for any or all Federal benefits for up to 5 years after such conviction;
- (B) at the discretion of the court, upon a second conviction for such an offense be ineligible for any or all Federal benefits for up to 10 years after such conviction; and
- (C) Upon a third or subsequent conviction for such an offense be permanently ineligible for all Federal benefits.

(b) Drug possessors

- (1) Any individual who is convicted of any Federal or State offense involving the possession of a controlled substance (as such term is defined for purposes of this subchapter) shall -
- (A) Upon the first conviction for such an offense and at the discretion of the court -
- (i) Be ineligible for any or all Federal benefits for up to one year;
 - (ii) Be required to successfully complete an approved drug treatment program which includes periodic testing to insure that the individual remains drug free;
 - (iii) Be required to perform appropriate community service; or
 - (iv) Any combination of clause (i), (ii), or (iii); and
- (B) Upon a second or subsequent conviction for such an offense be ineligible for all Federal benefits for up to 5 years after such conviction as determined by the court. The court shall continue to have the discretion in subparagraph (A) above. In imposing penalties and conditions under subparagraph (A), the court may require that the completion of the conditions imposed by clause (ii) or (iii) be a requirement for the reinstatement of benefits under clause (i).
- (2) The penalties and conditions which may be imposed under this subsection shall be waived in the case of a person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

d) Definitions

as used in this section -

(1) The term "Federal benefit" -

(A) means the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) does not include any retirement, welfare, Social Security, health, disability, veteran benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

(2) the term "veterans benefit" means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.

<p>Title 21 Section 861 (effective 11/29/90)</p> <p>Unlawful to:</p> <ol style="list-style-type: none"> 1. employ, hire, use...a person under age 18 to violate drug laws 2. employ, hire, use...a person under age 18 to assist in avoiding detection 3. receive a controlled substance from a person under 18 years of age other than a family member... <p>Unlawful to provide or distribute controlled drug to person under 18 years; or employ, hire, use person under 14 years.</p> <p>Unlawful to distribute controlled substance to pregnant individual.</p>	<p>Twice the maximum punishment authorized by Section 841(b), at least twice term of supervised release otherwise authorized by 841 (b).</p> <p>Not more than five years; not more than \$50,000 fine or both.</p> <p>Twice the maximum punishment authorized by 841 (b) at least twice any term of supervised release otherwise authorized by 841 (b).</p>	<p>Three times the maximum punishment authorized by Section 841 (b) at least three times any term of supervised release otherwise authorized by 841 (b).</p> <p>No entry.</p> <p>Three times the maximum punishment authorized by 841 (b), at least three times any term of supervised release otherwise authorized by 841 (b).</p>
<p>Title 21 Section 863 (effective 11/29/90)</p> <p>Unlawful to</p> <ol style="list-style-type: none"> 1. sell or offer for sale drug paraphernalia; 2. use mails or any other facility of interstate commerce to transport drug paraphernalia; 3. to import or export drug paraphernalia. 	<p>Imprisonment for not more than three years and fined under Title 18.</p>	<p>No entry.</p>

Other penalties authorized by sections 853, 881, 844(a) include forfeiture of personal and real property, vehicles, boats, and aircraft used to transport or conceal a controlled substance; denial of Federal benefits such as student loans, grants, contracts, and professional and commercial licenses.

STATE OF NEW HAMPSHIRE LAWS

CONTROLLED DRUG ACT

318-B: 2 Acts Prohibited. –

I. It shall be unlawful for any person to manufacture, possess, have under his control, sell, purchase, prescribe, administer, or transport or possess with intent to sell, dispense, or compound any controlled drug, or controlled drug analog, or any preparation containing a controlled drug, except as authorized in this chapter.

I-a. It shall be unlawful for any person to manufacture, sell, purchase, transport or possess with intent to sell, dispense, compound, package or repackage (1) any substance which he represents to be a controlled drug or controlled drug analog, or (2) any preparation containing a substance which he represents to be a controlled drug or controlled drug analog, except as authorized in this chapter.

II. It shall be unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be used or is customarily intended to be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale, or otherwise introduce into the human body a controlled substance.

II-a. It shall be unlawful for any person, at retail, to sell or offer for sale any drug paraphernalia listed in RSA 318-B:1, X-a.

III. It shall be unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing that the purpose of the advertisement, when viewed as a whole, is to promote the sale of objects intended for use or customarily intended for use as drug paraphernalia.

IV. In determining whether an object is drug paraphernalia under this chapter, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use;

(b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

(c) The proximity of the object, in time and space, to a direct violation of this chapter;

(d) The proximity of any residue of controlled substances;

- (e) The existence of any residue of controlled substances on the object;
- (f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use as drug paraphernalia;
- (g) Instructions, oral or written, provided with the object concerning its use;
- (h) Descriptive materials accompanying the object which explain or depict its use;
- (i) National and local advertising concerning its use;
- (j) The manner in which the object is displayed for sale;
- (k) Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise;
- (l) Whether the object is customarily intended for use as drug paraphernalia and the existence and scope of other legitimate uses for the object in the community; and
- (m) Expert testimony concerning its use.

V. No person shall obtain or attempt to obtain a controlled drug:

- (a) By fraud, deceit, misrepresentation, or subterfuge;
- (b) By the forgery or alteration of a prescription or of any written order;
- (c) By the concealment of a material fact; or
- (d) By the use of a false name or the giving of a false address.

VI. No person shall willfully make a false statement in any prescription, order, report, or record required hereby.

VII. No person shall, for the purpose of obtaining a controlled drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, practitioner, or other authorized person.

VIII. No person shall make or utter any false or forged prescription or false or forged written order.

IX. No person shall affix any false or forged label to a package or receptacle containing controlled drugs.

X. Possession of a false or forged prescription for a controlled drug by any person, other than a pharmacist in the pursuance of his profession, shall be prima facie evidence of his intent to use the same for the purpose of illegally obtaining a controlled drug.

XI. It shall be unlawful for any person 18 years of age or older to knowingly use, solicit, direct, hire or employ a person 17 years of age or younger to manufacture, sell, prescribe, administer, transport or possess with intent to sell, dispense or compound any controlled drug or any preparation containing a controlled drug, except as authorized in this chapter, or to manufacture, sell, transport or possess with intent to sell, transport or possess with intent to sell, dispense, compound, package or repackage (1) any substance which he represents to be a controlled drug or controlled drug analog, or (2) any preparation containing a substance which he represents to be a controlled drug or controlled drug analog, except as authorized in this chapter. It shall be no defense to a prosecution under this section that the actor mistakenly believed that the person who the actor used, solicited, directed, hired or employed was 18 years of age or older, even if such mistaken belief was reasonable. Nothing in this section shall be construed to preclude or limit a prosecution or conviction for a violation of any other offense defined in this chapter or any other provision of law governing an actor's liability for the conduct of another.

XII. A person is a drug enterprise leader if he conspires with one or more persons as an organizer, supervisor, financier, or manager to engage for profit in a scheme or course of conduct to unlawfully manufacture, sell, prescribe, administer, dispense, bring with or transport in this state methamphetamine, lysergic acid diethylamide, phencyclidine (PCP) or any controlled drug classified in schedule I or II, or any controlled drug analog thereof. A conviction as a drug enterprise leader shall not merge with the conviction for any offense which is the object of the conspiracy. Nothing in this section shall be construed to preclude or limit a prosecution or conviction of any person for conspiracy or any other offense defined in this chapter.

XII-a. It shall be unlawful for any person to knowingly acquire, obtain possession of or attempt to acquire or obtain possession of a controlled drug by misrepresentation, fraud, forgery, deception or subterfuge. This prohibition includes the situation in which a person independently consults 2 or more practitioners for treatment solely to obtain additional controlled drugs or prescriptions for controlled drugs.

XII-b. It shall be unlawful for any person to knowingly obtain, or attempt to obtain, or to assist a person in obtaining or attempting to obtain a prescription for a controlled substance without having formed a valid practitioner-patient relationship.

XII-c. It shall be unlawful for any person to, by written or electronic means, solicit, facilitate or enter into any agreement or contract to solicit or facilitate the dispensing of controlled substances pursuant to prescription orders that do not meet the federal and state requirements for a controlled drug prescription, and without an established valid practitioner-patient relationship.

XII-d. It shall be unlawful for any pharmacy to ship finished prescription products, containing controlled substances, to patients residing in the state of New Hampshire, pursuant to any oral, written or online prescription order that was generated based upon the patient's submission of an electronic or online medical history form. Such electronic or online medical questionnaires, even if followed by telephonic communication between practitioner and patient, shall not be deemed to form the basis of a valid practitioner-patient relationship.

XII-e. It shall be unlawful for any pharmacist to knowingly dispense a controlled substance pursuant to any oral, written, or electronic prescription order, which he or she knows or should have known, was generated based upon the patient's submission of an electronic or online medical history form. Such electronic or online medical questionnaires, even if followed by telephonic communication between practitioner and patient, shall not be deemed to form the basis of a valid practitioner-patient relationship.

XIII. Nothing in this section shall be deemed to preclude or limit a prosecution for theft as defined in RSA 637.

XIV. It shall be an affirmative defense to prosecution for a possession offense under this chapter that the person charged had a lawful prescription for the controlled drug in question or was, at the time charged, acting as an authorized agent for a person holding a lawful

prescription. An authorized agent shall mean any person, including but not limited to a family member or caregiver, who has the intent to deliver the controlled drug to the person for whom the drug was lawfully prescribed.

Source. 1969, 421:1. 1977, 547:5. 1981, 513:2. 1983, 36:1; 292:1, 2. 1988, 6:2, 3. 1989, 207:1; 361:2, 3. 1990, 129:2. 2000, 176:5, eff. Jan. 1, 2001. 2008, 145:1, eff. Jan. 1, 2009; 217:5, 6, eff. Jan. 1, 2009.

318-B:26 Penalties. –

I. Any person who manufactures, sells, prescribes, administers, or transports or possesses with intent to sell, dispense, or compound any controlled drug, controlled drug analog or any preparation containing a controlled drug, except as authorized in this chapter; or manufactures, sells, or transports or possesses with intent to sell, dispense, compound, package or repackage (1) any substance which he represents to be a controlled drug, or controlled drug analog, or (2) any preparation containing a substance which he represents to be a controlled drug, or controlled drug analog, shall be sentenced as follows, except as otherwise provided in this section:

(a) In the case of a violation involving any of the following, a person shall be sentenced to a maximum term of imprisonment of not more than 30 years, a fine of not more than \$500,000, or both. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person may be sentenced to a maximum term of life imprisonment, a fine of not more than \$500,000, or both:

(1) Five ounces or more of a mixture or substance containing any of the following, including any adulterants or dilutants:

(A) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; or

(B) Cocaine other than crack cocaine, its salts, optical and geometric isomers, and salts of isomers; or

(C) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

(2) Lysergic acid diethylamide, or its analog, in a quantity of 100 milligrams or more including any adulterants or dilutants, or phencyclidine (PCP), or its analog, in a quantity of 10 grams or more including any adulterants or dilutants.

(3) Heroin or its analog or crack cocaine in a quantity of 5 grams or more, including any adulterants or dilutants.

(4) Methamphetamine or its analog, in a quantity of 5 ounces or more, including adulterants or dilutants.

(b) In the case of a violation involving any of the following, a person may be sentenced to a maximum term of imprisonment of not more than 20 years, a fine of not more than \$300,000, or both. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person may be sentenced to a term of imprisonment of not more than 40 years, a fine of not more than \$500,000, or both:

(1) A substance or mixture referred to in subparagraph I(a)(1) of this section, other than crack cocaine, in a quantity of 1/2 ounce or more, including any adulterants or dilutants;

(2) A substance classified in schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of one ounce or more including any adulterants or dilutants;

(3) Lysergic acid diethylamide, or its analog, in a quantity of less than 100 milligrams including any adulterants or dilutants, or where the amount is undetermined, or phencyclidine (PCP) or its analog, in a quantity of less than 10 grams, including any adulterants or dilutants, or where the amount is undetermined;

(4) Heroin or its analog or crack cocaine in a quantity of one gram or more, including any adulterants or dilutants;

(5) Methamphetamine or its analog, in a quantity of one ounce or more including any adulterants or dilutants;

(6) Marijuana in a quantity of 5 pounds or more including any adulterants or dilutants, or hashish in a quantity of one pound or more including any adulterants and dilutants;

(7) Flunitrazepam in a quantity of 500 milligrams or more.

(c) In the case of a violation involving any of the following, a person may be sentenced to a maximum term of imprisonment of not more than 7 years, a fine of not more than \$100,000, or both. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person may be sentenced to a maximum term of imprisonment of not more than 15 years, a fine of not more than \$200,000, or both:

(1) A substance or mixture referred to in subparagraph I(a)(1) of this section, other than crack cocaine, in a quantity less than 1/2 ounce including any adulterants or dilutants;

(2) A substance or mixture classified as a narcotic drug in schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of less than one ounce including any adulterants or dilutants;

(3) Methamphetamine, or its analog in a quantity of less than one ounce including any adulterants or dilutants;

(4) Heroin or its analog or crack cocaine in a quantity of less than one gram, including any adulterants or dilutants;

(5) Marijuana in a quantity of one ounce or more including any adulterants or dilutants, or hashish in a quantity of 5 grams or more including any adulterants or dilutants;

(6) Flunitrazepam in a quantity of less than 500 milligrams;

(7) Any other controlled drug or its analog, other than those specifically covered in this section, classified in schedules I, II, III or IV.

(d) In the case of a violation involving any of the following, a person may be sentenced to a maximum term of imprisonment of not more than 3 years, a fine of not more than \$25,000, or both. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person may be sentenced to a maximum term of imprisonment of not more than 6 years, a fine of not more than \$50,000, or both:

(1) Marijuana in a quantity of less than one ounce including any adulterants or dilutants, or hashish in a quantity of less than 5

grams including any adulterants or dilutants;

(2) Any schedule V substance or its analog.

II. Any person who knowingly or purposely obtains, purchases, transports, or possesses actually or constructively, or has under his control, any controlled drug or controlled drug analog, or any preparation containing a controlled drug or controlled drug analog, except as authorized in this chapter, shall be sentenced as follows, except as otherwise provided in this section:

(a) In the case of a controlled drug or its analog, classified in schedules I, II, III or IV, other than those specifically covered in this section, the person shall be guilty of a class B felony, except that notwithstanding the provisions of RSA 651:2, IV(a), a fine of not more than \$25,000 may be imposed. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person shall be guilty of a class A felony, except that notwithstanding the provisions of RSA 651:2, IV(a), a fine of up to \$50,000 may be imposed;

(b) In the case of a controlled drug or its analog classified in schedule V, the person shall be sentenced to a maximum term of imprisonment of not more than 3 years, a fine of not more than \$15,000, or both. If a person commits any such violation after one or more prior offenses as defined in RSA 318-B:27, such person shall be guilty of a class B felony, except that notwithstanding the provisions of RSA 651:2, IV(a), a fine of not more than \$25,000 may be imposed;

(c) In the case of more than 5 grams of hashish, the person shall be guilty of a misdemeanor, except that notwithstanding the provisions of RSA 651:2, IV(a), a fine of not more than \$5,000 may be imposed.

(d) In the case of marijuana, including any adulterants or dilutants, or 5 grams or less of hashish, the person shall be guilty of a class A misdemeanor.

III. A person shall be guilty of a misdemeanor who:

(a) Controls any premises or vehicle where he knows a controlled drug or its analog is illegally kept or deposited;

(b) Aids, assists or abets a person in his presence in the perpetration of a crime punishable under paragraph II of this section, knowing that such person is illegally in possession of a controlled drug or its analog.

(c) Manufactures with the intent to deliver, delivers or possesses with the intent to deliver any drug paraphernalia when such paraphernalia is knowingly manufactured, delivered or possessed for one or more of the uses set forth in RSA 318-B:2, II.

(d) Places an advertisement in violation of RSA 318-B:2, III.

III-a. [Repealed.]

IV. Any person who attempts or conspires to commit any offense defined in this chapter is punishable by imprisonment or a fine or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

V. Any person who violates this chapter by manufacturing, selling, prescribing, administering, dispensing, or possessing with intent to sell, dispense, or compound any controlled drug or its analog, in or on or within 1,000 feet of the real property comprising a public or private elementary, secondary, or secondary vocational-technical school, may be sentenced to a term of imprisonment or fine, or both, up to twice that otherwise authorized by this section. Except to the extent a greater minimum sentence is otherwise provided by this chapter, a sentence imposed under this paragraph shall include a mandatory minimum term of imprisonment of not less than one year. Neither the whole nor any part of the mandatory minimum sentence imposed under this paragraph shall be suspended or reduced.

VI. Except as otherwise provided in this paragraph, a person convicted under RSA 318-B:2, XII as a drug enterprise leader shall be sentenced to a mandatory minimum term of not less than 25 years and may be sentenced to a maximum term of not more than life imprisonment. The court may also impose a fine not to exceed \$500,000 or 5 times the street value of the controlled drug or controlled drug analog involved, whichever is greater. Upon conviction, the court shall impose the mandatory sentence unless the defendant has pleaded guilty pursuant to a negotiated agreement or, in cases resulting in trial; the defendant and the state have entered into a post-conviction agreement which provides for a lesser sentence. The negotiated plea or post-conviction agreement may provide for a specified term of imprisonment within the range of ordinary or extended sentences authorized by law, a specified fine, or other disposition. In that event, the court at sentencing shall not impose a lesser term of imprisonment or fine than that expressly provided for under the terms of the plea or post-conviction agreement.

VII. Any person who violates RSA 318-B:2, XI may be sentenced to a maximum term of imprisonment of not more than 20 years, a fine of not more than \$300,000, or both. If any person commits such a violation after one or more prior offenses, as defined in RSA 318-B:27, such person may be sentenced to a term of imprisonment of not more than 40 years, a fine of not more than \$500,000, or both.

VIII. Any person who knowingly or purposely obtains or purchases (1) any substance which he represents to be a controlled drug or controlled drug analog, or (2) any preparation containing a substance which he represents to be a controlled drug or controlled drug analog, except as authorized in this chapter, shall be guilty of a misdemeanor. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person shall be guilty of a class B felony.

IX. Any person who manufactures, sells, or dispenses methamphetamine, lysergic acid, diethylamide phencyclidine (PCP) or any other controlled drug classified in schedules I or II, or any controlled drug analog thereof, in violation of RSA 318-B:2, I or I-a, is strictly liable for a death which results from the injection, inhalation or ingestion of that substance, and may be sentenced to imprisonment for life or for such term as the court may order. For purposes of this section, the person's act of manufacturing, dispensing, or selling a substance is the cause of a death when:

(a) The injection, inhalation or ingestion of the substance is an antecedent but for which the death would not have occurred; and

(b) The death was not:

(1) Too remote in its occurrence as to have just bearing on the person's liability; or

(2) Too dependent upon conduct of another person which was unrelated to the injection, inhalation or ingestion of the substance or its effect, as to have a just bearing on the person's liability. It shall not be a defense to a prosecution under this section that the decedent contributed to his own death by his purposeful, knowing, reckless or negligent injection, inhalation or ingestion of the substance or by his consenting to the administration of the substance by another. Nothing in this section shall be construed to preclude or limit any prosecution for homicide. A conviction arising under this section shall not merge with a conviction of one as a drug enterprise leader or for any other offense defined in this chapter.

X. Any penalty imposed for violation of this chapter shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

XI. Any person who violates any provision of this chapter for which a penalty is not provided by paragraphs I through IX shall be guilty of a class B felony if a natural person, or guilty of a felony if any other person.

XII. The penalty categories set forth in this section based upon the weight of the drug involved are material elements of the offense; however, the culpability requirement shall not apply to that element of the offense.

XIII. Any person who violates any provision of this chapter shall be fined a minimum of \$350 for a first offense and \$500 for a second or subsequent offense.

Source. 1969, 421:1. 1970, 48:3. 1973, 528:204. 1977, 547:21. 1981, 114:2; 513:3, 4. 1988, 6:4. 1989, 195:2; 207:2-5. 1991, 364:2. 1993, 291:1. 1994, 186:3-11. 1998, 359:3, 4, eff. June 26, 1998. 2005, 177:52, eff. July 1, 2005. 2006, 241:2, eff. Jan. 1, 2007, 2013, 242:4 eff. July 23, 2013.

318-D:2 Manufacture of Methamphetamine. –

I. It shall be unlawful for any person to knowingly manufacture or attempt to manufacture methamphetamine. A person is guilty of an attempt to manufacture methamphetamine if the person:

(a) With the purpose that the crime of manufacturing methamphetamine be committed, the person engages in any conduct that, under the circumstances as the person believes them to be, is an act constituting a substantial step toward the commission of the crime; or

(b) Possesses one or more of the following substances or their salts or isomers, with the intent to manufacture methamphetamine:

- (1) Acetic acid.
- (2) Acetic anhydride.
- (3) Aluminum.
- (4) Ammonium nitrate.
- (5) Anhydrous ammonia.
- (6) Benzaldehyde.
- (7) Benzyl chloride.
- (8) Benzyl cyanide.
- (9) Chloroephedrine.
- (10) Chloropseudoephedrine.
- (11) Elemental phosphorous.
- (12) Ephedrine.
- (13) Ethylamine.
- (14) Formic acid.
- (15) Hydriodic acid.
- (16) Hydrochloric acid.
- (17) Hydrogen.
- (18) Hydrogen peroxide.
- (19) Hypophosphorus acid.
- (20) Iodine.
- (21) Lithium metal.
- (22) Mercuric chloride.
- (23) Methylamine.
- (24) N-methyl formamide.
- (25) Nitroethane.
- (26) Palladium.
- (27) Perchloric acid.
- (28) Phenylacetic acid.
- (29) Phosphorous pentachloride.
- (30) Platinum.
- (31) Raney nickel.
- (32) Sodium acetate.
- (33) Sodium hydroxide.
- (34) Sodium hypochlorite.
- (35) Sodium hypophosphite.

- (36) Sodium metal.
- (37) Sodium/potassium cyanide.
- (38) Sulfuric acid.
- (39) Thionyl chloride.
- (40) Tincture of iodine.
- (c) Possesses one or more of the following organic solvents with the intent to manufacture methamphetamine:
 - (1) Acetone.
 - (2) Chloroform.
 - (3) Cyclohexane.
 - (4) Ethanol.
 - (5) Ether.
 - (6) Light petroleum distillates.
 - (7) Methanol.
 - (8) Methyl isobutyl ketone.
 - (9) Phenyl-2 porpanone.
 - (10) Tetrachloroethylene.
 - (11) Toluene.

II. Notwithstanding the provisions of RSA 318-B:26, I, a person convicted under this section may be sentenced to imprisonment for not more than 30 years, a fine of not more than \$500,000, or both. A person convicted under this section who has one or more prior offenses as defined in RSA 318-B:27, shall be sentenced to imprisonment for not less than 5 years and not more than life imprisonment, a fine of not more than \$500,000, or both.

III. A court may require a person convicted of manufacturing or attempting to manufacture methamphetamine, where the response to the crime involved an emergency response or a hazardous substance cleanup operation, to pay restitution to all public entities, or private entities under contract to a public entity, that participated in the response or the cleanup. The restitution ordered shall cover the reasonable costs of the entities' participation in the response and the reasonable costs of the site cleanup.

IV. In addition to the restitution authorized in paragraph III, a court may require a person convicted of manufacturing or attempting to manufacture methamphetamine to pay restitution to a property owner who incurred removal or remediation costs as a result of the crime.

Source. 2006, 241:1, eff. Jan. 1, 2007.

ALCOHOL OR DRUG IMPAIRMENT

630:3 Negligent Homicide. –

I. A person is guilty of a class B felony when he causes the death of another negligently.

II. A person is guilty of a class A felony when in consequence of being under the influence of intoxicating liquor or a controlled drug or any combination of intoxicating liquor and controlled drug while operating a propelled vehicle, as defined in RSA 637:9, III or a boat as defined in RSA 265-A:1, II, he or she causes the death of another.

III. In addition to any other penalty imposed, if the death of another person resulted from the negligent driving of a motor vehicle, the court may revoke the license or driving privilege of the convicted person for up to 7 years. In cases where the person is convicted under paragraph II, the court shall revoke the license or driving privilege of the convicted person indefinitely and the person shall not petition for eligibility to reapply for a driver's license for at least 7 years. In a case in which alcohol was involved, the court may also require that the convicted person shall not have a license to drive reinstated until after the division of motor vehicles receives certification of installation of an ignition interlock device as described in RSA 265-A:36, which shall remain in place for a period not to exceed 5 years.

Source. 1971, 518:1. 1977, 588:40. 1985, 290:2. 1989, 415:2. 1992, 257:10. 1993, 272:2, eff. July 15, 1993. 2000, 318:2, eff. June 21, 2000, 287:4, eff. Jan. 1, 2002. 2006, 260:32, eff. Jan. 1, 2007.

265-A:2 Driving or Operating Under Influence of Drugs or Liquor; Driving or Operating With Excess Alcohol Concentration. –

I. No person shall drive or attempt to drive a vehicle upon any way or operate or attempt to operate an OHRV:

(a) While such person is under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor and controlled drugs; or

(b) While such person has an alcohol concentration of 0.08 or more or in the case of a person under the age of 21, 0.02 or more.

II. No person shall operate or attempt to operate a boat while under the influence of intoxicating liquor or a controlled drug or any combination of intoxicating liquor and a controlled drug or drugs, or while such person has an alcohol concentration of 0.08 or more or in the case of persons under the age of 21, 0.02 or more.

Source. 2006, 260:1, eff. Jan. 1, 2007.

265-A:3 Aggravated Driving While Intoxicated. –

A person shall be guilty of aggravated driving while intoxicated if the person drives, operates, or attempts to operate an OHRV, or if the person drives or attempts to drive a vehicle upon any way, or if the person operates or attempts to operate a boat:

I. While under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor and controlled drug

or drugs and, at the time alleged:

(a) Drives or operates at a speed more than 30 miles per hour in excess of the prima facie limit;

(b) Causes a motor vehicle, boating, or OHRV collision resulting in serious bodily injury, as defined in RSA 625:11, VI, to the person or another;

(c) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps or, in the case of a boat, navigational lamps while still in motion, or abandoning a vehicle, boat, or OHRV while being pursued; or

(d) Carries as a passenger a person under the age of 16;

II. While having an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21 at the time of the offense, 0.02 or more and, at the time alleged:

(a) Drives or operates at a speed more than 30 miles per hour in excess of the prima facie limit;

(b) Causes a motor vehicle, boating, or OHRV collision resulting in serious bodily injury, as defined in RSA 625:11, VI, to the person or another;

(c) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps or, in the case of a boat, navigational lights while still in motion, or abandoning a vehicle, boat, or OHRV while being pursued; or

(d) Carries as a passenger a person under the age of 16; or

III. While having an alcohol concentration of 0.16 or more.

Source. 2006, 260:1, eff. Jan. 1, 2007.2012, 267:3, eff. January 1, 2013

265-A:4 Implied Consent of Driver or Operator to Submit to Testing to Determine Alcohol Concentration. –

Any person who drives, operates, or attempts to operate an OHRV, drives or attempts to drive a vehicle upon the ways of this state, or operates or attempts to operate a boat upon the public waters of the state shall be deemed to have given consent to physical tests and examinations for the purpose of determining whether such person is under the influence of intoxicating liquor or controlled drugs, and to a chemical, infrared molecular absorption, or gas chromatograph test or tests of any or all of any combination of the following: blood, urine, or breath, for the purpose of determining the controlled drug content of such person's blood or alcohol concentration if arrested for any offense arising out of acts alleged to have been committed while the person was driving, operating, attempting to operate, or in actual physical control of an OHRV, driving, attempting to drive, or in actual physical control of a vehicle, or operating, attempting to operate, or in actual physical control of a boat while under the influence of intoxicating liquor or controlled drugs or while having an alcohol concentration in excess of the statutory limits contained in RSA 265-A:2 or RSA 265-A:3. The test or tests shall be administered at the direction of a law enforcement officer, peace officer, or authorized agent having reasonable grounds to believe the person to have been driving, operating, attempting to operate, or in actual physical control of an OHRV, driving or in actual physical control of a vehicle, or operating or in actual physical control of a boat while under the influence of intoxicating liquor or controlled drugs or while having an alcohol concentration of 0.08 or more, or in the case of a person under the age of 21, 0.02 or more. A copy of the report of any such test shall be furnished by the law enforcement agency to the person tested within 48 hours of receipt of the report by the agency by certified mail directed to the address shown on such person's license or other identification furnished by the person. Results of a test of the breath shall be furnished immediately in writing to the person tested by the certified breath testing operator conducting the test. When the incident involves an accident resulting in death or serious bodily injury to any person as provided in RSA 265-A:16, the prerequisites of RSA 265-A:8 shall not apply. Properly trained personnel of the United States Coast Guard may arrest and conduct tests on persons who are believed to be under the influence of intoxicating liquor or controlled drugs, or a combination thereof, and who are in physical control of a boat operating upon the public coastal waters of this state.

Source. 2006, 260:1, eff. Jan. 1, 2007.2012, 267:4, eff. January 1, 2013.

265-A:14 Refusal of Consent. –

I. If a person under arrest for any violation or misdemeanor under RSA 265 or RSA 215-A refuses upon the request of a law enforcement officer, authorized agent, or peace officer to submit to physical tests or to a test of blood, urine, or breath designated by the law enforcement officer, authorized agent, or peace officer to as provided in RSA 265-A:4, none shall be given, but:

(a) If this is the first refusal with no prior driving or operating while intoxicated or aggravated driving or operating while intoxicated convictions:

(1) The director shall suspend his or her license to drive or nonresident driving privilege for a period of 180 days; or

(2) If the person is a resident without a license or permit to drive a motor vehicle in this state, the director shall deny to the person the privilege to drive and the issuance of a license for a period of 180 days after the date of the alleged violation.

(b) If the person has a prior driving or operating while intoxicated or aggravated driving or operating while intoxicated conviction or a prior refusal of consent under this section:

(1) The director shall suspend his or her license to drive or nonresident driving privilege for a period of 2 years; or

(2) If the person is a resident without a license or permit to drive a motor vehicle in this state, the director shall deny to the person the privilege to drive and the issuance of a license for a period of 2 years after the date of the alleged violation.

II. Except as provided in paragraph VI, the 180-day or 2-year suspension period or denial of issuance period imposed pursuant to this section shall not run concurrently with any other penalty imposed under the provision of this title. Any such suspension or denial of a license or privilege to drive shall be imposed in addition to any other penalty provided by law, subject to review as provided in RSA 265-A:31.

III. A refusal of consent for both post-arrest physical testing and testing of blood, urine, or breath following any one arrest shall be deemed one refusal for the purposes of this section.

IV. The provisions and penalties of this section, relative to the refusal of consent, shall apply to any person under arrest for any violation or misdemeanor involving the operation of a boat and upon satisfactory proof of the following:

(a) That the authorized agent or peace officer had reasonable grounds to believe the arrested person had been operating, had been attempting to operate, or was in actual physical control of a boat upon the public waters of this state while under the influence of intoxicating liquor or controlled drugs, prescription drugs, over-the-counter drugs, or any other chemical substances, natural or synthetic, which impair a person's ability to drive or any combination thereof;

(b) That the person has been arrested;

(c) That the person refused to submit to the test upon request of the authorized agent or peace officer;

(d) That the agent or officer informed the person arrested that his or her refusal to submit to such a test would result in the loss of his or her privilege to operate a boat on the waters of the state and the loss of his or her privilege to operate a motor vehicle on the ways of this state; and

(e) That the agent or officer informed the arrested person of his or her right to have a similar test or tests conducted by a person of his or her own choosing.

V. If a person's license or privilege to drive is suspended under paragraph I or IV, the person's privilege to operate a boat on the waters of the state shall also be suspended for the same period of time.

VI. The commissioner, after a hearing and for good cause shown, may authorize the concurrent running of a suspension period or denial of issuance period imposed pursuant to this section, to be applied retroactively, if:

(a) The person's license or privilege to drive has been continuously suspended or revoked for 10 years or more;

(b) The person has no conviction for negligent homicide with a motor vehicle, or equivalent out-of-state offense, and no more than 2 lifetime convictions for driving under the influence of drugs or liquor or aggravated driving while intoxicated, or equivalent out-of-state offense; and

(c) The person has not driven a motor vehicle for 10 years or more and has not held a driver's license in any state during that time.

Source. 2006, 260:1, eff. Jan. 1, 2007. 2008, 316:2, eff. July 2, 2008. 2010, 107:1, eff. July 1, 2011. 2012, 56:1, 2, eff. May 14, 2012; 267:11, eff. Jan. 1, 2013.

265-A:18 Penalties for Intoxication or Under Influence of Drugs Offenses. –

I. Except as otherwise provided in this section:

(a) Any person who is convicted of any offense under RSA 265-A:2, I shall be:

(1) Guilty of a class B misdemeanor;

(2) Fined not less than \$500;

(3) Referred by the court to an IDCMP and, if a first-time offender, required to submit to an alcohol and drug abuse screening within 14 days of conviction, and, if testing demonstrates the likelihood of a substance use disorder, to submit further to a full substance use disorder evaluation within 30 days of conviction, to be administered by a service provider indicated by the IDCMP, and thereafter to follow the service plan developed from that substance use disorder evaluation by the IDCMP;

(4) Required to complete a department of health and human services approved impaired driver education program prior to the restoration of the person's driver's license or privilege to drive; provided however, that if the person has previously completed such a program within the past 5 years and provides required proof, that shall serve as fulfillment of this requirement;

(5) Required to pay all fees arising from services provided by the IDCMP and its referrals for the service plan; and

(6) Subject to the following:

(A) The person's driver's license or privilege to drive shall be revoked for not less than 9 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. The court may suspend up to 6 months of this sentence, provided that the person has been screened within 14 days and, if required, has completed the substance use disorder evaluation within 30 days with a service provider indicated by an IDCMP and is in compliance with the service plan produced thereafter, and has completed a department of health and human services approved impaired driver education program. The court may, in its discretion, require the installation of an interlock device in accordance with RSA 265-A:36 during the period of sentence reduction, and may reimpose the longer suspension period if the defendant becomes noncompliant with the treatment recommendations at any time during the suspension period;

(B) The sentencing court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate; and

(C) The court in which the person was convicted may reduce the conviction to a violation upon a motion filed by either party at least one year after the date of the conviction. In deciding whether to reduce the conviction to a violation, the court may consider the person's subsequent driving record, the recommendation of the IDCMP, the hardship that having a criminal record may cause for the person, and any other factors that the court deems relevant.

(b) Any person who is convicted of any aggravated DWI offense under RSA 265-A:3, except as provided in subparagraph (c), shall be:

(1) Guilty of a class A misdemeanor;

(2) Fined not less than \$750;

(3) Sentenced to a mandatory sentence of not less than 17 consecutive days in the county correctional facility, of which 12 days shall be suspended. The court shall refer the person to an IDCMP to schedule a full substance use disorder evaluation. A condition of the suspension shall be that upon release from serving the 5 days in the county correctional facility, the person shall schedule a substance use disorder evaluation within 30 days of release, complete the required substance use disorder evaluation within 60 days of release, and comply with the service plan developed. The IDCMP shall administer the substance use disorder evaluation and shall develop the service plan from that substance use disorder evaluation. Any portion of the suspended sentence to the county correctional facility may be imposed if the defendant does not comply with all of the requirements of this subparagraph or becomes noncompliant with the service plan during the suspension period;

(4) Ordered to install an interlock device in accordance with RSA 265-A:36; and

(5) Subject to the following:

(A) The person's driver's license or privilege to drive shall be revoked for not less than 18 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. Upon confirmation from the IDCMP that the person is in full compliance with the service plan, the court may suspend up to 6 months of this sentence, with the condition that an interlock device be installed for the period of the suspended sentence in addition to any period required in accordance with RSA 265-A:36 and provided that all fees have been paid; and

(B) The sentencing court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate.

(c) Any person who is convicted of aggravated DWI under RSA 265-A:3, I(b) or II(b), shall be:

(1) Guilty of a class B felony;

(2) Fined not less than \$1,000;

(3) Sentenced to a mandatory sentence of not less than 35 consecutive days in the county correctional facility, of which 21 shall be suspended. The court shall refer the person to an IDCMP to schedule a full substance use disorder evaluation. A condition of the suspension shall be that upon release from serving the 14 days in the county correctional facility, the person shall schedule a substance use disorder evaluation within 30 days of release, complete the required substance use disorder evaluation within 60 days of release, and comply with the service plan developed. The IDCMP shall administer the substance use disorder evaluation and shall develop the service plan from that substance use disorder evaluation. Any portion of the suspended sentence to the county correctional facility may be imposed if the defendant does not comply with all of the requirements of this subparagraph or becomes noncompliant with the service plan during the suspension period;

(4) Ordered to install an interlock device in accordance with RSA 265-A:36; and

(5) Subject to the following:

(A) The person's driver's license or privilege to drive shall be revoked for not less than 18 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. The court may suspend up to 6 months of this sentence, provided that the person shall schedule a substance use disorder evaluation within 30 days of release, or upon release from the county correctional facility, whichever occurs later, complete the required substance use disorder evaluation within 60 days of release with a service provider indicated by an IDCMP, and the service plan produced thereafter, with the condition that an interlock device be installed for the period of the suspended sentence in addition to any period required in accordance with RSA 265-A:36 and provided that all fees have been paid; and

(B) The sentencing court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate.

II. Any person convicted of a violation of RSA 265-A:19, II shall be subject to the penalties set out in this section for a violation of RSA 265-A:3. Any person convicted of a violation of any other provision in RSA 265-A:19 or a violation of RSA 265-A:2, II shall be subject to the penalties set out in this section for a violation of RSA 265-A:2, I.

III. Any person who is convicted of an offense under RSA 265-A:2, I or RSA 630:3, II, and whose offense occurred while the person was under the age of 21, shall be sentenced according to the provisions of this section, except that in all cases the person's driver's license or privilege to drive shall be revoked for not less than one year. The person shall schedule a substance use disorder evaluation with a service provider indicated by an IDCMP within 30 days of conviction, or upon release from the correctional facility, whichever occurs later, complete the required substance use disorder evaluation within 60 days of release, comply with the service plan developed by the IDCMP, and complete an approved impaired driver education program if not previously completed within the past 5 years.

IV. Upon conviction of any offense under RSA 265-A:2, I or RSA 265-A:3, based on a complaint which alleged that the person has had one or more prior convictions under RSA 265-A:2, I or RSA 265-A:3, or RSA 630:3, II, or under reasonably equivalent offenses in an out-of-state jurisdiction, within 10 years preceding the date of the second or subsequent offense, the person shall be subject to the following penalties in addition to those provided in paragraph I:

(a) For a second offense:

(1) The person shall be guilty of a class A misdemeanor;

(2) The person shall be fined not less than \$750;

(3)(A) If the complaint alleges that the prior conviction occurred within 2 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than 60 consecutive days in the county correctional facility, of which 30 days shall be suspended. The court shall refer the person to an IDCMP to schedule a full substance use disorder evaluation. A condition of the

suspension shall be that upon release from serving the 30 days in the county correctional facility, the person shall schedule a substance use disorder evaluation within 30 days of release, complete the required substance use disorder evaluation within 60 days of release, and comply with the service plan developed. The IDCMP shall administer the substance use disorder evaluation and shall develop the service plan from that substance use disorder evaluation. Any portion of the suspended sentence to the county correctional facility may be imposed if the defendant does not comply with all of the requirements of this subparagraph or becomes noncompliant with the service plan during the suspension period;

(B) If the complaint alleges that the prior conviction occurred more than 2 but not more than 10 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than 17 consecutive days in the county correctional facility, of which 12 days shall be suspended. The court shall refer the person to an IDCMP to schedule a full substance use disorder evaluation. A condition of the suspension shall be that upon release from serving the 5 days in the county correctional facility, the person shall schedule a substance use disorder evaluation within 30 days of release, complete the required substance use disorder evaluation within 60 days of release, and comply with the service plan developed. The IDCMP shall administer the substance use disorder evaluation and shall develop the service plan from that substance use disorder evaluation. Any portion of the suspended sentence to the county correctional facility may be imposed if the defendant does not comply with all of the requirements of this subparagraph or becomes noncompliant with the service plan during the suspension period; and

(4) The person's driver's license or privilege to drive shall be revoked for not less than 3 years. The person's driver's license or privilege to drive shall not be restored by the department until the person shall have completed the service plan developed by the IDCMP, and paid all relevant fees.

(b) For a third offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraph (a) except that:

(1) The person's driver's license or privilege to drive shall be revoked indefinitely and shall not be restored for at least 5 years. At the end of the 5-year minimum revocation period the person may petition the court for eligibility to reapply for a driver's license and the court, for good cause shown, may grant such eligibility subject to such terms and conditions as the court may prescribe. Any untimely petition under this subparagraph shall be dismissed without a hearing. If such petition is granted and the person is otherwise eligible for license restoration, the person may then apply to the director for restoration of driver's license, but the license shall not be restored until all requirements under law are met. The person's driver's license or privilege to drive shall not be restored by the department until the person shall have completed the service plan developed by the IDCMP, and paid all relevant fees.

(2) The person shall be sentenced to a mandatory sentence of not less than 180 consecutive days of which 150 shall be suspended. The court shall refer the person to an IDCMP to schedule a full substance use disorder evaluation. A condition of the suspension shall be that upon release from serving the 30 days in the county correctional facility, the person shall schedule a substance use disorder evaluation within 30 days of release, complete the required substance use disorder evaluation within 60 days of release, and comply with the service plan developed. The IDCMP shall administer the substance use disorder evaluation and shall develop the service plan from that substance use disorder evaluation. Any portion of the suspended sentence to the county correctional facility may be imposed if the defendant does not comply with all of the requirements of this subparagraph or becomes noncompliant with the service plan during the suspension period. The remainder of the sentence may be deferred for a period of up to 2 years. The court may, at the satisfactory completion of any required treatment, suspend any remaining deferred sentence.

(c) For a fourth or subsequent offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraphs (a) and (b) except that the person shall be guilty of a felony, and the person's driver's license or privilege to drive shall be revoked indefinitely and the person shall not petition for eligibility to reapply for a driver's license as provided in subparagraph (b)(1) for at least 7 years.

(d) For a third or subsequent offense when any prior offense under this paragraph is negligent homicide under RSA 630:3, II, or reasonably equivalent offense in an out-of-state jurisdiction, the person convicted under this paragraph shall be subject to all the penalties of subparagraphs (a) and (b) except that the person's driver's license or privilege to drive shall be revoked indefinitely and the person shall not petition for eligibility to reapply for a driver's license as provided in subparagraph (b)(1) for at least 10 years.

V. If any person is convicted of a violation of RSA 265-A:2, I or RSA 265-A:3, and the conviction is not based upon a complaint which alleges prior convictions as provided in paragraph IV, but the person is found to have had one or more such prior convictions in this state or in an out-of-state jurisdiction within 10 years preceding the date of the offense, the person's driver's license or privilege to drive shall be revoked for not less than one year nor more than 3 years. The court shall refer the person to an IDCMP to schedule a full substance use disorder evaluation. The person shall schedule a substance use disorder evaluation within 30 days of release, complete the required substance use disorder evaluation within 60 days of release, and comply with the service plan developed. The IDCMP shall administer the substance use disorder evaluation and shall develop the service plan from that substance use disorder evaluation. The court may suspend up to 6 months of this sentence, conditional on completion of the required evaluation within 30 days of the court's finding, completion of the service plan developed by the IDCMP, and payment of all relevant fees.

VI. For the purposes of this section:

(a) "Revocation" or "revoked" means revocation as defined in RSA 259:90 and also includes, if the person is a nonresident, the revocation of the person's privilege as an out-of-state driver to drive on any ways of this state.

(b) "Out-of-state jurisdiction" includes any governmental entity that issues driver's licenses that are valid for operating a motor vehicle on the ways of this state as provided in RSA 263:37, and that has laws relating to driving while impaired that are reasonably equivalent to the laws of this state.

(c) "IDCMP" means an impaired driver care management program approved by the department of health and human services under RSA 265-A:40.

VII. No portion of the minimum mandatory sentence of imprisonment and no portion of the mandatory sentence of the period of revocation and no portion of any fine imposed under this section shall be suspended or reduced by the court. No case brought to enforce this section shall be continued for sentencing for longer than 35 days. No person serving the minimum mandatory sentence under this section shall be discharged pursuant to authority granted under RSA 651:18, released pursuant to authority granted under RSA 651:19, or in any manner, except as provided in RSA 623:1, prevented from serving the full amount of such minimum mandatory sentence under any authority granted by RSA title LXII or any other provision of law.

VIII. Any person convicted of a violation of RSA 265-A:2, RSA 265-A:3, or RSA 265-A:19, II, and who at the time of driving or attempting to drive a vehicle or off highway recreational vehicle or operating or attempting to operate a boat was transporting a person under the age of 16, shall have the driver's license or privilege to drive revoked for the maximum time period under the section violated and the person's license or privilege to drive shall not be restored until the offender has completed an IDCMP screening within 14 days of conviction, and if testing demonstrates the likelihood of a substance use disorder, the person shall schedule a substance use disorder evaluation within 30 days of conviction or within 30 days of release from the correctional facility, whichever occurs later, complete the required substance use disorder evaluation within 60 days of release from the correctional facility, comply with the service plan developed from the substance abuse disorder evaluation by the IDCMP, and complete a department of health and human services approved impaired driver education program prior to the restoration of the person's driver's license or privilege to drive; provided however, that if the person has previously completed such a program within the past 5 years and provides required proof, that shall serve as fulfillment of this requirement.

IX. Any conviction under RSA 265-A:2, I or RSA 265-A:3 shall be reported to the department of safety, division of motor vehicles, and shall become a part of the motor vehicle driving record of the person convicted.

X. When any provision of this section requires a person to schedule, submit to, or complete an alcohol and drug abuse screening or substance use disorder evaluation within a specified number of days, or makes such a condition of eligibility for suspension of a period of license revocation or other sentence, a person may comply with the requirement within the time period specified or as soon thereafter as any extenuating circumstances approved by the department of health and human services allow.

Source. 2006, 260:1, eff. Jan. 1, 2007; 259:30, 31, eff. one day after passage of state operating budget for biennium ending June 30, 2009. 2007, 263:66, eff. June 29, 2007. 2008, 256:1-4, eff. Aug. 25, 2008. 2010, Sp. Sess., 1:13-18, eff. June 10, 2010. 2012, 228:4, eff. Jan. 1, 2013.

265-A:43 Possession of Drugs. –

Any person who drives on any way a vehicle while knowingly having in his or her possession or in any part of the vehicle a controlled drug or controlled drug analog in violation of the provisions of RSA 318-B shall be guilty of a misdemeanor, and his or her license shall be revoked or his or her right to drive denied for a period of 60 days and at the discretion of the court for a period not to exceed 2 years.

Source. 2006, 260:1, eff. Jan. 1, 2007.

265-A:44 Transporting Alcoholic Beverages. –

I. The words "liquor" and "beverage" as used in this section shall have the same meanings as defined in RSA 175:1.

II. Except as provided in paragraph V, no driver shall transport, carry, possess, or have any liquor or beverage within the passenger area of any motor vehicle upon any way in this state except in the original container and with the seal unbroken. Securely capped partially filled containers of liquor or beverages shall be stored and transported in the trunk of the motor vehicle. If the motor vehicle does not have a trunk, such containers shall be stored and transported in that compartment or area of the vehicle which is the least accessible to the driver.

III. Except as provided in paragraph V, no passenger shall carry, possess, or have any liquor or beverage within any passenger area of any motor vehicle upon any way or in an area principally used for public parking in this state except in the original container and with the seal unbroken. Securely capped partially filled containers of liquor or beverages may be stored and transported in that compartment or area of the vehicle which is the least accessible to the driver.

IV. A person who violates this section shall be guilty of a violation and shall be subject to a fine of \$150. In addition, a person who violates paragraph II of this section may have his or her drivers' license, if a resident or driving privilege, if a nonresident, suspended 60 days for a first offense and up to one year for a second or subsequent offense.

V. This section shall not apply to persons transporting, carrying, possessing, or having any liquor or beverage in a chartered bus, in a taxi, or in a limousine for hire; provided, however, that the driver of any of said vehicles is prohibited from having any liquor or beverage in or about the driver's area.

VI. For the purposes of this section only:

(a) "Passenger area of any motor vehicle" shall not include any section of a motor vehicle which has been designed or modified for the overnight accommodation of persons or as living quarters.

(b) "Way" shall mean the entire width between the boundary lines of any public highway, street, avenue, road, alley, park, or parkway, or any private way laid out under authority of statute, or any such way provided and maintained by a public institution to which state funds are appropriated for public use or any such way which has been used for public travel for 20 years.

Source. 2006, 260:1, eff. Jan. 1, 2007; 259:32, eff. one day after passage of state operating budget for biennium ending June 30, 2009.

265-A:45 Transportation of Alcoholic Beverages by a Minor. –

I. Notwithstanding RSA 265-A:44, II, no driver under the age of 21 shall, except when accompanied by a parent, legal guardian, or legal age spouse, transport any liquor or beverage in any part of a vehicle. A driver violating this section may have his or her license or privilege to drive suspended for 60 days. The words "liquor" and "beverage" as used in this section shall have the same meanings as defined in RSA 175:1. "Legal age spouse" means a person 21 years of age or older.

II. No person operating a boat while under the age of 21 shall, except when accompanied by a parent, legal guardian, or legal age spouse, transport any liquor or beverage in any part of a boat with an intent to consume such liquor or beverage. Anyone violating this paragraph may, following a hearing, have his or her privilege to operate a boat on the waters of the state suspended for 90 days and may additionally have his or her license or privilege to drive suspended for 90 days.

III. The words "liquor" and "beverage" as used in this section shall have the same meanings as defined in RSA 175:1. "Legal age spouse" means a person 21 years of age or older.

IV. This section shall not apply to a driver under 21 years of age employed under RSA 179:23.

Source. 2006, 260:1, eff. Jan. 1, 2007. 2008, 316:4, eff. July 2, 2008.

Alcohol – Minors

179:1 Possession. – No person shall possess, transport, procure, furnish, or give away any beverage or liquor except such as has been sold under the provisions of this title or legally purchased outside the state and except as otherwise provided in this title.

Source. 1990, 255:1, eff. July 1, 1990.

179:2 Seizure. – Any beverage or liquor possessed, kept for sale, or transported in violation of the provisions of this title or any law of the state, together with the casks, bottles, or other paraphernalia used in such illegal possession, keeping, or transportation, shall be subject to seizure either upon a warrant issued upon a complaint against the person charged with violating the law, and containing a command for such seizure, or upon a libel directed against the property, filed in accordance with the provisions of RSA 617, and upon due proceedings may be adjudged forfeited. When any sheriff or deputy sheriff, duly appointed police officer or constable of any city or town, or other duly appointed law enforcement officer, shall discover any person in the act of transporting beverages or liquor in violation of this chapter or any other law of this state, in any wagon, buggy, automobile, watercraft, aircraft, or other vehicle, or any other conveyance, it shall be his duty to seize all beverage and liquor found therein being transported contrary to law. No officer shall, without a warrant, cause any automobile or other vehicle traveling upon a public highway in this state to be stopped for the purpose of searching the same for beverages or liquor unless he has reasonable cause to believe that such automobile or other vehicle is, at the time of said stopping or search, being used for the illegal transportation of beverage or liquor. Whenever beverage or liquor being illegally transported shall be seized by an officer he shall take possession of any vehicle, team, automobile, boat, aircraft, watercraft, or any other conveyance engaged in such illegal transportation, and shall arrest any person or persons in charge of such transportation. Such officer shall at once proceed against the person or persons arrested under the provisions of this chapter in any court having competent jurisdiction, and the vehicle or conveyance, on due proceedings in accordance with the provisions of RSA 617, may be adjudged forfeited, unless by intervention or otherwise at hearing, or in some other proceeding brought for the purpose, a lien or liens shall be established to have been created without notice that such vehicle was being used or was to be used for the illegal transportation of beverage or liquor. The vehicle may be ordered sold by the court, and the proceeds of the sale, after deducting the expenses of keeping and sale, used for the purpose of paying such liens in the order of their priority, and the balance disposed of as provided in RSA 179:3. If a lien or liens shall be established in excess of the value of such vehicle, the court shall order its surrender to the first lien holder upon payment of costs of seizure, but subsequent lien holders shall have the right of redemption in the order of their liens upon satisfaction of prior liens and charges, provided such right is asserted within such time as the court shall fix in its order of surrender.

Source. 1990, 255:1, eff. July 1, 1990.

179:4 Forfeiture of Liquor and Beverage. – Any person who is taken into protective custody for intoxication or convicted of driving a motor vehicle under the influence of beverage or liquor shall forfeit any liquor or beverage upon his person or in the vehicle, if any, at the time of the commission of the offense. This section shall not apply to liquor or beverage legally in his possession for the purpose of sale. Any liquor or beverage so forfeited shall be disposed of as the court may determine and the proceeds, if any, shall be paid into the treasury of the county in which the proceedings were determined for its use.

Source. 1990, 255:1, eff. July 1, 1990.

179:5 Prohibited Sales. –

I. No licensee, salesperson, direct shipper, common carrier, delivery agent, nor any other person, shall sell or give away or cause or allow or procure to be sold, delivered, or given away any liquor or beverage to a person under the age of 21 or serve an individual who is visibly intoxicated or who a reasonable and prudent person would know is intoxicated. For all deliveries of packages by common carrier or delivery agent marked "alcoholic beverages" or "alcoholic products," the carrier shall obtain an adult signature. A licensed carrier shall not transport any liquor, wine, or beverage that has been identified by the commission as originating from a person who does not hold a valid New Hampshire direct shipper permit, provided that such identification has first been provided to and received by the licensed carrier in writing. The commission shall notify carriers by mail on a monthly basis of the identity of unauthorized shippers, which notification shall

be effective 15 days after such mailing.

II. No licensee, manager or person in charge of a licensed premises shall allow or permit any individual, who is under the age of 21, to possess or consume any liquor or beverage on the licensed premises.

Source. 1990, 255:1. 1996, 275:16. 1998, 167:6; 331:13, eff. July 1, 1998. 2009, 95:1, eff. Jan. 1, 2010. 2010, 300:6, eff. Jan. 1, 2011.

179:9 Person Misrepresenting Age. –

I. A person who falsely represents his age for the purpose of procuring liquor or beverage and who procures such liquor or beverage shall be guilty of a misdemeanor. Any person who violates any of the provisions of this section shall be fined for his first offense a minimum of \$500. No portion of this mandatory minimum fine shall be waived, continued for sentencing, or suspended by the court. A second or subsequent offense shall carry a \$1,000 minimum fine.

II. Notwithstanding paragraph I or any other law to the contrary, any person who possesses or uses or displays in any manner a false identification card, document, license, or any other document which represents such person's age for the purpose of purchasing liquor, beverages, or beer as defined in RSA 175:1 by the bottle, can, glass, container, or drink in any manner shall be fined a minimum of \$500. No portion of this mandatory minimum fine shall be waived, continued for sentencing, or suspended by the court. The provisions of this paragraph do not reduce the maximum penalty which could be imposed for such an offense pursuant to paragraph I. A second or subsequent offense shall carry a \$1,000 minimum fine.

III. An identification card issued under the provisions of RSA 260:21 shall be withdrawn for violation of this section for 90 days. In addition, the director of the division of motor vehicles shall withdraw, for 90 days, the identification card of any person who allows his card to be used or displayed by another person for the purpose of purchasing liquor or beverages as defined in RSA 175:1.

Source. 1990, 255:1. 1996, 275:17, eff. June 10, 1996. 2002, 107:1, eff. Jan. 1, 2003.

179:10 Unlawful Possession and Intoxication. –

I. Except as provided in RSA 179:23, any person under the age of 21 years who has in his or her possession any liquor or alcoholic beverage, or who is intoxicated by consumption of an alcoholic beverage, shall be guilty of a violation and shall be fined a minimum of \$300. Any second and subsequent offense shall be fined at least \$600. For purposes of this section, alcohol concentration as defined in RSA 259:3-b of .02 or more shall be prima facie evidence of intoxication. No portion of this mandatory minimum fine shall be waived, continued for sentencing, or suspended by the court. In addition to the penalties provided in this section, the court may, in its discretion, impose further penalties authorized by RSA 263:56-b.

II. Except for persons convicted on the basis of intoxication, any person under the age of 21 years convicted of unlawful possession of liquor or beverage shall forfeit the same, and it shall be disposed of as the court directs. The proceeds, if any, shall be paid into the treasury of the county in which the proceedings were determined.

Source. 1990, 255:1. 1998, 167:8, eff. July 1, 1998. 2002, 256:1, eff. Jan. 1, 2003. 2005, 177:47, eff. July 1, 2005. 2006, 259:1, eff. one day after passage of state operating budget for biennium ending June 30, 2009.

179:10-a Attempt to Purchase Alcohol. – Notwithstanding any other law to the contrary, any person under the age of 21 years, who possesses beverage or liquor with the intent to purchase said beverage or liquor, and who does or omits to do anything which, under the circumstances as such person believes them to be, is an act or omission constituting a substantial step towards the purchase of an alcoholic beverage shall be guilty of a violation.

Source. 1996, 275:18, eff. June 10, 1996.

179:60 Interference With Liquor Investigators. – It shall be unlawful to resist or attempt to resist arrest by a liquor investigator, or to obstruct, or to intimidate or interfere with a liquor investigator in the performance of his duty. Any person who violates any of the provisions of this section shall be guilty of a misdemeanor.

Source. 1990, 255:1, eff. July 1, 1990. [RSA 179:60 repealed effective July 1, 2011 by 2009, 144:174, II.]

179:62 Manufacture, Sale, and Possession of False Identification. –

I. No person shall knowingly manufacture, sell, advertise for sale, solicit orders for, deliver or cause to be delivered, or produce in any manner any photographic identification card that purports to be an official document issued by a local, state, or federal government, or any political subdivision thereof, which contains false or inaccurate information regarding the name, address, date of birth, or height and weight characteristics of the cardholder. A person who violates this paragraph shall be guilty of:

(a) A misdemeanor.

(b) A class B felony if such person has had 2 or more prior convictions in this state or another state for the conduct described in this paragraph.

(c) A class B felony if such person is engaged in the business of manufacturing, selling, advertising for sale, soliciting orders for, delivering, or causing to be delivered photographic identification cards in violation of this paragraph.

II. In this section, "engaged in the business" means manufacturing, selling, advertising for sale, soliciting orders for, delivering, or causing to be delivered 5 or more photographic identification cards in violation of paragraph I.

III. No person shall possess a photographic identification card that purports to be an official document issued by a local, state, or federal government, or any political subdivision thereof, which contains false or inaccurate information regarding the name, address, date of birth, or height and weight characteristics of the card holder. Any person who violates this paragraph shall be guilty of a misdemeanor.

IV. Interests in any tools, instruments, computer or computerized records, products, and equipment of any kind, or other paraphernalia used in the manufacture, sale, advertising for sale, delivery, or solicitation of any order for sale, of a false identification card, shall, upon petition of the attorney general, be subject to forfeiture to the state and shall be vested in the state.

Source. 1998, 374:2, eff. Jan. 1, 1999.

644:18 Facilitating a Drug or Underage Alcohol House Party. –

I. A person shall be guilty of a misdemeanor if such person owns or has control of the occupied structure, dwelling, or curtilage, where a drug or underage alcohol house party is held and such person knowingly commits an overt act in furtherance of the occurrence of the drug or underage alcohol house party knowing persons under the age of 21 possess or intend to consume alcoholic beverages or use controlled drugs at such drug or underage alcohol house party.

II. It is an affirmative defense to prosecution under this section if a person gives timely notice to a law enforcement official of the occurrence of the drug or underage alcohol house party or engages in other conduct designed to prevent the occurrence of such party, or takes action to terminate such party once underway.

III. In this section, ""drug or underage alcohol house party" means a gathering of 5 or more people under the age of 21 at any occupied structure, dwelling, or curtilage, who are unrelated to the person who owns such occupied structure, dwelling, or curtilage or has control thereof, where at least one person under the age of 21 unlawfully possesses or consumes an alcoholic beverage or controlled drug.

""Occupied structure" has the same meaning as in RSA 635: 1, and ""dwelling" and ""curtilage" have the same meaning as in RSA 627:9.

IV. The provisions of this section shall not apply to the use of alcoholic beverages at legally protected religious observances or activities, or to those persons using a controlled drug under a physician's care where the use of the drug is consistent with the directions of a physician.

Source. 2004, 25:1, eff. April 14, 2004.

Local Ordinance – Town of Goffstown

Consumption of Alcoholic Beverages in Public Prohibited

No person shall consume any liquor or beverages or possess any open container thereof, as defined by RSA 175:1, while in any vehicle upon a way, or while upon any way, sidewalk, common, public beach or recreation area, or upon the premises of any school within the limits of the Town of Goffstown.

Illegal possession of alcohol, first offense – mandatory \$150 fine which is suspended if the person attends the Alcohol Awareness Seminar, second offense – if they have been through the course, minimum fine of \$300, maximum \$500.

Alcohol prohibited on Glen Lake Beach and Mountain Base Pond, fine of \$100 for the 1st offense and up to \$500 for the second offense.