

SB 123 - AS INTRODUCED

2015 SESSION

15-0899
06/04

SENATE BILL **123**

AN ACT relative to warnings prior to the imposition of civil fines assessed by certain state agencies.

SPONSORS: Sen. Sanborn, Dist 9; Sen. Stiles, Dist 24; Sen. Daniels, Dist 11; Sen. Little, Dist 8; Sen. Bradley, Dist 3; Sen. Forrester, Dist 2

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill permits certain state agencies to issue a warning before imposing fines for certain violations.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to warnings prior to the imposition of civil fines assessed by certain state agencies.

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

1 1 Commissioner of Agriculture, Markets, and Food; Law Enforcement; Warnings. Amend
2 RSA 425:11 to read as follows:

3 425:11 Law Enforcement.

4 ***I.*** The commissioner of agriculture, markets, and food shall cooperate with the attorney
5 general and county attorneys in enforcing the laws relating to farm-foods adulteration, the pure seed
6 laws, the fertilizer laws and such other laws as relate to the subject matter of this department.

7 ***II. In addition, the commissioner may issue one written warning to any person for a***
8 ***violation of laws related to the subject matter of this department for which a civil penalty***
9 ***not to exceed \$2,500 may be imposed; however, no warning shall be issued if, in the opinion***
10 ***of the commissioner, such person intends to cause harm or the violation poses a threat to***
11 ***public safety.***

12 2 New Paragraph; Bank Commissioner; Duties; Warning. Amend RSA 383:9 by inserting after
13 paragraph III the following new paragraph:

14 IV. The commissioner may issue one written warning to any person for any violation of laws
15 related to the subject matter of this department for which a civil penalty not to exceed \$2,500 may be
16 imposed; however, no warning shall be issued if, in the opinion of the commissioner, such person
17 intends to cause harm or the violation poses a threat to public safety.

18 3 New Paragraph; Department of Resources and Economic Development; Administrative Fines;
19 Warning. Amend RSA 12-A:2-c by inserting after paragraph IV the following new paragraph:

20 IV-a. The commissioner may issue one written warning to any person for any violation of
21 laws related to the subject matter of this department for which a civil penalty not to exceed \$2,500
22 may be imposed; however, no warning shall be issued if, in the opinion of the commissioner, such
23 person intends to cause harm or the violation poses a threat to public safety.

24 4 Department of Employment Security; Duties of Commissioner. Amend RSA 282-A:112, I to
25 read as follows:

26 I. It shall be the duty of the commissioner of the department of employment security to
27 administer this chapter. He ***or she*** shall have power and authority to adopt, amend, or rescind
28 rules, to employ such persons, make such expenditures, require such reports, make such
29 investigations, and take such other action as he ***or she*** deems necessary or suitable to that end.
30 ***The commissioner may issue one written warning to any person for a violation of laws***

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1 *related to the subject matter of this department for which a civil penalty not to exceed*
2 *\$2,500 may be imposed; however, no warning shall be issued if, in the opinion of the*
3 *commissioner, such person intends to cause harm or the violation poses a threat to*
4 *public safety.* The commissioner shall determine his *or her* own organization and methods of
5 procedure in accordance with the provisions of this chapter. Not later than the thirtieth day of
6 June of each year, the commissioner shall submit to the governor a report covering the
7 administration and operation of this chapter during the preceding calendar year and shall make
8 such recommendations for amendments to this chapter as he *or she* deems proper. Such reports
9 shall include a balance sheet of the moneys in the fund in which there shall be provided, if
10 possible, a reserve against the liability in future years to pay benefits in excess of the then
11 current contributions, which reserve shall be set up by the commissioner in accordance with
12 accepted actuarial principles on the basis of statistics of employment, business activity, and
13 other relevant factors for the longest possible period. Whenever the commissioner believes that
14 a change in contribution or benefit rates will become necessary to protect the solvency of the
15 fund, he *or she* shall promptly so inform the governor and the legislature and make
16 recommendations with respect thereto.

17 5 New Paragraph; Department of Environmental Services; Administrative Fines. Amend
18 RSA 21-O:3 by inserting after paragraph X the following new paragraph:

19 XI. Have the authority to issue one written warning to any person for any violation of laws
20 related to the subject matter of this department for which a civil penalty not to exceed \$2,500 may be
21 imposed; however, no warning shall be issued if, in the opinion of the commissioner, such person
22 intends to cause harm or the violation poses a threat to public safety.

23 6 Insurance Commissioner. Amend RSA 400-A:3 to read as follows:

24 400-A:3 Insurance Commissioner; Appointment; Term. The head of the department shall be the
25 insurance commissioner who is charged with the rights, powers, and duties pertaining to the
26 enforcement and execution of the insurance laws of this state. *The commissioner may issue one*
27 *written warning to any person for a violation of laws related to the subject matter of this*
28 *department for which a civil penalty not to exceed \$2,500 may be imposed; however, no*
29 *warning shall be issued if, in the opinion of the commissioner, such person intends to cause*
30 *harm or the violation poses a threat to public safety.* The commissioner shall have all powers
31 specifically granted to him or her or reasonably implied in order to enable him or her to perform the
32 duties imposed by this title. The commissioner shall have such additional rights, powers, and duties
33 as may be provided by other laws. The commissioner shall be appointed by the governor with advice
34 and consent of the council. The commissioner shall hold office for 5 years. Vacancies in the office of
35 the insurance commissioner shall be filled for the unexpired term of such office. The commissioner
36 may be removed only as provided by RSA 4:1.

37 7 Liquor Commissioner; Administrative Fines. Amend RSA 179:57, I to read as follows:

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1 I. The commission shall cause frequent inspections to be made of all the premises with
2 respect to which any license has been issued under the provisions of this title. If any licensee
3 violates any of the provisions of law or any of the rules of the commission adopted under this title or
4 fails to superintend in person or through a manager approved by the commission the business for
5 which the license was issued or allows the premises with respect to which the license was issued to
6 be used for any unlawful purposes or knowingly designates to be in charge of the premises any
7 person who has been convicted of a felony, unless the person has been approved by the commission
8 pursuant to RSA 179:23, V, or otherwise fails to carry out in good faith the purposes of this title or if
9 the premises are regularly the site of violence the license of such licensee may be suspended or
10 revoked after notice and hearing, in accordance with RSA 541-A:31-36. Notwithstanding any other
11 provisions of this chapter, the commission after the appropriate hearing may impose a fine of a
12 specific sum, which shall not be less than \$100 nor more than \$5,000 for any one offense. Such a fine
13 may be imposed instead of, or in addition to, any suspension or revocation of a license by the
14 commission. ***The commissioner may issue one written warning to any person for a violation***
15 ***of laws under this title for which a civil penalty not to exceed \$2,500 may be imposed;***
16 ***however, no warning shall be issued if, in the opinion of the commissioner, such person***
17 ***intends to cause harm or the violation poses a threat to public safety.***

18 8 New Paragraph; Real Estate Commission; Unlawful Practice, Penalty. Amend RSA 331-A:34
19 by inserting after paragraph V the following new paragraph:

20 VI. The commission may issue one written warning to any person for any violation of laws
21 related to the subject matter of this department for which a civil penalty not to exceed \$2,500 may be
22 imposed; however, no warning shall be issued if, in the opinion of the commission, such person
23 intends to cause harm or the violation poses a threat to public safety.

24 9 Effective Date. This act shall take effect January 1, 2016.