

## **Criminal Penalties**

### **Penal Law Sections 55.10, 70.15, 80.05**

The Alcoholic Beverage Control Law identifies specific felonies and misdemeanors associated with violations of the laws contained in it. These are explicitly spelled out in each section with different penalties for each.

Any felony that is not specifically identified in the Alcoholic Beverage Control Law should be considered a class E felony. These require a minimum sentence of one year in prison.

Misdemeanors are classified as either class A or class B misdemeanors in the Alcoholic Beverage Control Law. Any misdemeanor that is not specifically identified should be considered a class A misdemeanor.

If a person has made money or gained property through the commission of a misdemeanor or violation a fine may be imposed that:

- Is fixed by the court
- May be up to double the amount of the defendant's monetary gain (not to exceed \$5,000)

Where an offense is defined outside Penal Law §55.10 and a sentence to a term of imprisonment in excess of 15 days but not in excess of 1 year is provided in the law or ordinance defining it, such offense shall be deemed an unclassified misdemeanor.

**Violations** – Every violation defined in this chapter is expressly designated as such. Any offense defined outside this chapter which is not expressly designated a violation shall be deemed a violation if:

1. Notwithstanding any other designation, a sentence to a term of imprisonment which is not in excess of 15 days or the only sentence provided therein is a fine; or
2. A sentence to a term of imprisonment in excess of 15 days is provided for such offense in a law or ordinance enacted prior to the effective date of this chapter but the offense was not a crime prior to that date.

**Traffic Infractions** – Notwithstanding any other provision, an offense which is defined as a “traffic infraction” shall not be deemed a violation or a misdemeanor by virtue of the sentence prescribed therefor.

## **Sentencing and Fines** (does not apply to corporations)

Type	Sentence	Fine
Class A Misdemeanors	<ul style="list-style-type: none"><li>• Fixed by the court</li><li>• Will not exceed one year (except for criminal possession of a weapon)</li><li>• Depends on whether the person was convicted of previous offenses in the last 5 years</li><li>• Depends on whether the court would consider the sentence unduly harsh</li></ul>	<ul style="list-style-type: none"><li>• Fixed by the court</li><li>• Will not exceed \$1,000</li></ul>
Class B Misdemeanors	<ul style="list-style-type: none"><li>• Fixed by the court</li><li>• Will not exceed 3 months</li></ul>	<ul style="list-style-type: none"><li>• Fixed by the court</li><li>• Will not exceed \$500</li></ul>
Unclassified Misdemeanors	<ul style="list-style-type: none"><li>• Fixed by the court</li><li>• Specified in the law or ordinance that defines the crime</li></ul>	<ul style="list-style-type: none"><li>• Fixed by the court</li><li>• Will be in agreement with the provisions of the law defining the crime</li></ul>
Violations	<ul style="list-style-type: none"><li>• Fixed by the court</li><li>• Will not exceed 15 days</li><li>• No imprisonment will be imposed for violations consisting solely of a fine</li></ul>	<ul style="list-style-type: none"><li>• Fixed by the court</li><li>• Will not exceed \$250</li></ul>

## **Penalties for Corporations**

Corporations that violate the Alcoholic Beverage Control Law will be required to pay specific corporate fines outlined in the law. In instances where fines are not specified, corporations are required to pay the following fines:

- Felony: Fine not exceeding \$10,000
- Class A Misdemeanor: Fine not exceeding \$5,000
- Class B Misdemeanor: Fine not exceeding \$2,000
- Violation: Fine not exceeding \$500
- Up to double the amount the corporation has gained from the commission of an offense

In the event that a special fine is identified in the Alcoholic Beverage Control Law for a corporate violation, the fine will be:

- An amount within the limits specified by the law
- Any higher amount not exceeding double the amount the corporation has gained from the commission of an offense