H.772

Introduced by Committee on General, Housing and Military Affairs

Date:

Subject: Alcoholic beverages; beverage tastings; spirits; minibars; hotels; manufacturer's license

Statement of purpose: This bill proposes to simplify the definition of manufacturer and reorganize and coordinate the laws relating to tastings in regard to each type of license. This bill also proposes to restore the definition of "hotel" and clarify the responsibility of hotels that provide minibars in rooms, to permit tastings of spirits, and to clarify the limits regarding the importation of bulk alcoholic beverages by manufacturers. The bill also proposes to permit restaurant customers to take home resealed unfinished bottles of specialty beer and to increase the deposit for a keg of beer. Lastly, the bill proposes to shorten the notice period and expand opportunities for conducting tastings of all types of alcoholic beverages.

An act relating to alcoholic beverage tastings and other liquor licensing issues

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

The following words as used in this title, unless a contrary meaning is required by the context, shall have the following meaning:

(1) "Alcohol": the product of distillation of spirits or any fermented ~~liquor, rectified either once or oftener whatever may be the origin thereof, and includes~~ malt or vinous beverage, including ethyl alcohol and nonpotable alcohol ~~which is considered nonpotable~~.

(2) "Boat": a vessel suitably equipped and operated for the transportation of passengers in interstate commerce.

(3) "Bottler": any person ~~other than a brewer who shall bottle~~ that bottles malt ~~or~~, vinous, or spirituous beverages for sale or for distribution in this state.

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(10) "First class license": a license granted by the control commissioners permitting the licensee ~~or seller of~~ to sell malt or vinous beverages ~~to sell~~ to the public for consumption only on the premises for which the license is granted.

(11) ~~"Specialty beer": a malt beverage that contains more than eight percent alcohol and not more than 16 percent alcohol by volume at 60 degrees Fahrenheit.~~ "Hotel" has the same meaning as in 32 V.S.A. § 9202(3) and as

determined by the liquor control board. A hotel that places a minibar in any room of a registered guest shall assure that the minibar is locked and that access to the minibar is restricted to guests of legal drinking age.

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(15) "Manufacturer's or rectifier's license": a license granted by the liquor control board that permits the holder to manufacture or rectify~~, as the case may be,~~ spirituous liquors for export and sale to the liquor control board, or malt beverages and vinous beverages for export and ~~for~~ sale to bottlers or wholesale dealers~~, or spirituous liquors for export and for sale to the liquor control board, upon application of a manufacturer or rectifier and the payment to the liquor control board of the license fee as required by subdivision 231(1) of this title for either license~~. This license permits a manufacturer of vinous beverages to receive from another manufacturer licensed in or outside this state bulk shipments of vinous beverages to rectify with the licensee's own product, provided that the vinous beverages produced by a Vermont manufacturer may contain no more than 25 percent imported vinous beverage. The liquor control board may grant to a licensed manufacturer or rectifier a first class restaurant or cabaret license or first and third class restaurant or cabaret license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer's premises. A manufacturer of malt beverages who also holds a first class restaurant or cabaret license may serve to a customer malt beverages

by the glass, not to exceed eight glasses at one time and not to exceed four ounces in each glass. The liquor control board may grant to a licensed manufacturer or a rectifier of malt ~~or vinous~~ beverages a second class license permitting the licensee to sell alcoholic beverages to the public ~~only at~~ anywhere on the manufacturer's or rectifier's premises. A licensed manufacturer or rectifier of vinous beverages may serve, with or without charge, at an event held on premises of the licensee or the vineyard property, spirits and vinous and malt beverages, provided the licensee gives the department written notice of the event, including details required by the department, at least ~~15~~ five days before the event. Any beverages not manufactured by the licensee and served at the event shall be purchased on invoice from a licensed manufacturer or wholesale dealer or liquor control board. ~~Upon application and payment of the license fee as required by subdivision 231(11) of this title, the liquor control board may grant to a licensed manufacturer or rectifier of vinous beverages fourth class or farmers' market licenses permitting the licensee to sell fortified wines and vinous beverages by the bottle to the public at the licensed premises or at a farmers' market, provided that the beverages were produced by the manufacturer or rectifier. No more than a combined total of ten fourth class and farmers' market licenses may be granted to any licensed manufacturer or rectifier. An application for a farmers' market license shall include copies of the farmers'~~

~~market regulations, the agreement between the farmers' market and the applicant, and the location and dates of operation of the farmers' market. A farmers' market license shall be valid for all dates of operation for a specific farmers' market location. However, in no case may a person with an interest in more than one manufacturer's or rectifier's license have an interest in more than four fourth class licenses. The manufacturer or rectifier shall pay directly to the commissioner of taxes the sum of $0.265 cents per gallon for every gallon of malt beverage and the sum of $0.55 cents per gallon for each gallon of vinous beverage manufactured by the manufacturer or rectifier and provided for sale pursuant to the first class license or the second class license or the fourth class license or combination thereof held by the manufacturer or rectifier. Holders of a manufacturer's or rectifier's second class license for malt beverages may distribute, with or without charge, malt beverages by the glass, not to exceed two ounces per product and eight ounces in total, to all persons of legal drinking age. The malt beverages must be consumed upon the premises of the holder of the license. At the request of a person holding a first class or second class license, a holder of a manufacturer's or rectifier's license for malt beverages may distribute without charge to the management and staff of the license holder, provided they are of legal drinking age, no more than four ounces per person of a malt beverage for the purpose of promoting the beverage. Written notice shall be provided to the department of liquor control~~

~~at least 10 days prior to the date of the tasting. A licensed manufacturer or rectifier of spirits may do either or both of the following only on the manufacturer's or rectifier's premises:~~

~~(A) Sell by the glass or bottle to the public spirits manufactured by the licensee.~~

~~(B) Dispense by the glass, with or without charge, spirits manufactured by the licensee, provided that no more than one quarter ounce per product and no more than one ounce in total is dispensed to each individual of legal age.~~

* * *

(19) "Second class license": a license granted by the control commissioners permitting the licensee ~~or seller~~ to sell malt or vinous beverages to the public for consumption off the premises for which the license is granted. ~~The words permit and license shall have the same meaning in this title.~~

(20) "Spirits" <u>or "spirituous liquors"</u>: beverages ~~for sale containing~~ <u>that contain</u> more than one percent of alcohol obtained by distillation, by chemical synthesis, or through concentration by freezing; and vinous beverages containing more than 16 percent of alcohol; and all vermouths of any alcohol content; malt beverages containing more than 16 percent of alcohol or more than six percent of alcohol if the terminal specific gravity thereof is less than 1.009; in each case measured by volume at 60 degrees Fahrenheit.

(21) ~~"Spirituous liquors": all spirits as defined in subdivision (20) of this section~~) "Specialty beer": a malt beverage that contains more than eight percent alcohol and not more than 16 percent alcohol by volume at 60 degrees Fahrenheit.

(22) "Third class license": a license granted by the liquor control board permitting ~~a person as defined in subdivision (16) of this section~~ the licensee to sell spirituous liquors ~~in a hotel, restaurant, cabaret, club, boat or dining car as herein defined~~ for consumption only on the premises for which the license is granted.

* * *

(27) "Special events permit": a permit granted by the liquor control board permitting a person holding a manufacturer's or rectifier's license to ~~attend~~ sell by the glass or by unopened bottle spirits, malt, or vinous beverages manufactured or rectified by the license holder at an event open to the public~~,~~ ~~which~~ that has been approved by the local licensing authority~~, to sell by the glass or by unopened bottle spirits, malt, or vinous beverages manufactured or rectified by the license holder~~. For the purposes of tasting only, the permit holder may distribute, with or without charge, beverages manufactured by the permit holder~~, provided that the permit holder distributes~~ by the glass no more than two ounces per product and eight ounces total of malt or vinous beverages and no more than one ounce in total of spirits to ~~individuals of legal age~~ each

individual. No more than ~~12~~ 36 special events' permits ~~shall~~ may be issued to a holder of a manufacturer's or rectifier's license during a year. ~~The fee for the permit is as required by subdivision 231(13) of this title, and shall be paid to the department of liquor control.~~ A special event permit shall be valid for the duration of each public event or four days, whichever is shorter. Requests for a special events' permit, accompanied by the fee as required by subdivision 231(13) of this title, shall be submitted to the department of liquor control ~~and received by the department~~ at least ~~15~~ five days prior to the date of the event. Each manufacturer or rectifier planning to attend a single special event under this permit may be listed on a single permit. However, each attendance at a special event shall count toward the manufacturer's or rectifier's ~~12~~ 36 special-event-permit limitation.

(28) "Fourth class license" or "farmers' market license": the license granted by the liquor control board permitting a manufacturer or rectifier of malt or vinous beverages or spirits to sell ~~fortified wines manufactured by the licensed manufacturer or rectifier and vinous beverages~~ by the unopened bottle and distribute, with or without charge, ~~those~~ beverages manufactured by the licensee or other manufacturer or rectifier by the glass no more than two ounces of malt or vinous beverage with a total of eight ounces to each retail customer and no more than one-quarter ounce of spirits with a total of one ounce to each retail customer for consumption on the manufacturer's premises

or at a farmers' market. No more than a combined total of ten fourth class and farmers' market licenses may be granted to a licensed manufacturer or rectifier. A farmers' market license is valid for all dates of operation for a specific farmers' market location.

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Sec. 2. 7 V.S.A. § 64(b) is amended to read:

(b) A keg shall be sold by a second class licensee only under the following conditions:

* * *

(4) The licensee shall collect a deposit of at least $25.00 which shall be returned to the purchaser upon return of the keg with the label intact.

Sec. 3. 7 V.S.A. § 67 is amended to read:

§ 67. ~~WINE AND MALT~~ ALCOHOLIC BEVERAGE TASTINGS; PERMIT; PENALTIES

(a) ~~Provided an applicant submits to the department of liquor control~~ Upon submission to the department of a written application in a form required by the department accompanied by the permit fee as required by subdivision 231(15) of this title at least ~~15~~ five days prior to the date of the ~~wine or malt~~ alcoholic beverage tasting event, and the applicant is determined to be in good standing, the department of liquor control may grant a permit to conduct a ~~wine or malt~~ beverage tasting event to:

(1) A second class licensee. The permit authorizes the employees of the permit holder to dispense ~~vinous or malt beverages~~ to retail customers of legal age on the licensee's premises vinous or malt beverages by the glass not to exceed two ounces of each vinous or malt beverage with a total of eight ounces of vinous or malt beverages. Vinous or malt beverages for the tasting shall be from the inventory of the licensee or purchased from a wholesale dealer. ~~Pursuant to this permit, a second class licensee may conduct no more than 30 tastings a year.~~

(2) A licensed manufacturer or rectifier of vinous or malt beverages. The permit authorizes the permit holder to dispense ~~beverages produced by the manufacturer or rectifier~~ to retail customers of legal age for consumption on the premises of a second class licensee ~~or at a farmers' market~~ beverages produced by the manufacturer or rectifier by the glass not to exceed two ounces of each beverage with a total of eight ounces of vinous or malt beverages. ~~Pursuant to this permit, a~~ A manufacturer or rectifier may conduct no more than one tasting a day ~~on the premises of a second class licensee. No more than four tasting permits per month for a tasting event held on the premises of second class licensees shall be permitted~~.

~~(3) A licensed manufacturer or rectifier of vinous beverages with a fourth class or farmers' market license. The licenses authorize the licensee to dispense, with or without charge, vinous beverages by the glass, not to exceed~~

~~two ounces per product and a total of eight ounces to a retail customer of legal age for consumption on the licensee's premises or at a farmers' market.~~

(b) A wine or beer tasting event held pursuant to ~~this section, not to include tasting events conducted on the premises of a manufacturer or rectifier or on the premises of a fourth class licensee pursuant to subdivision (a)(3) of this section or promotional tastings pursuant to subsection (d) of this section~~ subdivisions (a)(1) and (2) of this section, not including an alcohol beverage tasting conducted on the premises of the manufacturer or rectifier, shall comply with the following:

(1) ~~May continue~~ Continue for no more than six hours ~~in duration~~, with no more than six beverages to be offered at a single event, and no more than two ounces of any single beverage and no more than a total of eight ounces of various vinous or malt beverages to be dispensed to a customer. No more than eight customers may be served at one time.

(2) ~~Shall be~~ Be conducted totally within an area that is clearly cordoned off by barriers that extend no further than 10 feet from the point of service, and a sign that clearly states that no one under the age of 21 may participate in the tasting shall be placed in a visible location at the entrance to the tasting area.

(c) The holder of a permit issued under this section shall keep an accurate accounting of the ~~vinous or malt~~ beverages consumed at a tasting event and shall be responsible for complying with all applicable laws under this title.

(d) Promotional ~~wine or beer~~ alcoholic beverage tasting:

(1) At the request of a holder of a first class or second class license, a holder of a manufacturer's, rectifier's, or wholesale dealer's license may distribute without charge to the first or second class licensee's management and staff, provided they are of legal drinking age and are off duty for the rest of the day, two ounces per person of vinous or malt beverages for the purpose of promoting the beverage. At the request of a holder of a third class license, a manufacturer or rectifier of spirits may distribute without charge to the third class licensee's management and staff, provided they are of legal drinking age and are off duty for the rest of the day, one-quarter ounce of each beverage and no more than a total of one ounce to each individual for the purpose of promoting the beverage. No permit is required under this subdivision, but written notice of the event shall be provided to the department of liquor control at least five days prior to the date of the tasting.

* * *

(f) The holder of a permit issued under this section that provides alcoholic beverages to an underage individual or permits an individual under the age of 18 to serve alcoholic beverages at a ~~wine or malt~~ beverage tasting event under this section shall be fined not less than $500.00 nor more than $2,000.00 or imprisoned not more than two years, or both.

Sec. 4. 7 V.S.A. § 222 is amended to read:

§ 222. FIRST AND SECOND CLASS LICENSES, GRANTING OF; SALE TO MINORS; CONTRACTING FOR FOOD SERVICE

With the approval of the liquor control board, the control commissioners may grant to a retail dealer ~~in respect to~~ for the premises ~~wherein~~ where the dealer ~~shall carry~~ carries on business the following:

(1) Upon making application and paying the license fee provided in section 231 of this title, a first class license ~~for the premises where such dealer shall carry on the business~~ which ~~shall authorize such~~ authorizes the dealer to sell malt and vinous beverages for consumption only on ~~such~~ those premises, and upon satisfying the liquor control board that ~~such~~ the premises are leased, rented, or owned by ~~such~~ the retail dealer and are devoted primarily to dispensing ~~food as~~ meals to the public, except clubs and cabarets, and that ~~such~~ the premises have adequate and sanitary space and equipment ~~devoted to~~ for preparing and serving meals. The term "public" ~~shall include any part of the public as is represented by~~ includes patrons of hotels, boarding houses, restaurants, dining cars, and similar places where meals are served. A retail dealer carrying on business in more than one place shall ~~be required to~~ acquire a first class license for each place where ~~he shall so sell~~ the retail dealer sells malt and vinous beverages. No malt or vinous beverages shall be sold by a first class licensee to a minor. Partially consumed bottles of vinous beverages

or specialty beers that were purchased with a meal may be removed from first class licensed premises provided the beverages are recapped or resealed.

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Sec. 5. 7 V.S.A. § 228 is amended to read:

§ 228. DINING CARS AND BOATS; FIRST OR THIRD CLASS LICENSE; PURCHASE OF LIQUORS OUTSIDE STATE; PROMOTIONAL RAILROAD TASTING PERMIT

(a) The liquor control board may grant to a ~~corporation operating~~ person that operates a boat or dining car engaged in interstate commerce a license of the first class or third class upon the application and payment ~~by such corporation~~ of the license fee as provided in section 231 of this title. A ~~corporation which~~ person that operates a dining car or boat engaged in interstate commerce may procure spirituous liquors outside the state of Vermont.

(b) The liquor control board may grant to a person that operates a railroad a tasting permit that permits the holder to conduct tastings of Vermont-produced alcoholic beverages in the dining car, provided the person files with the department an application along with the permit fee required pursuant to subdivision 231(a)(21) of this title.

Sec. 6. 7 V.S.A. § 231(a) is amended to read:

(a) The following fees shall be paid:

* * *

(21) For a promotional tasting permit for a railroad, $200.00.

Sec. 7. 7 V.S.A. §§ 421 and 422 are amended to read:

§ 421. TAX ON MALT AND VINOUS BEVERAGES

(a) Every bottler and wholesaler shall pay to the commissioner of taxes the sum of 26 and one-half cents per gallon for every gallon or its equivalent of malt beverage containing not more than six percent of alcohol by volume at 60 degrees Fahrenheit sold by them to retailers in the state and the sum of 55 cents per gallon for each gallon of malt beverage containing more than six percent of alcohol by volume at 60 degrees Fahrenheit and each gallon of vinous beverages sold by them to retailers in the state and shall also pay to the liquor control board all fees for bottler's and wholesaler's licenses. A manufacturer or rectifier of malt or vinous beverages shall pay the taxes required by this subsection to the commissioner of taxes for all malt and vinous beverages manufactured or rectified by them and sold at retail.

* * *

(c) For the purpose of ascertaining the amount of ~~such~~ tax, on or before the tenth day of each calendar month, each bottler and wholesaler shall transmit to the commissioner of taxes, upon a form prepared and furnished by ~~him~~ the

commissioner, a statement or return under oath or affirmation showing the quantity of malt and vinous beverages sold by ~~such~~ the bottler or wholesaler during the preceding calendar month, and report ~~such further~~ any other information ~~as~~ requested by the commissioner ~~shall prescribe. At the time of filing such report, such wholesaler and bottler shall also pay to the commissioner~~ accompanied by payment of the tax ~~provided~~ required by this section. The amount of tax computed under subsection (a) of this section shall be rounded to the nearest whole cent.

(d) The exemption provided in this section for beverages sold on ~~the Ethan Allen Air Force reservation and firing range and at the Air Force bases at St. Albans and at the North Concord Air Force station at North Concord or~~ any ~~other~~ armed forces' installation presently existing in the state ~~or which may in the future be established shall be~~ is allowed only if ~~such sale is~~ the sales are evidenced by a proper voucher or affidavit~~,~~ in ~~such~~ a form ~~as~~ prescribed by the commissioner of taxes ~~shall prescribe~~, which shall be ~~attached to and made~~ a part of the return filed.

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§ 422. TAX ON SPIRITUOUS LIQUOR

A tax of 25 percent of the gross revenues is ~~hereby~~ assessed on the sale of spirituous liquor ~~as defined in section 2 of this title other than~~, including fortified wine, sold by or through the liquor control board or sold by a

manufacturer or rectifier of spirituous liquor in accordance with the provisions of this title. ~~A tax of 25 percent of the gross revenues is hereby assessed on the sale of fortified wine so sold.~~

Sec. 7a. 7V.S.A. § 301 is amended to read:

§ 301. DISTRIBUTION OF MALT OR VINOUS BEVERAGES; CERTIFICATE OF APPROVAL

The liquor control board may grant to a manufacturer or distributor of malt and vinous beverages, not licensed under the provisions of this title, a certificate of approval which ~~shall authorize such~~ authorizes the manufacturer or distributor to sell or export such beverages either to holders of bottlers' or wholesale dealers' licenses issued by the board under the provisions of sections 226 or 227 of this title.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.