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S.80

Introduced by Senators Collamore, Cummings, Doyle, Flory, Mullin, and
Pollina

Referred to Committee on

Date:

Subject: Alcoholic beverages; general provisions; fortified wines

Statement of purpose of bill as introduced: This bill proposes to define
fortified wine and permit the holder of a second-class license to sell fortified
wine to the public.

An act relating to the sale of fortified wine

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

Sec. 1. 7 V.S.A. § 2 is amended as follows:

§ 2. DEFINITIONS

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

* * *

(15) “Manufacturer’s or rectifier’s license”: a license granted by the
Liquor Control Board that permits the holder to manufacture or rectify
~~spirituous liquors~~ spirits or fortified wines for export and sale to the Liquor
Control Board, or malt beverages and vinous beverages, except fortified wines,

1 for export and sale to bottlers or wholesale dealers. This license permits a
2 manufacturer of vinous beverages to receive from another manufacturer
3 licensed in or outside this ~~state~~ State bulk shipments of vinous beverages to
4 rectify with the licensee's own product, provided that the vinous beverages
5 produced by a Vermont manufacturer may contain no more than 25 percent
6 imported vinous beverage. The Liquor Control Board may grant to a licensed
7 manufacturer or rectifier a first-class restaurant or cabaret license or first- and
8 third-class restaurant or cabaret license permitting the licensee to sell alcoholic
9 beverages to the public only at the manufacturer's premises, which, for the
10 purposes of a manufacturer of malt beverages, includes up to two licensed
11 establishments that are located on the contiguous real estate of the holder of the
12 manufacturer's license, provided the manufacturer owns or has direct control
13 over those establishments. A manufacturer of malt beverages who also holds a
14 first-class restaurant or cabaret license may serve to a customer malt beverage
15 by the glass, not to exceed eight glasses at one time and not to exceed four
16 ounces in each glass. The Liquor Control Board may grant to a licensed
17 manufacturer or a rectifier of malt beverages a second-class license permitting
18 the licensee to sell alcoholic beverages to the public anywhere on the
19 manufacturer's or rectifier's premises. A licensed manufacturer or rectifier of
20 vinous beverages may serve, with or without charge, at an event held on
21 premises of the licensee or the vineyard property, spirits and vinous and malt

1 beverages, provided the licensee gives the Department written notice of the
2 event, including details required by the Department, at least five days before
3 the event. Any beverages not manufactured by the licensee and served at the
4 event shall be purchased on invoice from a licensed manufacturer or wholesale
5 dealer or the Liquor Control Board.

6 * * *

7 (19) "Second-class license": a license granted by the control
8 commissioners permitting the licensee to export malt or vinous beverages,
9 including fortified wines, and to sell malt or vinous beverages, including
10 fortified wines, to the public for consumption off the premises for which the
11 license is granted.

12 (20) "Spirits" or "spirituous liquors": beverages that contain more than
13 one percent of alcohol obtained by distillation, by chemical synthesis, or
14 through concentration by freezing; and ~~vinous beverages containing more than~~
15 ~~16 percent of alcohol; and all vermouths of any alcohol content;~~ malt
16 beverages containing more than 16 percent of alcohol or more than six percent
17 of alcohol if the terminal specific gravity thereof is less than 1.009; in each
18 case measured by volume at 60 degrees Fahrenheit.

19 * * *

1 or rectifiers, provided these beverages are purchased on invoice from the
2 manufacturer or rectifier. A manufacturer or rectifier of vinous beverages,
3 malt beverages, or spirits may sell its product to no more than five additional
4 manufacturers or rectifiers. A fourth-class licensee may distribute by the glass
5 no more than two ounces of malt or vinous beverage, except fortified wine,
6 with a total of eight ounces to each retail customer and no more than
7 one-quarter ounce of spirits or fortified wine with a total of one ounce to each
8 retail customer for consumption on the manufacturer's premises or at a
9 farmers' market. A farmers' market license is valid for all dates of operation
10 for a specific farmers' market location.

11 * * *

12 (38) "Fortified wines": vinous beverages, including those to which
13 spirits have been added during manufacture, containing at least 16 percent
14 alcohol but no more than 23 percent alcohol by volume at 60 degrees
15 Fahrenheit, and all vermouths of any alcohol content. All fortified wines shall
16 be purchased and retailed by and through the Liquor Control Board as
17 authorized by chapters 5 and 7 of this title, and may only be sold and
18 distributed by a local agency, the holder of a second-, third-, or fourth-class
19 license, or a manufacturer's or rectifier's license.

1 Sec. 2. 7 V.S.A. § 63 is amended as follows:

2 § 63. IMPORTATION OR TRANSPORTATION OF ~~LIQUORS~~ SPIRITS
3 AND FORTIFIED WINES; PROHIBITIONS; PERSONAL IMPORT
4 LIMIT; PENALTY

5 (a) All ~~spirituous liquors~~ spirits and fortified wines imported or transported
6 into this State shall be imported or transported by and through the Liquor
7 Control Board. A person importing or transporting or causing to be imported
8 or transported into this State any ~~spirituous liquors~~ spirits or fortified wines
9 shall be imprisoned not more than one year or fined not more than \$1,000.00,
10 or both. However, a person may import or transport not more than eight quarts
11 of ~~spirituous liquors~~ spirits or fortified wines into this State in his or her own
12 private vehicle or in his or her actual possession at the time of importation
13 without license or permit.

14 (b) Except as provided in sections 66 and 68 of this title, all malt ~~or~~
15 beverages, vinous beverages except fortified wines, or both, imported or
16 transported into this State shall be imported or transported by and through a
17 wholesale dealer holding a wholesale dealer's license issued by the Liquor
18 Control Board. A person importing or transporting or causing to be imported
19 or transported into this State any malt ~~or~~ beverages, vinous beverages except
20 fortified wines, or both, shall be imprisoned not more than one year or fined
21 not more than \$1,000.00, or both. Provided, however, a person may import or

1 transport not more than six gallons of malt ~~or~~ beverages, vinous beverages
2 except fortified wines, or both, into this State in his or her own private vehicle
3 or in his or her actual possession at the time of importation without license or
4 permit, providing it is not for resale.

5 Sec. 3. 7 V.S.A. § 66 is amended as follows:

6 § 66. MALT AND VINOUS BEVERAGE SHIPPING LICENSE; ~~IN-STATE~~
7 IN-STATE; OUT-OF-STATE; PROHIBITIONS; PENALTIES

8 (a) A manufacturer or rectifier of vinous beverages or malt beverages
9 licensed in Vermont may be granted an in-state consumer shipping license by
10 filing with the Department of Liquor Control an application in a form required
11 by the Department accompanied by a copy of the applicant's current Vermont
12 manufacturer's license and the fee as required by subdivision 231(a)(7)(A) of
13 this title. This consumer shipping license may be renewed annually by filing
14 the renewal fee as required by subdivision 231(a)(7)(A) of this title
15 accompanied by a copy of the licensee's current Vermont manufacturer's
16 license.

17 (b) A manufacturer or rectifier of vinous beverages ~~licensed~~ or malt
18 beverages licensed in another state that operates a winery or brewery in the
19 United States and holds valid state and federal permits and licenses may be
20 granted an out-of-state consumer shipping license by filing with the
21 Department of Liquor Control an application in a form required by the

1 Department accompanied by copies of the applicant's current out-of-state
2 manufacturer's license and the fee as required by subdivision 231(a)(7)(B) of
3 this title. This consumer shipping license may be renewed annually by filing
4 the renewal fee as required by subdivision 231(a)(7)(B) of this title
5 accompanied by the licensee's current out-of-state manufacturer's license. ~~For~~
6 ~~the purposes of~~ As used in this subsection and subsection (c) of this section,
7 "out-of-state" means any state other than Vermont, any territory or possession
8 of the United States, and does not include a foreign country.

9 (c) A manufacturer or rectifier of vinous beverages that is licensed in-state
10 or out-of-state and holds valid State and federal permits and operates a winery
11 in the United States, may apply for a retail shipping license by filing with the
12 Department of Liquor Control an application in a form required by the
13 Department accompanied by a copy of its in-state or out-of-state license and
14 the fee as required by subdivision 231(a)(7)(C) of this title. The retail shipping
15 license may be renewed annually by filing the renewal fee as required by
16 subdivision 231(a)(7)(C) of this title accompanied by the licensee's current
17 in-state or out-of-state manufacturer's license. This license permits the holder,
18 which includes the holder's affiliates, franchises, and subsidiaries, to sell up to
19 5,000 gallons of vinous beverages, except fortified wines, a year directly to
20 first- or second-class licensees and deliver the beverages by common carrier,
21 the manufacturer's or rectifier's own vehicle, or the vehicle of an employee of

1 a manufacturer or rectifier, provided that the beverages are sold on invoice,
2 and no more than 100 gallons per month are sold to any single first- or
3 second-class licensee. The retail shipping license holder shall report to the
4 Department documentation of the annual and monthly number of gallons sold.
5 Vinous beverages sold under this section may be delivered by the vehicle of a
6 second-class license holder if the second-class licensee cannot obtain the
7 vinous beverages from a wholesale dealer.

8 (d) Pursuant to a consumer shipping license granted under subsection (a) or
9 (b) of this section, the licensee may ship vinous beverages, except fortified
10 wines, or malt beverages produced by the licensee:

11 (1) Only to private residents for personal use and not for resale.

12 (2) No more than 12 cases containing no more than 29 gallons of vinous
13 beverages or no more than 12 cases of malt beverages containing no more than
14 36 gallons of malt beverages to any one Vermont resident in any calendar year.

15 (3) Only by common carrier certified by the Department. The common
16 carrier shall comply with all the following:

17 (A) deliver beverages pursuant to an invoice that includes the name
18 of the licensee and the name and address of the purchaser;

19 (B) on delivery, require a valid form of photographic identification
20 from a recipient who appears to be under ~~age~~ 30 years of age;

1 (C) require the recipient to sign an electronic or paper form or other
2 acknowledgement of receipt.

3 (e) A holder of any shipping license granted pursuant to this section shall:

4 * * *

5 (8) not have any direct or indirect financial interest in a Vermont
6 wholesale dealer or retail dealer, including a first-, second-, or third-class
7 ~~license~~ licensee;

8 * * *

9 Sec. 4. 7 V.S.A. § 104 is amended as follows:

10 § 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

11 The Board shall have supervision and management of the sale of ~~spirituous~~
12 ~~liquors~~ spirits and fortified wines within the State in accordance with the
13 provisions of this title, and through the Commissioner of Liquor Control shall:

14 * * *

15 Sec. 5. 7 V.S.A. § 107 is amended as follows:

16 § 107. DUTIES OF COMMISSIONER OF LIQUOR CONTROL

17 The ~~commissioner of liquor control~~ Commissioner of Liquor Control shall:

18 (1) In towns ~~which~~ that vote to permit the sale of spirituous liquors,
19 establish such number of local agencies therein as the ~~board~~ Board shall
20 determine, enter into agreements for the rental of necessary and adequate
21 quarters, and employ suitable assistants for the operation thereof. However, it

1 shall not be obligatory upon the ~~liquor control board~~ Liquor Control Board to
2 establish an agency in every town ~~which~~ that votes to permit the sale of
3 spirituous liquors.

4 (2) Make regulations subject to the approval of the ~~board~~ Board
5 governing the hours during which such agencies shall be open for the sale of
6 ~~spirituous liquors,~~ spirits and fortified wines and governing the qualifications
7 ~~and, department, and salaries of the agencies' employees therein and the~~
8 ~~salaries thereof.~~

9 (3) Make regulations subject to the approval of the ~~board~~ Board
10 governing:

11 (A) the prices at which ~~spirituous liquors~~ spirits shall be sold ~~in such~~
12 by local agencies, ~~and~~ the method ~~of~~ for their delivery ~~thereof~~, and the
13 quantities of ~~spirituous liquors to~~ spirits that may be sold to any one person at
14 any one time; and

15 (B) the prices at which fortified wines shall be sold by local agencies
16 and second-class licensees, the method for their delivery, and the quantities of
17 fortified wines that may be sold to any one person at any one time.

18 (4) Supervise the quantities and qualities of ~~spirituous liquor~~ spirits and
19 fortified wines to be kept as stock in ~~such local agency~~ agencies and make
20 regulations subject to the approval of the ~~board~~ Board regarding the filling of

1 requisitions therefor on the ~~commissioner of liquor control~~ Commissioner of
2 Liquor Control.

3 (5) Purchase through the ~~commissioner of buildings and general services~~
4 ~~spiruous liquors~~ Commissioner of Buildings and General Services spirits and
5 fortified wines for and in behalf of the ~~liquor control board~~ Liquor Control
6 Board, supervise the storage thereof and the distribution to local agencies,
7 druggists, and licensees of the ~~third class~~ second and third class and make
8 regulations subject to the approval of the ~~board~~ Board regarding the sale and
9 delivery from such central storage plant.

10 (6) Check and audit the income and disbursements of all local agencies,
11 and the central storage plant.

12 (7) [Repealed.]

13 (8) Devise methods and plans for eradicating intemperance and
14 promoting the general good of the ~~state~~ State and make effective such methods
15 and plans as part of the administration of this title.

16 Sec. 6. 7 V.S.A. § 110 is amended as follows:

17 § 110. SPECIAL BRANDS; PURCHASE BY COMMISSIONER OF
18 LIQUOR CONTROL

19 If any person shall desire to purchase any class, variety, or brand of
20 ~~spiruous liquor~~ spirits or fortified wine which any local agency or
21 second-class licensee does not have in stock, the ~~commissioner of liquor~~

1 ~~control~~ Commissioner of Liquor Control shall order the same through the
2 ~~commissioner of buildings and general services~~ Commissioner of Buildings
3 and General Services upon the payment of a reasonable deposit by the
4 purchaser in such proportion of the approximate cost of the order as shall be
5 prescribed by the regulations of the ~~liquor control board~~ Liquor Control Board.

6 Sec. 7. 7 V.S.A. § 112 is amended as follows:

7 § 112. LIQUOR CONTROL FUND

8 The ~~liquor control fund~~ Liquor Control Fund is hereby established. It shall
9 consist of all receipts from the sale of spirits, fortified wines, and other items
10 by the ~~department of liquor control~~ Department of Liquor Control; fees paid to
11 the ~~department of liquor control~~ Department of Liquor Control for the benefit
12 of the ~~department~~ Department; all other amounts received by the ~~department of~~
13 ~~liquor control~~ Department of Liquor Control for its benefit; and all amounts
14 ~~which that~~ are from time to time appropriated to the ~~department of liquor~~
15 ~~control~~ Department of Liquor Control.

16 Sec. 8. 7 V.S.A. § 222 is amended as follows:

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

19 With the approval of the Liquor Control Board, the control commissioners
20 may grant the following licenses to a retail dealer for the premises where the
21 dealer carries on business ~~the following~~:

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(2) Upon making application ~~and~~, paying the license fee provided in section 231 of this title, and upon satisfying the Board that such premises are leased, rented, or owned by the retail dealer and are a safe, sanitary, and proper place from which to sell malt and vinous beverages, a second-class license for the premises ~~where such dealer shall carry on the business~~, which shall authorize such dealer to export malt and vinous beverages, including fortified wines, and to sell malt and vinous beverages, including fortified wines, to the public from such premises for consumption off the premises ~~and upon satisfying the Board that such premises are leased, rented, or owned by such retail dealers and are safe, sanitary, and a proper place from which to sell malt and vinous beverages~~. A retail dealer carrying on business in more than one place shall be required to acquire a second-class license for each place where ~~he or she shall so sell~~ the retail dealer sells malt and vinous beverages. No malt or vinous beverages shall be sold by a second-class licensee to a minor.

* * *

(5)(A) The holder of a first-class license may serve a sampler flight of up to 32 ounces in the aggregate of malt beverages to a single customer at one time.

1 fortified wines dispensed in accordance with the provisions of the ~~third-class~~
2 third-class license and this title.

3 Sec. 10. 7 V.S.A. § 225 is amended as follows:

4 § 225. EDUCATIONAL SAMPLING EVENT PERMIT

5 (a) The ~~liquor control board~~ Liquor Control Board may grant an
6 educational sampling event permit to a person to conduct an event that is open
7 to the public and at which malt beverages, vinous beverages, including
8 fortified wines, ~~or spirituous liquors~~ spirits, or all three are served only for the
9 purposes of marketing and educational sampling, provided the event is also
10 approved by the local licensing authority. At least 15 days prior to the event,
11 an applicant shall submit an application to the ~~department~~ Department in a
12 form required by the ~~department~~ Department. The application shall include a
13 list of the alcoholic beverages to be acquired for sampling at the event, and the
14 application shall be accompanied by a fee in the amount required pursuant to
15 section 231 of this title. No more than four educational sampling event permits
16 shall be issued annually to the same person. An educational sampling event
17 permit shall be valid for no more than four consecutive days. The permit
18 holder shall ~~assure~~ ensure all the following:

19 (1) Attendees at the educational sampling event shall be required to pay
20 an entry fee of no less than \$5.00.

1 (2) Beverages for sampling shall be offered in glasses that contain no
2 more than two ounces of beverage.

3 (3) The event shall be conducted in compliance with all the
4 requirements of this title.

5 (b) An educational sampling event permit holder:

6 (1) May receive shipments directly from a manufacturer, bottler,
7 certificate of approval holder, wholesale dealer, or importer licensed in
8 Vermont or that provides evidence of licensure in another state or foreign
9 country satisfactory to the ~~board~~ Board.

10 (2) May transport malt beverages, vinous beverages, including fortified
11 wines, and ~~spirituous liquors~~ spirits to the event site, and those beverages may
12 be served at the event by the permit holder or the holder's employees,
13 volunteers, or representatives of a manufacturer, bottler, or importer
14 participating in the event, provided they meet the server age and training
15 requirements under this chapter.

16 (3) ~~{Deleted.}~~ [Repealed.]

17 (c) All the cases and bottles of alcoholic beverages to be served at the event
18 shall be marked by the permit holder "For sampling only. Not for resale."

19 (d) Taxes for the alcoholic beverages served at the event shall be paid as
20 follows:

21 (1) Malt beverages: \$0.265 per gallon served.

1 (2) Vinous beverages, except fortified wines: \$0.55 per gallon served.

2 (3) Spirituous liquors: \$19.80 per gallon served.

3 (4) Fortified wines: \$19.80 per gallon served.

4 Sec. 11. 7 V.S.A. § 421 is amended as follows:

5 § 421. TAX ON MALT AND VINOUS BEVERAGES

6 (a) Every bottler and wholesaler shall pay to the Commissioner of Taxes
7 the sum of 26 and one-half cents per gallon for every gallon or its equivalent of
8 malt beverage containing not more than six percent of alcohol by volume at
9 60 degrees Fahrenheit sold by them to retailers in the State and the sum of
10 55 cents per gallon for each gallon of malt beverage containing more than six
11 percent of alcohol by volume at 60 degrees Fahrenheit and each gallon of
12 vinous beverages, except fortified wines, sold by them to retailers in the ~~state~~
13 State and shall also pay to the Liquor Control Board all fees for bottler's and
14 wholesaler's licenses. A manufacturer or rectifier of malt or vinous beverages
15 shall pay the taxes required by this subsection to the Commissioner of Taxes
16 for all malt and vinous beverages, except fortified wines, manufactured or
17 rectified by them and sold at retail.

18 * * *

1 Sec. 12. 7 V.S.A. § 422 is amended as follows:

2 § 422. TAX ON ~~SPRITUOUS LIQUOR~~ SPIRITS AND FORTIFIED

3 WINES

4 (a) A tax is assessed on the gross revenue ~~on~~ from the retail sale of
5 ~~spirituous liquor~~ spirits and fortified wines by the Liquor Control Board in the
6 State of Vermont, ~~including fortified wine, sold by the Liquor Control Board,~~
7 ~~or sold by~~ a manufacturer or rectifier of ~~spirituous liquor~~ spirits or fortified
8 wines in the State of Vermont, in accordance with the provisions of this title.

9 The tax shall be at the following rates based on the gross revenue of the retail
10 sales by the seller in the current year:

11 (1) if the gross revenue of the seller is \$500,000.00 or lower, the rate of
12 tax is five percent;

13 (2) if the gross revenue of the seller is between \$500,000.00 and
14 \$750,000.00, the rate of tax is \$25,000.00 plus 10 percent of the gross revenues
15 over \$500,000.00;

16 (3) if the gross revenue of the seller is ~~over~~ \$750,000.00 or more, the
17 rate of tax is 25 percent.

18 (b) The retail sales of ~~spirituous liquor~~ spirits or fortified wines made by a
19 manufacturer or rectifier at a fourth-class or farmers' market license location
20 shall be included in the gross revenue of a seller under this section, but only to

1 the extent that the sales are of the manufacturer's or rectifier's own products,
2 and not products purchased from other manufacturers and rectifiers.

3 Sec. 13. EFFECTIVE DATE

4 This act shall take effect on July 1, 2015.