

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations to which was referred House Bill
3 No. 252 entitled “An act relating to establishing the Agency of Controlled
4 Substances” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 * * * Study of the Agency of Controlled Substances * * *

8 Sec. 1. LEGISLATIVE STUDY; AGENCY OF CONTROLLED
9 SUBSTANCES

10 (a) Creation. There is created a Legislative Agency of Controlled
11 Substances Study Committee to review whether an Agency of Controlled
12 Substances should be created in the State.

13 (b) Membership. The Committee shall be composed of the following eight
14 members:

15 (1) Four current members of the House of Representatives, not all from
16 the same political party, who shall be appointed by the Speaker of the House.
17 Two of these members shall be from the Committee on Government
18 Operations and two shall be from the Committee on General, Housing and
19 Military Affairs; and

20 (2) Four current members of the Senate, not all from the same political
21 party, who shall be appointed by the Committee on Committees. Two of these

1 members shall be from the Committee on Government Operations and two
2 shall be from the Committee on Economic Development, Housing and General
3 Affairs.

4 (c) Powers and duties. The Committee shall study whether an Agency of
5 Controlled Substances should be created in the State, including the following
6 issues:

7 (1) the duties of the Agency and its personnel; and

8 (2) the structure of the Agency, including which departments would be
9 under the jurisdiction of the Agency.

10 (d) Assistance. The Committee shall have the administrative, technical,
11 and legal assistance of the Office of Legislative Council and the Joint Fiscal
12 Office.

13 (e) Report. On or before January 15, 2016, the Committee shall submit a
14 report to the General Assembly with its findings and any recommendations for
15 legislative action. The report may take the form of proposed legislation.

16 (f) Meetings.

17 (1) The Speaker of the House and the President of the Senate shall call
18 the first meeting of the Committee to occur on or before July 30, 2015.

19 (2) The Committee shall select two co-chairs from among its members
20 at the first meeting, one of whom shall be a member of the House and one of
21 whom shall be a member of the Senate.

1 (3)(A) A majority of the members of the Committee shall be physically
2 present at the same location to constitute a quorum.

3 (B) A member may vote only if physically present at the meeting
4 location.

5 (C) Action shall be taken only if there is both a quorum and a
6 majority vote of the members physically present and voting.

7 (4) The Committee shall cease to exist on January 15, 2016.

8 (g) Reimbursement. For attendance at meetings during adjournment of the
9 General Assembly, legislative members of the Committee shall be entitled to
10 per diem compensation and reimbursement of expenses pursuant to
11 2 V.S.A. § 406.

12 * * * Department of Liquor Control * * *

13 Sec. 2. TRANSFER OF POSITIONS AND ASSOCIATED

14 APPROPRIATIONS FROM THE DEPARTMENT OF LIQUOR
15 CONTROL TO THE DEPARTMENT OF PUBLIC SAFETY

16 On the effective date of this act, the following positions and the
17 appropriations associated with those positions are transferred from the
18 Department of Liquor Control to the Department of Public Safety:

19 (A) liquor control investigators;

20 (B) investigator supervisors; and

21 (C) Director of Enforcement.

1 **Sec. 3. 7 V.S.A. § 101 is amended to read:**

2 § 101. COMPOSITION OF DEPARTMENT; COMMISSIONER OF
3 LIQUOR CONTROL; LIQUOR CONTROL BOARD

4 (a) The Department of Liquor Control, created by 3 V.S.A. § 212, shall
5 include the Commissioner of Liquor Control and the Liquor Control Board.

6 (b) **The Governor shall appoint the Commissioner of Liquor Control with**
7 **the advice and consent of the Senate.**

8 (c) The Liquor Control Board shall consist of five persons, not more than
9 three members of which shall belong to the same political party. Biennially,
10 with the advice and consent of the Senate, the Governor shall appoint a person
11 as a member of such Board for a staggered five-year term, whose term of
12 office shall commence on February 1 of the year in which such appointment is
13 made. The Governor shall biennially designate a member of such Board to be
14 its Chair.

15 Sec. 4. 7 V.S.A. § 102 is amended to read:

16 § 102. ~~REMOVAL~~

17 ~~After notice and hearing the governor may remove a member of the liquor~~
18 ~~control board for incompetency, failure to discharge his or her duties,~~
19 ~~malfeasance, immorality or other cause inimical to the general good of the~~
20 ~~state. In case of such removal, the governor shall appoint a person to fill the~~
21 ~~unexpired term. [Repealed.]~~

1 Sec. 5. 7 V.S.A. § 104 is amended to read:

2 § 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

3 The Board shall have supervision and management of the sale of spirituous
4 liquors within the State in accordance with the provisions of this title, and
5 through the Commissioner of Liquor Control shall:

6 (1) ~~See that the laws relating to intoxicating liquor and to the~~
7 ~~manufacture, sale, transportation, barter, furnishing, importation, exportation,~~
8 ~~delivery, prescription and possession of malt and vinous beverages, spirituous~~
9 ~~liquors and alcohol by licensees and others are enforced, using for that purpose~~
10 ~~such of the monies annually available to the Liquor Control Board as may be~~
11 ~~necessary. However, the Liquor Control Board and its agents and inspectors~~
12 ~~shall act in this respect in collaboration with sheriffs, deputy sheriffs,~~
13 ~~constables, officers, and members of village and city police forces, control~~
14 ~~commissioners, the Attorney General, state's attorneys, and town and city~~
15 ~~grand jurors. When the Board acts to enforce any section of this title or any~~
16 ~~administrative rule or regulation relating to sale to minors, its investigation on~~
17 ~~the alleged violation shall be forwarded to the Attorney General or the~~
18 ~~appropriate state's attorney whether or not there is an administrative finding of~~
19 ~~wrongdoing. Nothing in this section shall be deemed to affect the~~
20 ~~responsibility or duties of such enforcement officers or agencies with respect to~~
21 ~~the enforcement of such laws. The Commissioner or his or her designee is~~

1 ~~authorized to prosecute~~ Prosecute administrative matters under this section ~~and~~
2 ~~shall have~~ through the Commissioner or his or her designee, which shall
3 include the authority to enter into direct negotiations with a licensee to reach a
4 proposed resolution or settlement of an alleged violation, subject to Board
5 approval, or dismissal with or without prejudice. When a prosecution relates
6 to the sale of alcohol to minors, the Board shall forward the alleged violation to
7 the Attorney General or the appropriate State's Attorney, regardless of whether
8 there is an administrative finding of wrongdoing.

9 (2) Supervise the opening and operation of local agencies for the sale
10 and distribution of spirituous liquors.

11 (3) Locate and establish a central liquor agency for the purpose of
12 supplying local agencies established in accordance with this title and for the
13 purpose of selling to licensees of the third class and druggists, and supervise
14 the operation of such central liquor agency.

15 (4) Supervise the financial transactions of such central liquor agency
16 and the local agencies established in accordance with this title.

17 (5) ~~Make and promulgate regulations~~ Adopt rules necessary for the
18 execution of its powers and duties and of the powers and duties of all persons
19 under its supervision and control.

20 (6) Employ such assistants, ~~inspectors~~, and other officers as it deems
21 necessary, subject to the approval of the Governor.

1 (7) Fix bonds or other security to be given by licensees.

2 (8) ~~Make rules and regulations~~ Adopt rules concerning, and issue
3 permits under such terms and conditions as it may impose, for the furnishing,
4 purchasing, selling, bartering, transporting, importing, exporting, delivering,
5 and possessing of alcohol, including denatured alcohol, for manufacturing,
6 mechanical, medicinal, and scientific purposes.

7 (9) ~~Make and promulgate regulations~~ Adopt rules regarding labeling and
8 advertising of malt or vinous beverages and spirituous liquors by adoption of
9 federal regulations or otherwise, and collaborate with federal agencies in
10 respect thereto ~~and the enforcement thereof~~.

11 (10) ~~Make and promulgate regulations~~ Adopt rules relating to extension
12 of credit by and to licensees or permittees.

13 (11) ~~Make and promulgate regulations~~ Adopt rules regarding intrastate
14 transportation of malt and vinous beverages.

15 Sec. 6. 7 V.S.A. § 105 is amended to read:

16 § 105. ~~DUTIES OF ATTORNEY GENERAL~~

17 ~~The attorney general shall collaborate with the liquor control board for the~~
18 ~~enforcement of the provisions of subdivision (1) of section 104 of this title.~~

19 [Repealed.]

1 **Sec. 7. 7 V.S.A. § 106 is amended to read:**

2 § 106. COMMISSIONER OF LIQUOR CONTROL; REPORTS;

3 RECOMMENDATIONS

4 ~~The board shall employ an executive officer, who shall be the secretary of~~
5 ~~the board and shall be called the commissioner of liquor control. The~~
6 ~~commissioner shall be appointed for an indefinite period and shall be subject to~~
7 ~~removal upon the majority vote of the entire board. At such times and in such~~
8 detail as the ~~board~~ Board directs, the ~~commissioner~~ Commissioner shall make
9 reports to the ~~board~~ Board concerning the liquor distribution system of the
10 state State, together with such recommendations as he or she deems proper for
11 the promotion of the general good of the state State.

12 **Sec. 8. COMMISSIONER OF LIQUOR CONTROL; APPOINTMENT**

13 A Commissioner of Liquor Control in office on the effective date of this act
14 may continue to hold that office until the Governor appoints the Commissioner
15 in accordance with 7 V.S.A. § 101(b) set forth in Sec. 3 of this act.

16 Sec. 9. 7 V.S.A. § 239 is amended to read:

17 § 239. LICENSEE EDUCATION

18 (a) A new first-class, second-class, third-class, fourth-class, or farmer's
19 market license shall not be granted until the applicant has met with a
20 Department of Public Safety liquor control investigator or a Department of
21 Liquor Control training specialist for the purpose of being informed of the

1 Vermont liquor laws, rules, and regulations pertaining to the purchase, storage,
2 and sale of alcohol beverages. A corporation, partnership, or association shall
3 designate a director, partner, or manager who shall comply with the terms of
4 this subsection.

5 * * *

6 Sec. 10. 7 V.S.A. § 561 is amended to read:

7 § 561. AUTHORITY OF LIQUOR CONTROL INVESTIGATORS;

8 ARREST FOR UNLAWFULLY MANUFACTURING,

9 POSSESSING, OR TRANSPORTING ALCOHOLIC BEVERAGES;

10 SEIZURE OF PROPERTY

11 (a) ~~The Director of the Enforcement Division of the Department of Liquor~~
12 ~~Control and Public Safety liquor control~~ investigators ~~employed by the Liquor~~
13 ~~Control Board or by the Department of Liquor Control~~ shall be certified as
14 full-time law enforcement officers by the Vermont Criminal Justice Training
15 Council and shall have the same powers and immunities as those conferred on
16 the State Police by 20 V.S.A. § 1914.

17 (b) The Commissioner of Liquor Control, ~~the Director of the Enforcement~~
18 ~~Division of the~~ a Department of ~~Liquor Control or an~~ Public Safety liquor
19 control investigator ~~employed by the Liquor Control Board or by the~~
20 ~~Department of Liquor Control~~, and any other law enforcement officer may
21 arrest or take into custody pursuant to the Vermont Rules of Criminal

1 Procedure, a person whom he or she finds in the act of manufacturing alcohol
2 or possessing a still, or other apparatus for the manufacture of alcohol, or
3 unlawfully selling, bartering, possessing, furnishing, or transporting alcohol,
4 or unlawfully selling, furnishing, or transporting spirituous liquor, or malt and
5 vinous beverages, and shall seize the liquors, alcohol, vessels, and implements
6 of sale and the stills or other apparatus for the manufacture of alcohol in the
7 possession of the person. He or she may also seize and take into custody any
8 property described in this section.

9 Sec. 11. 7 V.S.A. § 561(a), as amended by 2014 Acts and Resolves No. 141,
10 Sec. 15, is amended to read:

11 (a) ~~The Director of the Enforcement Division of the Department of Liquor~~
12 ~~Control and Public Safety liquor control~~ investigators ~~employed by the Liquor~~
13 ~~Control Board or by the Department of Liquor Control~~ shall be certified as
14 Level III law enforcement officers by the Vermont Criminal Justice Training
15 Council and shall have the same powers and immunities as those conferred on
16 the State Police by 20 V.S.A. § 1914.

17 Sec. 12. 20 V.S.A. § 1817 is amended to read:

18 § 1817. ~~REPORTS OF LAW ENFORCEMENT OFFICER; ACCIDENTS~~
19 ~~INVOLVING LIQUOR~~

20 ~~Any law enforcement officer who, upon investigation of a motor vehicle~~
21 ~~accident or other incident involving the use of intoxicating liquor, shall inquire~~

1 ~~whether the person involved in the accident or incident was served or furnished~~
2 ~~intoxicating liquor at a licensed establishment and, if the officer determines~~
3 ~~that a person was served or furnished intoxicating liquor at a licensed~~
4 ~~establishment, the officer shall so inform in writing the appropriate licensee or~~
5 ~~licensees. A law enforcement officer shall not be subject to civil liability for~~
6 ~~an omission or failure to comply with a provision of this section. [Repealed.]~~

7 Sec. 13. 7 V.S.A. § 562 is added to read:

8 § 562. REPORTS OF LAW ENFORCEMENT OFFICER; ACCIDENTS
9 INVOLVING LIQUOR

10 (a) Any law enforcement officer, upon investigation of a motor vehicle
11 accident or other incident involving the use of intoxicating liquor, shall inquire
12 whether the person involved in the accident or incident was served or furnished
13 intoxicating liquor at a licensed establishment. If the officer determines that a
14 person was served or furnished intoxicating liquor at a licensed establishment,
15 the officer shall so inform in writing the appropriate licensee or licensees.

16 (b) A law enforcement officer shall not be subject to civil liability for an
17 omission or failure to comply with a provision of this section.

18 Sec. 14. RECODIFICATION

19 (a) 20 V.S.A. § 1817 is recodified as 7 V.S.A. § 562. During statutory
20 revision, the Office of Legislative Council shall revise accordingly any
21 references to 20 V.S.A. § 1817 in the Vermont Statutes Annotated.

1 (b) Any references in session law and adopted rules to 20 V.S.A. § 1817 as
2 previously codified shall be deemed to refer to 7 V.S.A. § 562.

3 Sec. 15. 7 V.S.A. § 563 is amended to read:

4 § 563. SEARCH WARRANTS

5 (a) If a state's attorney State's Attorney, the commissioner of liquor control
6 Commissioner of Liquor Control, or an inspector duly acting for the liquor
7 control board a Department of Public Safety liquor control investigator, or a
8 control commissioner~~or~~₂ a town grand juror₂ or two reputable citizens of the
9 county; make complaint under oath or affirmation; before a judge of a ~~criminal~~
10 ~~division of the superior court,~~ Criminal Division of the Superior Court that he
11 or she or they have reason to believe that malt or vinous beverages or
12 spirituous liquor or alcohol are kept or deposited for sale or distribution
13 contrary to law, or that alcohol is manufactured or possessed contrary to law,
14 in a dwelling house, store, shop, steamboat; or water craft of any kind, depot,
15 railway car, motor vehicle or land or air carriage of any kind, warehouse₂ or
16 other building or place in the county, the judge shall issue a warrant to search
17 the premises described in the complaint.

18 (b) If the liquor is found therein under circumstances warranting the belief
19 that it is intended for sale or distribution contrary to law, or if the alcohol is
20 found therein under circumstances warranting the belief that it is unlawfully
21 manufactured or possessed, or if any still; or any other apparatus for the

1 manufacture of alcohol is found therein, the officer shall seize and convey the
2 same to some place of security, and keep it until final action is had thereon.

3 Sec. 16. 7 V.S.A. § 571 is amended to read:

4 § 571. SEARCH OF VEHICLE OR CRAFT WITHOUT WARRANT

5 (a) If a sheriff, deputy sheriff, constable, police officer, commissioner of
6 liquor control ~~or inspector duly acting for the liquor control board, Department~~
7 of Public Safety liquor control investigator, or ~~state police~~ State Police officer
8 has reason to believe and does believe, that a person is engaged in the act of
9 smuggling, delivering, or transporting, in violation of law, malt or vinous
10 beverages, spirituous liquors, or alcohol in any wagon, buggy, automobile,
11 motor vehicle, air or water craft, or other vehicle, he or she shall search for and
12 seize without warrant, malt or vinous beverages, spirituous liquors, or alcohol
13 found therein being smuggled, delivered, or transported contrary to law.

14 (b) Whenever malt or vinous beverages ~~or~~, spirituous liquors, or alcohol,
15 transported unlawfully or alcohol possessed illegally shall be seized by such
16 officer, he or she shall take possession of the vehicle, team, automobile, boat,
17 air or water craft, or other conveyance and shall arrest the person in charge
18 thereof.

1 Sec. 17. 7 V.S.A. § 659 is amended to read:

2 § 659. REFUSAL OR NEGLECT OF OFFICERS TO PERFORM DUTIES

3 (a)(1) The sheriffs of the several counties and their deputies, constables,
4 officers or members of ~~the~~ a village, town, or city police department, ~~state~~
5 ~~police~~ State Police, and ~~inspectors of the liquor control board~~ Department of
6 Public Safety liquor control investigators are hereby empowered, and it is
7 hereby made their duty, to see that the provisions of this title and the rules ~~and~~
8 ~~regulations~~ made as authorized by the ~~liquor control board~~ Liquor Control
9 Board herein provided for are enforced within their respective jurisdictions.

10 (2) Any such officer who ~~wilfully~~ willfully refuses or neglects to
11 perform the duties imposed upon him or her by this section shall be fined not
12 more than \$500.00 or imprisoned not more than 90 days, or both.

13 (b) A control commissioner, ~~state's attorney~~ State's Attorney, or town
14 grand juror who ~~wilfully~~ willfully refuses or neglects to investigate a complaint
15 for a violation of this chapter, when accompanied by evidence in support
16 thereof, shall be fined \$300.00.

17 Sec. 18. 7 V.S.A. § 1002a is amended to read:

18 § 1002a. LICENSEE EDUCATION

19 (a) An applicant for a tobacco license that does not hold a liquor license
20 issued under this title shall be granted a tobacco license pursuant to section
21 1002 of this ~~title~~ chapter only after the applicant has met with a Department of

1 Public Safety liquor control investigator for the purpose of being informed
2 about the Vermont tobacco laws pertaining to the purchase, storage, and sale of
3 tobacco products. A corporation, partnership or association shall designate a
4 director, partner, or manager to comply with the requirements of this
5 subsection.

6 * * * Department of Public Safety * * *

7 Sec. 19. 20 V.S.A. chapter 113 (Commissioner and members), subchapter 2 is
8 amended to read:

9 Subchapter 2. Public Safety Officers and State Police

10 § 1901. DIVISION OF PUBLIC SAFETY OFFICERS; CREATION AND
11 PURPOSE

12 The Division of Public Safety Officers is created under the Department of
13 Public Safety to provide specialized law enforcement services within the State.
14 The Division includes liquor control investigators, who shall have the powers
15 and duties regarding the enforcement of liquor laws as set forth in Title 7 of the
16 Vermont Statutes Annotated.

17 §§ 1902–1910. Reserved.

18 * * *

1 * * * Miscellaneous Amendments in Accordance with this Act * * *

2 Sec. 20. 20 V.S.A. § 1883 is amended to read:

3 § 1883. STATE LAW ENFORCEMENT; MEMORANDUM OF
4 UNDERSTANDING

5 (a) The Commissioner of Public Safety shall develop and execute a
6 memorandum of understanding with the Commissioners of Fish and Wildlife,
7 and of Motor Vehicles and their directors of law enforcement, and the
8 Commissioner of Liquor Control and their respective directors of law
9 enforcement. The memorandum of understanding shall be reviewed at least
10 every two years and shall at a minimum address:

11 (1) Maximizing collective resources by reducing or eliminating
12 redundancies and implementing a methodology that will enhance overall
13 coordination and communication while supporting the mission of individual
14 enforcement agencies.

15 (2) Providing for an overall statewide law enforcement strategic plan
16 supported by quarterly planning and implementation strategy sessions to
17 improve efficiencies and coordination on an operational level and ensure
18 interagency cooperation and collaboration of programs funded through grants.
19 The strategic plan should identify clear goals and ~~measurable~~ performance
20 outcomes measures that demonstrate results, as well as specific strategic plans
21 for individual enforcement agencies.

1 the Secretary of State, Board of Medical Practice investigators employed by
2 the Department of Health, Attorney General, or a State’s Attorney, a fish and
3 game warden, a sheriff, or deputy sheriff who exercises law enforcement
4 powers, a railroad police officer commissioned pursuant to 5 V.S.A. chapter
5 68, subchapter 8, or a police officer appointed to the University of Vermont’s
6 Department of Police Services.

7 (2) “Off-site training” means training provided off the premises of a law
8 enforcement officer training school and approved by the Council under the
9 provisions of section 2355 of this chapter.

10 (3) [Repealed.]

11 Sec. 23. 20 V.S.A. § 2367 is amended to read:

12 § 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;

13 REPORTING

14 (a) As used in this section:

15 * * *

16 (2) “Law enforcement officer” means a sheriff, deputy sheriff, police
17 officer, ~~capitol police~~ Capitol Police officer, State game warden, State Police
18 officer, constable who exercises law enforcement authority pursuant to
19 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this
20 title, and a certified law enforcement officer employed by a State branch,
21 agency, or department, including the Department of Public Safety, Department

1 of Motor Vehicles, the Agency of Natural Resources, the Office of the
2 Attorney General, the Department of State's ~~Attorney~~ Attorneys and Sheriffs,
3 and the Secretary of State, ~~and the Department of Liquor Control~~.

4 * * *

5 (g) The Law Enforcement Advisory Board shall:

6 (1) study and make recommendations as to whether officers authorized
7 to carry electronic control devices should be required to wear body cameras;

8 (2) establish a policy on the calibration and testing of electronic control
9 devices; and

10 (3) ~~on or before January 15, 2015, report to the House and Senate~~
11 ~~Committees on Government Operations and on Judiciary concerning the~~
12 ~~recommendations and policy developed pursuant to subdivisions (1) and (2) of~~
13 ~~this subsection; and~~ [Repealed.]

14 (4) ~~on or before April 15, 2015, ensure that all electronic control devices~~
15 ~~carried or used by law enforcement officers are in compliance with the policy~~
16 ~~established pursuant to subdivision (2) of this subsection.~~

1 Sec. 24. 21 V.S.A. § 494b is amended to read:

2 § 494b. EMPLOYERS PERMITTED TO REQUIRE POLYGRAPH
3 EXAMINATIONS

4 The following employers may require that an applicant for employment
5 take or submit to a polygraph examination, or administer or cause to be
6 administered, a polygraph examination to an applicant for employment:

7 (1) ~~the department of public safety~~ Department of Public Safety; the
8 ~~department of motor vehicles~~ Department of Motor Vehicles, for applicants for
9 law enforcement positions; the ~~department of fish and wildlife~~ Department of
10 Fish and Wildlife, for applicants for law enforcement positions; ~~the department~~
11 ~~of liquor control and the liquor control board, for applicants for investigator~~
12 ~~positions; and~~ municipal police departments and county sheriffs, as to sworn
13 police officers and deputy sheriffs;

14 * * * Effective Dates * * *

15 Sec. 25. EFFECTIVE DATES

16 This act shall take effect on passage, except for the following sections,
17 which shall take effect on July 1, 2015:

18 (1) Sec. 11 (amending 7 V.S.A. § 561(a)); and

19 (2) Sec. 22 (amending 20 V.S.A. § 2358(d)).

1 and that after passage the title of the bill be amended to read: “An act relating
2 to the study of creating the Agency of Controlled Substances and to the
3 governmental structure and the duties of the Department of Liquor Control”

4

5

6 (Committee vote: _____)

7

8

Representative _____

9

FOR THE COMMITTEE