

Liquor Control System Modernization Study Committee Report

Pursuant to 2015 Acts and Resolves No. 51

December 2015

Legislative Council
State House
115 State Street
Montpelier, VT 05633-5301
(802) 828-2231
www.leg.state.vt.us

Liquor Control System Modernization Study Committee Report

Table of Contents

Liquor Control System Modernization Study Committee Members.....	1
I. Authority and Duties of the Liquor Control System Modernization Study Committee.....	2
II. Summary of Committee Activities.....	2
III. Findings and Recommendations.....	4
A. The Department of Liquor Control.....	4
B. Liquor Control Board.....	7
C. Commissioner of Liquor Control.....	8
D. Vermont Department of Liquor Control Warehouse.....	9
E. Spirits Sales in Vermont.....	12
F. Statutory Language of Title 7 of the Vermont Statutes Annotated.....	13
G. State Agency Liquor Stores.....	14
APPENDIX A: Enabling Legislation.....	18
APPENDIX B: Witness List.....	22
APPENDIX C: Draft Legislative Proposal, Vermont House of Representatives.....	23
APPENDIX D: Draft Legislative Proposal, Vermont Senate.....	28
APPENDIX E: December 9, 2015 Letter from Liquor Control Board to Study Committee.....	33

Liquor Control System Modernization Study Committee Members

Two members of the House of RepresentativesRep. Tom Stevens (co-chair)

Rep. Janet Ancel

Two members of the Senate.....Sen. Philip Baruth (co-chair)

Sen. Dustin Degree

Chair of the Liquor Control Board or designee.....Stephanie O'Brien, Chair of the
Liquor Control Board

Commissioner of Taxes or designee.....Candace Morgan, Director of
Policy, Outreach and Legislative
Affairs, Department of Taxes

A Member Appointed by the Governor.....Lawrence Miller, Senior Advisor
to the Governor and Chief of
Health Care Reform

I. Authority and Duties of the Liquor Control System Modernization Study Committee

The Vermont Liquor Control System Modernization Study Committee was established by 2015 Acts and Resolves No. 51, Sec. A.16. The Act directed the Committee's seven members to "study and evaluate Vermont's liquor control system and the Department of Liquor Control and determine whether and how the system and the Department can be made more efficient, effective, and profitable for the Vermont economy while protecting the public health and safety." 2015 Acts and Resolves No. 51, Sec. A.16(c). The Committee is required to report on its findings, its proposed changes to the Department and Vermont's liquor control system, and any recommendations for legislative action on or before December 15, 2015. *Id.*, at Sec. A.16(e). The report of the Committee is permitted to take the form of draft legislation. *Id.*

II. Summary of Committee Activities

The Liquor Control System Modernization Study Committee met six times, on July 27, August 17, September 21, October 19, November 6, and December 14. During these meetings, the Committee heard testimony and reviewed information related to:

- the provisions of Title 7 of the Vermont Statutes Annotated governing Vermont's liquor control system
- the administration and operation of the Department of Liquor Control, including its organizational structure; its duties with respect to licensing, enforcement, education, and sale of spirits; tax revenues and other income generated through the sales of spirits; and the number of licenses issued and the amount of licensing fees collected

- possible administrative and operational measures that could be employed to enhance the profitability and efficiency of the Department of Liquor Control
- possible changes to the appointment and duties of the Commissioner of Liquor Control
- the Department of Liquor Control's warehouse and distribution operations, including the capacity, operation, and limitations of the existing warehouse; the projected need for a new warehouse; previous efforts to improve operational capacity, efficiency, and safety; and ongoing and potential future efforts to improve operational capacity, efficiency, and safety
- whether the Department of Liquor Control's purchasing, transportation, warehousing, and distribution functions could be handled more cost effectively by contracting out or leasing those functions to a private entity
- the Vermont Liquor Control Board, including its composition, and its duties in relation to Vermont's liquor control system and the Department of Liquor Control
- possible changes to the composition and duties of the Liquor Control Board, including changing the number of Board members and professionalizing the Board
- Vermont's agency liquor stores, including the location and establishment of agency stores, as well as their day-to-day operation, business and operational challenges, and relationship with the Department of Liquor Control and Liquor Control Board
- the "control" and "licensing" models for statewide alcohol regulation
- the possibility of privatizing the Vermont liquor control system, including the potential fiscal impact of privatization on the State

- the Maine liquor control system, including the governance and operation of the Maine Bureau of Alcoholic Beverages & Lottery Operations, and Maine's experience in contracting out the operation of its wholesale spirits business
- the New Hampshire liquor control system, including the governance and operation of the New Hampshire Liquor Commission, and New Hampshire's experience in using a private contractor to warehouse and distribute spirits and wine

III. Findings and Recommendations

A. The Department of Liquor Control

Findings:

Under the leadership of the Liquor Control Board, the Department of Liquor Control has made ongoing efforts to improve its efficiency and profitability. During the tenure of the prior Commissioner, the Department implemented changes to improve the warehouse management system based on the recommendations made in a 2005 study required pursuant to 2004 Acts and Resolves No. 122, Sec. 76a. More recently, following the retirement of the previous Commissioner, the Liquor Control Board hired Interim Commissioner James Giffin to oversee the Department while the Board seeks a permanent Commissioner. During the past year, the Board retained David Jackson, a well-respected industry consultant, to review and recommend improvements to its business operations. It also used a grant from the National Alcoholic Beverage Control Association to commission a study of the warehouse by Chet Willey Associates that resulted in recommendations to extend the life of the warehouse, as well as

improve the efficiency of the picking and delivery process.¹ The Department is in the process of implementing the recommendations provided by Mr. Jackson and the Chet Willey Associates study. In addition, the Department is currently developing a new point-of-sale system for the State's agency liquor stores and is working hard to introduce the system in 2016.

Despite these efforts, however, the Department has historically been underfunded and has struggled to keep pace with rapidly advancing technology that could enhance its efficiency and profitability. The Department's chronic budgetary constraints have prevented it from being able to invest in measures to grow and modernize its sales operations.

Currently, the State's agency liquor stores are unable to place orders online, and most agents still use a dial-up credit card connection to complete sales. In addition, Department staff must manually approve more than 10,000 license applications per year.

In contrast to Vermont, liquor outlets and agents in New Hampshire and Maine are able to place orders and check warehouse inventory on-line. In New Hampshire, the state's warehouse systems are integrated with the point-of-sale systems in the state's Liquor and Wine Outlets.

The Department of Liquor Control would benefit from improved business expertise and focus to enhance its efficiency and profitability. To help address this, the Department has recently received authorization to hire a deputy commissioner who will focus on the Department's governmental relations and help to ensure that the Department remains accountable to the Administration. It is anticipated this will allow the Commissioner to focus more closely on growing and managing the Department's business activities. The Deputy Commissioner's position is expected to be filled once a new Commissioner is in place.

¹ The Chet Willey Associates' Study is available here:
<http://legislature.vermont.gov/assets/Documents/2016/WorkGroups/Vermont%20Liquor%20Control/October%202016/W~Jim%20Giffin~VT%20DLC%20Warehouse%20Analysis%20~10-21-2015.pdf>

In spite of all the challenges that the Department has faced, it has continued to provide a significant and growing source of revenue for the State.

Recommendations

The Study Committee recommends that the committees of jurisdiction:

- Consider amending the Vermont Statutes Annotated to create a special fund or enterprise fund comprising retained earnings designated for reinvestment by the Department in infrastructural, IT, point of sale, staffing, marketing, and other business improvements
- The retained earnings that would comprise such a fund could be derived from:
 - a fixed set-aside of two percent from the Department's annual receipts; or
 - a procedure to allow annually the Department, with legislative oversight, to reinvest a portion of the revenues that it generates
- Alternatively, the committees of jurisdiction could examine industry guidelines for budgetary reinvestment targets, and consider statutory changes to impose budgetary reinvestment targets with respect to the Department
- Consider providing funding to create a stronger Internet presence for the Department to enhance retail operations by creating a website that will permit State agency liquor stores and other customers to check inventory and place orders online
- Consider clarifying the purchasing provision contained in 7 V.S.A. §§ 107(5) and 110 and related provisions in 29 V.S.A. § 902
- Work with the Department to help it continue to develop better direct relationships with the agency liquor stores by improving communication, and refining the contracts between the Department and each agent.

B. Liquor Control Board

Findings:

The Liquor Control Board is a citizen board comprising five members. The members are appointed by the Governor biennially for staggered five-year terms. 7 V.S.A. § 101. The Board is charged with broad responsibilities for Vermont's liquor control system. These responsibilities include supervising and managing the sale of spirits and fortified wines through the Department and the State's agency liquor stores, adopting rules necessary to implement Vermont's alcoholic beverage laws, and enforcing those laws through the Board's quasijudicial and licensing functions. *See* 7 V.S.A. §§ 101, 104, and 108. The Board oversees more than 10,000 liquor licensees, as well as the State's 80 agency liquor stores. In addition to its duties in relation to alcoholic beverages, the Board has oversight responsibilities with respect to tobacco licensing, compliance, and enforcement.

The Board meets a minimum of 11 times per year. Board members receive a per diem of \$50.00 per meeting plus mileage expenses and incidental costs. *See* 32 V.S.A. § 1010.

Each full-day Board meeting includes enforcement proceedings, an opportunity for the public to address the Board, and a meeting with the Commissioner. The Board spends a significant portion of each meeting conducting hearings and enforcement proceedings in its quasijudicial role. In that role, the Board is responsible for adjudicating alleged violations of the liquor control and tobacco statutes and rules.

Recommendations:

The Study Committee recommends that the committees of jurisdiction:

- Review the Board's duties with respect to supervision of the Department's business decisions, rulemaking, and as a quasijudicial body.

The Study Committee considered but could not reach a consensus with respect to the following issue:

- Whether the Study Committee's bill should limit the Board members to no more than two consecutive terms, as proposed by the House version of the bill, or no more than two terms, as proposed by the Senate version of the bill

C. Commissioner of Liquor Control

Findings:

The Commissioner of Liquor Control is the executive officer of the Department of Liquor Control, Secretary to the Liquor Control Board, and responsible for overseeing the day-to-day operations of the Department. 7 V.S.A. § 106. He or she is appointed by the Liquor Control Board for an indefinite period of time, and may be removed by a majority vote of the Board. 7 V.S.A. § 106. The Commissioner is charged with reporting to the Board regarding the State's liquor control system, establishing agency liquor stores as directed by the Board, supervising the operation of the Department's warehouse and the agency liquor stores, making regulations subject to the approval of the Board in relation to the operation of the agency liquor stores, and administering Title 7. *See* 7 V.S.A. §§ 107, 110.

The last Commissioner of the Department served in that role for approximately 16 years before he retired in June. At present, the Department is headed by an Interim Commissioner while the Liquor Control Board works through the process of interviewing candidates to serve as the next Commissioner.

The Committee finds that the Department will be operated more effectively and will be better able to draw on the resources of the State if the Commissioner is appointed by the Governor and, therefore, more closely tied to each Governor's administration. A future

Commissioner of Liquor Control must have relevant business experience that will enable him or her to manage effectively the State's multi-million dollar liquor business.

Recommendations:

The Study Committee recommends that the General Assembly:

- Pass the Study Committee's bill, which will establish a fixed term of office for the Commissioner of Liquor Control, and will also provide for his or her appointment and removal at the pleasure of the Governor. In addition, the bill will ensure that the Liquor Control Board retains a crucial role in the selection of the Commissioner, by requiring that the Governor select the Commissioner from a pool of candidates proposed by the Board

D. Vermont Department of Liquor Control Warehouse

Findings:

Compared to those of New Hampshire and Maine, Vermont's liquor control warehouse is relatively small. It is also unique among the three in that it is operated by the State instead of by a private company under a contract with the State.

New Hampshire operates two warehouses. A 50,000-square-foot facility located in Concord that is owned and operated by the New Hampshire Liquor Commission, and a 243,000-square-foot warehouse located in Bow that is operated by a private company pursuant to a 20-year warehousing contract.² New Hampshire elected to contract for warehousing services when its former private warehouse ran out of space and there was insufficient funding available to construct a new warehouse of sufficient size to serve the needs of New Hampshire's liquor

² The change in warehouse contractors for the New Hampshire Liquor Commission resulted in significant litigation between the Commission and the vendors that formerly provided its warehousing services.

business. New Hampshire's warehouse systems are integrated with the point of sale systems in the New Hampshire Wine and Liquor Outlets.

Maine's warehousing and distribution operations are operated by the Pine State Spirits Company pursuant to a 10-year contract that began in 2014. Before the present contract, from 2004 through 2014, Maine leased its spirits business to the Maine Beverage Company in exchange for an up-front cash payment and annual profit sharing. Disappointment with the outcome of the 2004 contract led the Maine Legislature to amend the statutory provisions governing the contract before the RFP for the current contract was issued. Maine's current warehouse is a 115,000-square-foot facility owned by Pine State Trading Company and is located in Augusta.

In contrast, Vermont's warehouse is only about 30,000 square feet and is nearing capacity. In recent years, it has experienced structural issues and problems with its furnaces, and its floors are damaged. The warehouse is located in the flood plain of the Winooski River at the end of Green Mountain Drive in Montpelier. The warehouse fills most of the space between Green Mountain Drive and the bike path adjacent to the river, with its parking lot squeezed into an irregularly shaped piece of land that wraps around the Department's current offices. The shape and small size of the parking lot create challenges for trucks that are delivering to and picking up from the warehouse.

At the present time, the warehouse contains roughly 1,800 stock-keeping units, or SKUs. The number of SKUs in the warehouse is increasing at an annual rate of 4.4 percent, or about 74 new SKUs per year. While the Department is in the process of implementing changes recommended by the Chet Willey Associates study that will increase the warehouse's SKU capacity, the ongoing increase in the number of SKUs will cause it to run out of space in the next

four to five years. Thus, in order for the Department to continuing growing its sales, it will need to move to a larger warehouse within five years. The significant amount of time required to locate and design a new warehouse means that planning and budgeting must begin immediately to ensure that the Department does not run out of space before the new facility is completed.

Assuming the warehouse will be completed in approximately 2020, the Chet Willey Associates' study estimated that the size of the new warehouse will need to be at least 60,000 square feet in order to accommodate 10 years of growth for the Department. It is important to note that this does not include the space necessary to house the Department's offices.

Recommendations:

The Study Committee recommends that the committees of jurisdiction:

- Immediately begin the process of replacing the Department's warehouse with a new operational facility for the Department that would include a replacement warehouse meeting the requirements identified in the Chet Willey Associates study
- As part of this process, consider all options, including the following:
 - Whether to:
 - invest in a State-owned warehouse;
 - begin the process of drafting legislation to enable the Department to contract with a company or companies to operate its warehousing and distribution functions; or
 - begin the process of drafting legislation to enable the Department to lease a facility that would be operated by the Department
 - Whether any savings in expenses or increases in revenue can be achieved by any of the different options identified for the replacement of the warehouse

E. Spirits Sales in Vermont

Findings:

The Study Committee considered the volume of liquor sales and the models for liquor control in Vermont, New Hampshire, and Maine. While Vermont's sales volume does not match the sales volume of New Hampshire or Maine, the amount of revenue that Vermont generates per gallon of ethanol sold is higher than either of the other states.

Vermont is unlikely to ever match the volume or total revenue from alcoholic beverage sales in a state such as New Hampshire. This is due to a variety of factors, including Vermont's location, small population, and the fact that Vermont only controls the sales of spirits and fortified wines, rather than spirits, fortified wines, and wine. Likewise, the fluctuating price differential between Vermont and New Hampshire is unlikely to change without a significant reduction in the Department's revenues because New Hampshire's liquor business is modelled on a low-markup, high-volume approach to alcohol sales.

The Study Committee supports efforts to recapture sales that are being lost to Vermont's neighbors. A key component to that effort must be growing the Department's marketing and web-based presence, and identifying potential challenges to that effort.

Recommendations:

The Study Committee recommends that the committees of jurisdiction:

- Consider and support policies that will prevent the loss of alcoholic beverage sales across Vermont's borders
- Consider possible policies or legislative changes that would enable the Department to establish a stronger marketing presence

F. Statutory Language of Title 7 of the Vermont Statutes Annotated

Findings:

In reviewing Title 7, the Study Committee found that a significant portion of the statutory language is antiquated or may not accurately reflect existing practices. Some of the statutes have not been updated in approximately 50 years.

Many provisions in Title 7 are not set forth in a manner that is consistent or easily understandable. For example, there is significant variation in how the provisions governing different types of licenses are set forth. Some are found in a separate, clearly labeled section, while others might be found in the definitions section or haphazardly split between the definitions section and one or more other sections. In addition to the organizational issues, much of the language is overly dense or written in a manner that can be difficult to understand.

Recommendations:

The Study Committee recommends that the General Assembly pass the draft legislation put forth by the Study Committee. The bill directs Legislative Council, in consultation with the Commissioner of Liquor Control, the Liquor Control Board, and the Office of the Attorney General, to prepare and submit a draft bill to make statutory amendments to improve the clarity of Title 7 through the reorganization of its provisions and the modernization of its statutory language, as well as to identify all sections of Title 7 that the General Assembly must amend substantively in order to remove out-of-date and obsolete provisions.

G. State Agency Liquor Stores

Findings:

The models for and scale of retail liquor sales in Vermont, New Hampshire, and Maine vary in certain significant ways.

The State of Vermont currently has 80 State agency liquor stores. Vermont's agency liquor stores are operated by private agents. However, the spirits and fortified wines sold by the stores are owned by the State until they are sold to the consumer. The Department currently establishes the minimum selection of products in each agency store; however, each agent may special order additional products to meet the needs of the customers. The stores operate under a contract with the Department of Liquor Control and utilize Department-owned registers and software to track sales and inventory. Vermont liquor agents receive a commission that ranges from 6.7 to 8.2 percent of the agent's gross sales of spirits and fortified wines.

Vermont's agency stores sell spirits and fortified wines to consumers, as well as to licensed bars and restaurants. Depending on the agency, the clientele can vary greatly with some stores receiving the majority of their business from bars and restaurants, and others from walk-in customers.

The Liquor Control Board's duties include supervising existing agencies and locating and establishing new agency stores. *See* 7 V.S.A. §§ 101, 104, and 107. The Board decides whether to add a new agency store location based, in part, on whether the new location will increase the Department's revenues after the initial costs that the Department incurs in establishing the new agency are recouped. The Board has advertised for new agents in underserved parts of the State in the past.

In contrast to Vermont, the New Hampshire Liquor Commission operates its wine and liquor outlets directly. At present, the Commission has 77 outlets spread around the State, including new flagship stores along Interstate 93. Because New Hampshire does not tax the sales of wine and spirits, it generates its income from the retail markup on the beverages sold by its outlets. Bars and restaurants in New Hampshire can order wine and spirits to be shipped from the State's liquor warehouses or picked up from a local outlet. Wine is also sold for off-premises consumption through licensed retailers.

As in Vermont, Maine operates on an agency liquor store model. However, its 510 agencies stand in stark contrast to Vermont's 80. The number of agencies in Maine has roughly doubled in the past ten years, with 22 agents added in the past year alone.

A second major difference is that the private businesses that operate Maine's liquor agencies own the liquor sold by their stores. Agencies purchase the liquor that they sell from the Maine Bureau of Alcoholic Beverages and Lottery Operations ("BABLO"). The agencies decide which products to carry and how much to order, although BABLO does encourage the agencies to stock certain products. Agencies are required to stock a minimum number of products based on the size of the municipality in which the agency is located. 28-A M.R.S.A. § 461. Retail licensees that are licensed to sell alcoholic beverages for on-premises consumption are required to purchase spirits through an agency that is also licensed to resell spirits. *See* 28-A M.R.S.A. § 453-C.

Agencies purchase the products they carry at a discount of between 12 and 14 percent of the retail price. Products that retail for \$24.99 or less have a discount of 12 percent, while products that sell for more than \$24.99 have a discount of 14 percent.

Maine's statutes provide a population guideline that limits the maximum number of liquor agencies that may be located in a municipality based on its population. *See* 28-A M.R.S.A. § 453. When a municipality votes to request an additional agency, the Maine Liquor and Lottery Commission will review the issue and can decide to accept applications for a new agency license. BABLO considers the applications through a process that includes public notice and a hearing, and which takes into account several factors, including the potential impact of a proposed agency store location on existing agency stores. *See* 28-A M.R.S.A. § 453-A. Licenses are issued for a 12-month period and are renewable.

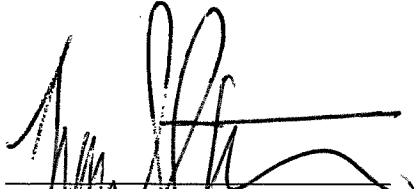
Recommendations:

The Study Committee recommends that the committees of jurisdiction consider directing the Liquor Control Board to do the following:


- Study the issue of whether Vermont should increase the number of State agency liquor stores
- Examine whether implementing standards for the geographic distribution of agents would be beneficial to the State. Such standards could include:
 - A maximum distance or amount of time that customers visiting an agency in a rural area would need to travel
 - A maximum number of agents per capita that would be permitted in larger municipalities or more densely settled regions of the State
- Examine whether allowing a more limited number of SKUs in agency stores located in less populated areas of the State could benefit those stores and the Department
- Examine potential steps that the Department can take to improve direct customer relations with the State's agency stores

The Study Committee recommends that the General Assembly:


- Pass the draft legislation put forth by the Study Committee. The bill directs the Liquor Control Board and Department to implement business, operational, financial, and revenue standards for agency stores.



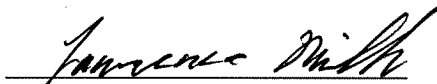
Representative Tom Stevens,
Co-Chair



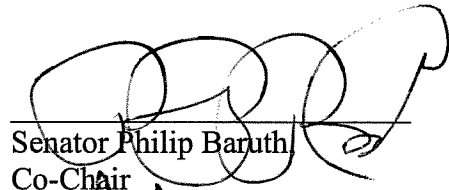
Representative Janet Ancel




Stephanie O'Brien,
Chair of the Liquor Control Board



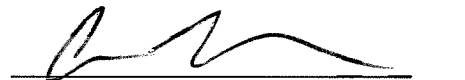
Lawrence Miller,
Senior Advisor to the Governor
and Chief of Health Care Reform



Senator Philip Baruth,
Co-Chair



Senator Dustin Degree



Candace Morgan,
Director of Policy, Outreach and
Legislative Affairs, Department of
Taxes

APPENDIX A: Enabling Legislation

2015 Acts and Resolves No. 51

Sec. A.16. VERMONT LIQUOR CONTROL SYSTEM MODERNIZATION

STUDY COMMITTEE

(a) Creation. There is created a Vermont Liquor Control System Modernization Study Committee to evaluate Vermont's liquor control system and the Department of Liquor Control and determine whether and how the system and the Department can be made more efficient, effective, and profitable for the Vermont economy while protecting the public health and safety.

(b) Membership. The Commission shall be composed of the following seven members:

(1) two current members of the House of Representatives, who shall be appointed by the Speaker of the House;

(2) two current members of the Senate, who shall be appointed by the Committee on Committees;

(3) the Chair of the Liquor Control Board or designee;

(4) one member appointed by the Governor; and

(5) the Commissioner of Taxes or designee.

(c) Powers and duties. The Committee shall study and evaluate Vermont's liquor control system and the Department of Liquor Control and determine whether and how the system and the Department can be made more efficient, effective, and profitable for the Vermont economy while protecting the public health and safety. In particular, the Committee shall:

(1) examine and evaluate the governance and operation of the Department of Liquor Control, including the manner in which it warehouses and distributes spirits and fortified wines, in comparison with the governance and operation of liquor control agencies in other states, and

identify various measures by which the governance and operation of the Department of Liquor Control could be made more efficient, effective, and profitable for the Vermont economy while protecting the public health and safety;

(2) examine and evaluate any changes to licensing, enforcement, education, fees, and taxes related to the production, sale, warehousing, and distribution of alcoholic beverages that would be necessary to implement the various measures identified pursuant to subdivision (1) of this subsection;

(3) evaluate the impact of the various measures identified pursuant to subdivision (1) of this subsection with respect to:

(A) public health and safety;

(B) the tax revenue and income generated by the Department;

(C) any savings in the cost of the services provided by the Department;

(D) any economic impact on the businesses licensed by the Department; and

(E) the price and availability of alcoholic beverages for consumers in Vermont.

(4) examine and evaluate Vermont's regulatory system for the production, sale, warehousing, and distribution of spirits and fortified wines in comparison with the systems employed by other states, including systems in which spirits and fortified wines are warehoused or distributed, or both, by private entities, public entities, or a combination of private and public entities;

(5) identify various measures by which Vermont's regulatory system for the production, sale, warehousing, and distribution of spirits and fortified wines could be made more efficient, effective, and profitable for the Vermont economy while protecting the public health and safety;

(6) examine and evaluate any changes to licensing, enforcement, education, fees, and taxes related to the production, sale, warehousing, and distribution of alcoholic beverages that would be necessary to implement the various measures identified pursuant to subdivision (5) of this subsection; and

(7) evaluate the impact of the various measures identified pursuant to subdivision (5) of this subsection with respect to:

(A) public health and safety;

(B) the tax revenue and income generated by the Department;

(C) any savings in the cost of the services provided by the Department;

(D) any economic impact on the businesses licensed by the Department; and

(E) the price and availability of alcoholic beverages for consumers in Vermont.

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

(e) Report. On or before December 15, 2015, the Committee shall submit a report to the House Committees on Commerce and Economic Development; on General, Housing and Military Affairs; and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations with its findings and proposed changes to the Department of Liquor Control and Vermont's liquor control system, as well as a recommendation for any legislative action necessary to implement the changes proposed by the Committee. The report of the Committee may take the form of draft legislation.

(f) Meetings.

(1) The Co-Chairs of the Committee shall call the first meeting of the Committee to occur on or before July 30, 2015.

(2) A member from the House of Representatives designated by the Speaker of the House and a member from the Senate designated by the Senate Committee on Committees shall be the Co-Chairs of the Committee.

(3) A majority of the membership of the Committee shall constitute a quorum.

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

(g) Reimbursement. For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than six meetings.

APPENDIX B: Witness List

- Candace Morgan ➤ Director of Policy, Outreach and Legislative Affairs, Vermont Department of Taxes
- Damien Leonard ➤ Legislative Counsel, Office of Legislative Council
- David Hall ➤ Legislative Counsel, Office of Legislative Council
- Doug Hoffer ➤ State Auditor, Vermont State Auditor's Office
- Gregg Mineo ➤ Director, Maine Bureau of Alcoholic Beverages & Lottery Operations
- Jim Giffin ➤ Interim Commissioner, Vermont Department of Liquor Control
- John Dubie ➤ Owner, Pearl Street Beverage
- Julian P. Sbardella ➤ Member, Vermont Liquor Control Board
- Nick Alberding ➤ President, Pine State Trading Company
- Paul Kerin ➤ Owner, Vergennes Wine
- Rebecca Sameroff ➤ Senior Fiscal Analyst, Vermont Department of Taxes
- Rick Gerrish ➤ Director, Division of Sales, Marketing, Merchandising and Warehousing, New Hampshire Liquor Commission
- Walter Freed ➤ Former Chair, Vermont Liquor Control Board
- Thom Lauzon ➤ Member, Vermont Liquor Control Board and Mayor, City of Barre

APPENDIX C: Draft Legislative Proposal, Vermont House of Representatives

Introduced by Representatives Ancel of Calais and Stevens of Waterbury

Referred to Committee on

Date:

Subject: Alcoholic beverages; Liquor Control Board; Commissioner of Liquor Control;

Department of Liquor Control

Statement of purpose of bill as introduced: This bill proposes to limit Liquor Control Board members to no more than two consecutive five-year terms; to provide for the appointment of the Commissioner of Liquor Control by the Governor from a pool of candidates proposed by the Liquor Control Board; and to direct Legislative Council, in consultation with the Board, Department, and Attorney General, to prepare a draft bill that would reorganize and clarify the statutory provisions of Title 7.

An act relating to the Commissioner of Liquor Control and the Liquor Control Board

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

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

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

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

(b)(1) The Liquor Control Board shall consist of five persons, not more than three members of which shall belong to the same political party.

~~(2)(A) Biennially, with~~ With the advice and consent of the Senate, the Governor shall appoint ~~a person as a member~~ members of ~~such~~ the Board for a ~~staggered five-year term, whose staggered five-year terms.~~

(B) The Governor shall fill a vacancy occurring during a term by an appointment for the unexpired term in accordance with the provisions of 3 V.S.A. § 257(b).

(C) A member's term of office shall commence on February 1 of the year in which such appointment is made the member is appointed.

(3) A member of the Board may serve for no more than two consecutive terms.

(4) The Governor shall biennially designate a member of ~~such~~ the Board to be its Chair.

Sec. 2. 7 V.S.A. § 106 is amended to read:

§ 106. COMMISSIONER OF LIQUOR CONTROL; REPORTS;

RECOMMENDATIONS

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

(a)(1) With the advice and consent of the Senate, the Governor shall appoint from among no fewer than three candidates proposed by the Liquor Control Board a Commissioner of Liquor Control for a term of four years.

(2) The Board shall review the applicants for the position of Commissioner of Liquor Control and by a vote of the majority of the members of the Board shall select candidates to

propose to the Governor. The Board shall consider each applicant's administrative expertise and his or her knowledge regarding the business of distributing and selling alcoholic beverages.

(b) The Commissioner shall serve at the pleasure of the Governor until the end of the term for which he or she is appointed or until a successor is appointed.

Sec. 3. 7 V.S.A. § 107 is amended to read:

§ 107. DUTIES OF COMMISSIONER OF LIQUOR CONTROL

The Commissioner of Liquor Control shall:

(1) In towns ~~which~~ that vote to permit the sale of spirits and fortified wines, establish ~~such~~ number of local agencies therein as the Board shall determine, ~~enter into agreements for the rental of necessary and adequate quarters, and employ suitable assistants for the operation thereof.~~ However, ~~it shall not be obligatory upon the Liquor Control Board~~ shall not be obligated to establish an agency in every town ~~which~~ that votes to permit the sale of spirits and fortified wines.

(2) ~~Make regulations~~ Recommend rules subject to ~~the approval of~~ and adoption by the Board governing the hours during which ~~such~~ local agencies shall be open for the sale of spirits and fortified wines ~~and governing~~ the qualifications, ~~department, and salaries of the agencies' employees, and the business, operational, financial, and revenue standards that must be met for~~ the establishment of an agency and its continued operation.

(3) ~~Make regulations~~ Recommend rules subject to ~~the approval of~~ and adoption by the Board governing:

(A) the prices at which spirits shall be sold by local agencies, the method for their delivery, and the quantities of spirits that may be sold to any one person at any one time; and

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

(4) Supervise the quantities and qualities of spirits and fortified wines to be kept as stock in local agencies and ~~make regulations~~ recommend rules subject to the approval of and adoption by the Board regarding the filling of requisitions therefor on the Commissioner of Liquor Control.

(5) Purchase through the Commissioner of Buildings and General Services spirits and fortified wines for and in behalf of the Liquor Control Board, supervise ~~the~~ their storage ~~thereof~~ and the distribution to local agencies, druggists and, ~~licensees of the third class,~~ third-class licensees, and holders of fortified wine permits, and ~~make regulations~~ recommend rules subject to the approval of and adoption by the Board regarding the sale and delivery from the central storage plant.

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

(7) [Repealed.]

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

Sec. 4. RULEMAKING

On or before July 1, 2017, the Commissioner shall prepare and submit to the Liquor Control Board for its approval and adoption his or her recommendation for rules to govern the business,

operational, financial, and revenue standards for local agencies as necessary to implement this act.

Sec. 5. LEGISLATIVE COUNCIL; DRAFT LEGISLATION

On or before January 15, 2017, the Legislative Council, in consultation with the Commissioner of Liquor Control, the Liquor Control Board, and the Office of the Attorney General, shall prepare and submit a draft bill to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs that makes statutory amendments of a technical nature to improve the clarity of Title 7 through the reorganization of its provisions and the modernization of its statutory language. The draft bill shall also identify all statutory sections of Title 7 that the General Assembly must amend substantively in order to remove out-of-date and obsolete provisions or to more accurately reflect the current practices and programs of the Liquor Control Board and the Department of Liquor Control.

Sec. 6. 7 V.S.A. § 102 is amended to read:

§ 102. REMOVAL

After Notwithstanding any provision of 3 V.S.A. § 2004 to the contrary, after notice and hearing, the ~~governor~~ Governor may remove a member of the ~~liquor control board~~ Liquor Control Board for incompetency, failure to discharge his or her duties, malfeasance, immorality, or other cause inimical to the general good of the state State. In case of such removal, the ~~governor~~ Governor shall appoint a person to fill the unexpired term.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

APPENDIX D: Draft Legislative Proposal, Vermont Senate

Introduced by Senators Baruth and Degree

Referred to Committee on

Date:

Subject: Alcoholic beverages; Liquor Control Board; Commissioner of Liquor Control;

Department of Liquor Control

Statement of purpose of bill as introduced: This bill proposes to limit Liquor Control Board members to a maximum of two five-year terms; to establish the number of Board members necessary for a quorum and for the Board to take action; to provide for the appointment of the Commissioner of Liquor Control by the Governor from a pool of candidates proposed by the Liquor Control Board; and to direct Legislative Council, in consultation with the Board, Department, and Attorney General, to prepare a draft bill that would reorganize and clarify the statutory provisions of Title 7.

An act relating to the Commissioner of Liquor Control and the Liquor Control Board

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

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

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

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

(b)(1) The Liquor Control Board shall consist of five persons, not more than three members of which shall belong to the same political party.

(2)(A) Biennially, with With the advice and consent of the Senate, the Governor shall appoint ~~a person as a member~~ members of ~~such the~~ Board for ~~a staggered five-year term, whose staggered five-year terms.~~

(B) The Governor shall fill a vacancy occurring during a term by an appointment for the unexpired term in accordance with the provisions of 3 V.S.A. § 257(b).

(C) A member's term of office shall commence on February 1 of the year in which such appointment is made the member is appointed.

(3) A member of the Board may serve for no more than two terms.

(4) The Governor shall biennially designate a member of such the Board to be its Chair.

(c)(1) A majority of the members of the Board shall constitute a quorum.

(2) Action of the Board shall be taken upon a majority vote of the Board members present and voting at a meeting.

Sec. 2. 7 V.S.A. § 106 is amended to read:

§ 106. COMMISSIONER OF LIQUOR CONTROL; REPORTS;

RECOMMENDATIONS

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

(a)(1) With the advice and consent of the Senate, the Governor shall appoint from among no fewer than three candidates proposed by the Liquor Control Board a Commissioner of Liquor Control for a term of four years.

(2) The Board shall review the applicants for the position of Commissioner of Liquor Control and by a vote of the majority of the members of the Board shall select candidates to propose to the Governor. The Board shall consider each applicant's administrative expertise and his or her knowledge regarding the business of distributing and selling alcoholic beverages.

(b) The Commissioner shall serve at the pleasure of the Governor until the end of the term for which he or she is appointed or until a successor is appointed.

Sec. 3. 7 V.S.A. § 107 is amended to read:

§ 107. DUTIES OF COMMISSIONER OF LIQUOR CONTROL

The Commissioner of Liquor Control shall:

(1) In towns ~~which~~ that vote to permit the sale of spirits and fortified wines, establish ~~such~~ number of local agencies therein as the Board shall determine, ~~enter into agreements for the rental of necessary and adequate quarters, and employ suitable assistants for the operation thereof.~~ However, ~~it shall not be obligatory upon the Liquor Control Board~~ shall not be obligated to establish an agency in every town ~~which~~ that votes to permit the sale of spirits and fortified wines.

(2) ~~Make regulations~~ Recommend rules subject to the approval of and adoption by the Board governing the hours during which ~~such~~ local agencies shall be open for the sale of spirits and fortified wines ~~and governing, the qualifications, department, and salaries of the agencies' employees, and the business, operational, financial, and revenue standards that must be met for~~ the establishment of an agency and its continued operation.

(3) ~~Make regulations~~ Recommend rules subject to ~~the approval of~~ and adoption by the Board governing:

(A) the prices at which spirits shall be sold by local agencies, the method for their delivery, and the quantities of spirits that may be sold to any one person at any one time; and

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

(4) Supervise the quantities and qualities of spirits and fortified wines to be kept as stock in local agencies and ~~make regulations~~ recommend rules subject to ~~the approval of~~ and adoption by the Board regarding the filling of requisitions therefor on the Commissioner of Liquor Control.

(5) Purchase through the Commissioner of Buildings and General Services spirits and fortified wines for and in behalf of the Liquor Control Board, supervise ~~the~~ their storage thereof and ~~the~~ distribution to local agencies, druggists and, ~~licensees of the third class,~~ third-class licensees, and holders of fortified wine permits, and ~~make regulations~~ recommend rules subject to ~~the approval of~~ and adoption by the Board regarding the sale and delivery from the central storage plant.

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

(7) [Repealed.]

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

Sec. 4. RULEMAKING

On or before January 1, 2017, the Commissioner shall prepare and submit to the Liquor Control Board for its approval and adoption his or her recommendation for rules to govern the business, operational, financial, and revenue standards for local agencies as necessary to implement this act.

Sec. 5. LEGISLATIVE COUNCIL; DRAFT LEGISLATION

On or before January 15, 2017, the Legislative Council, in consultation with the Commissioner of Liquor Control, the Liquor Control Board, and the Office of the Attorney General, shall prepare and submit a draft bill to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs that makes statutory amendments of a technical nature to improve the clarity of Title 7 through the reorganization of its provisions and the modernization of its statutory language. The draft bill shall also identify all statutory sections of Title 7 that the General Assembly must amend substantively in order to remove out-of-date and obsolete provisions or to more accurately reflect the current practices and programs of the Liquor Control Board and the Department of Liquor Control.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

APPENDIX E: December 9, 2015 Letter from Liquor Control Board to Study Committee



State of Vermont
Department of Liquor Control
13 Green Mountain Drive
Montpelier, VT 05602
liquorcontrol.vermont.gov

James Giffin, Interim Commissioner

[phone] 802-828-2339
[fax] 802-828-1031

December 9, 2015

Dear Senator Baruth, Representative Stevens and
Members of the Vermont Liquor Control System Modernization Committee:

On behalf of the Liquor Control Board and, in addition to the points addressed in our October 20, 2015 letter (attached), we respectfully submit the following:

I. 2015 Accomplishments.

It is important to begin with an overview of the Board and DLC's accomplishments during this challenging year.

A. We Ensured the Continuity of DLC's Operations and Its Mission.

As the Committee is aware, in April, we accepted and defined the retirement of the former Commissioner and responded to press inquiries while working with the Administration and our Agents to ensure a smooth transition. We have prepared a comprehensive "job description" detailing what we expect from our Commissioner. After several months of recruitment, we are currently engaged in a multi-round interview process to determine the next Commissioner.

We identified and retained an industry-renowned consultant, David Jackson, who provided valuable insight into modernizing and streamlining DLC practices and procedures; many of his recommendations have been or are being implemented. Working with the Administration, we retained Interim Commissioner Jim Giffin to run DLC's day-to-day operations until a new Commissioner is in place and created a Deputy Commissioner position to focus on the government aspects of our business and ensure accountability to the Administration. We expect to fill that position once a new Commissioner is in place.

We recently welcomed a new Board Member, Mayor Thom Lauzon. We commissioned a study to assess the existing warehouse and obtained recommendations for a new facility. We look forward to presenting a comprehensive plan for replacement and working collaboratively in this effort. Finally, after many key retirements, including our long-term Director of Retail Operations, a replacement to oversee our agency stores has been hired.

B. We Strengthened Our Relationship with Government, Agents and Industry.

The Board strengthened its focus on business operations and improved communications with agency stakeholders. We recognized the need to continue and improve communication between Agents and the Board. We organized a day-long, working meeting with our Agents, held in November, to identify and address their concerns as our business partners. This was well attended and well received. The dialogue continues. We are in the early stages of creating an Agent advisory committee to grow our partnership and businesses collaboratively, while improving the consumer experience.



Liquor Control Board:

Stephanie M. O'Brien, Chair, John P. Cassarino, Julian Sbardella, Melissa Mazza-Paquette, Thomas Lauzon, Members

We improved communications in other ways, creating a group email list to communicate issues timely and efficiently. DLC now publishes a monthly Agent "newsletter." We are finalizing an Annual Report that, for the first time, reflects all of DLC's activities, not just the selling of spirits, to better inform the administration and legislature of what we do at DLC. We hosted the National Alcohol Beverage Control Association's Board of Directors at their annual conference, held in Stowe, showcasing Vermont's beauty and its significant, growing role in the industry. We have implemented many of the Auditor's recommendations in his November 21, 2014 report.

Finally, we created the first "guide to product selection," which serves as a reference for suppliers, brokers and listing committee members about our products, procedures, selection and distribution systems to ensure that DLC provides the best possible service to the citizens of Vermont.

C. We Continued to Promote Increased Revenue and Increased Savings.

We implemented numerous cost saving measures. We reviewed various internal administrative practices and brought them in line with the expectations of the rest of state government. We obtained a NABCA grant for our warehouse study. We enforced contract provisions with two Agents that were out of compliance. We are working on a new agency contract to ensure that Agents are, among other requirements, presenting products in the best manner possible. We have implemented protocols for more efficient and cost-effective destruction of product, which previously required the attendance of a DLC investigator at State expense. Despite the challenges faced, DLC's gross and net revenue continue to grow on a year over year basis. We have identified issues on break-open ticket reporting and are working on solutions.

In addition to all of this, the Board held dozens of enforcement hearings to promote public safety and to assist the Department of Taxes in collecting delinquent taxes from licensees.

II. Comments on Revised Draft of the Proposed Bill.

A. 7 V.S.A. § 101(b)(3) is proposed to read: "A member of the Board may serve for no more than two terms."

The Board is concerned with the proposed term limits on its members. Board members develop their valuable expertise on the alcoholic beverage industry and knowledge of applicable laws and administrative regulations pertaining to sale and distribution of alcohol over time. This knowledge is especially useful when the Board performs its quasi-judicial function of presiding over and deciding enforcement cases. As long as the Governor concludes that the Board members are fulfilling their oath, there should not be a bar to reappointment. Our understanding is that many other Vermont state boards do not have term limits.

B. 7 V.S.A. § 106 is proposed to read:

(a)(1) With the advice and consent of the Senate, the Governor shall appoint from among no fewer than three candidates proposed by the Liquor Control Board a Commissioner of Liquor Control for a term of four years.

(2) The Board shall review the applicants for the position of Commissioner of Liquor Control and by a vote of the majority of the members of the Board shall select candidates to propose to the Governor. The Board shall consider each applicant's administrative expertise and his or her knowledge regarding the business of distributing and selling alcoholic beverages.

We support a minimum term for Commissioner of at least four years.

- C. 7 V.S.A. § 107(2) is proposed to read, in relevant part: “and the business, operational, financial, and revenue standards that must be met for the establishment of an agency and its continued operation.”

We support this clarification in the Statute.

D. Proposed Sections 4 and 5.

RULEMAKING

On or before January 1, 2017, the Commissioner shall prepare and submit to the Liquor Control Board for its approval and adoption his or her recommendation for rules to govern the business, operational, financial, and revenue standards for local agencies as necessary to implement this act.

LEGISLATIVE COUNCIL; DRAFT LEGISLATION

On or before January 15, 2017, the Legislative Council, in consultation with the Commissioner of Liquor Control, the Liquor Control Board, and the Office of the Attorney General, shall prepare and submit a draft bill to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs that makes statutory amendments of a technical nature to improve the clarity of Title 7 through the reorganization of its provisions and the modernization of its statutory language.

While we agree that deadlines should be set, more time is likely necessary.

We expect to have our new Commissioner in place by February 2016 and Deputy Commissioner by March 2016. DLC has just hired a new Director of Retail Operations. The many legitimate issues needing attention on “business, operational, financial, and revenue standards for local agencies” have been there for years. DLC wants to engage with the Agents on what these regulations should look like. The deadline will leave insufficient time for DLC internal review and engagement with the Agencies on the proposed issues. We believe July 1, 2017 is a more realistic target. Similarly, a January 15, 2017 deadline for a complete rewrite of Title 7 is a large undertaking involving legislative council and DLC staff with knowledge of operations and current regulations. As fellow Committee members have noted, many provisions have not been rewritten in over a half century.

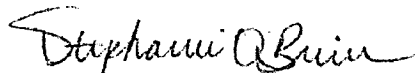
III. The Board's Additional Proposals for Findings and Recommendations.

- A. The Board wishes to see reinvestment in our business and proposes a statutory amendment providing that at least 2% of all receipts be dedicated to reinvestment into DLC business for its long-term needs. This was supported by several previous studies.
- B. DLC needs to be a nimble organization, especially in marketing, to utilize our web platform, for example, to enhance retail operations. We require an Internet presence akin to mainespirits.com and liquorandwincoutlets.com (New Hampshire). Our current web presence is inadequate for today's consumer expectations.
- C. The Board seeks a new operational facility, which includes a replacement warehouse, consistent with the recent Chet Willey Associates study in as cost effective and revenue increasing manner as possible.

D. The Board continues to recommend that it be "professionalized."

Thank you for your consideration. It is our hope that the Modernization Study has allowed the Committee to better understand what DLC and, particularly, the Board does on behalf of Vermonters and that this will be shared with your fellow Legislators.

Respectfully submitted,



Stephanie M. O'Brien, Chair, and on behalf of,
Vermont Liquor Control Board.



State of Vermont
 Department of Liquor Control
 13 Green Mountain Drive
 Montpelier, VT 05602
liquorcontrol.vermont.gov

(phone) 802-828-2339
 (fax) 802-828-1031

James Giffin, Interim Commissioner

October 20, 2015

Dear Senator Baruth, Representative Stevens and Members of the Vermont Liquor Control System Modernization Study Committee:

The Board thanks the Committee for considering the modernization of the Department of Liquor Control. This is an opportunity for us to work together, collaboratively, to look at the future of our business. As the Committee develops its findings and report to the Legislature and, because some Board members are regrettably unable to attend Wednesday's meeting, we wish to outline a number of items critical to making the sale of liquor even more efficient, effective and profitable for the Vermont economy while protecting the public's health and safety.

1. We Recommend That Vermont Remain A Control State.

We are proud to be a Control State, with the dual benefit of generating significant alcohol-related revenue while at the same time enjoying a reduction in alcohol-related social harm. According to the National Alcohol Beverage Control Association, Vermont leads its bordering states, even New Hampshire, in spirits revenue per ethanol gallon. In terms of spirits revenue per capita, Vermont leads Maine, Massachusetts and New York trailing only New Hampshire (whose statistics are largely skewed by out of state customers). Control states, including Vermont, generate, on average over 50% more revenue per capita than in non-Control States. See Charts, based on data contained in State Alcohol Tax Rates, Attachment A.

Control States are associated with a lower per capita rate of alcohol-related crime. For example, the Community Preventive Services Task Force of the CDC, considered a very high standard of policy and science review on such issues, looked at privatization from a public health perspective and have recommended states not move in this direction. See <http://www.thecommunityguides.org/alcohol/privatization.html>. A report on underage drunk driving fatalities shows lower incidence of drunken driving fatalities among the underage in Control States, Attachment B.

We have watched other jurisdictions, like Washington, switch from a control model which resulted in increased prices for consumers and increased alcohol-related crime. See *Public Health Law Research, Robert Wood Johnson Foundation Alcohol Policies Webinar (November 20, 2014)*, Attachment C.

We have the benefit of utilizing data from NABCA and learning from other Control States and control jurisdictions in other countries, including Canada, and working collaboratively with their representatives, which allow us to be proactive in the face of a dynamic industry. A Control State model is for the benefit of all Vermonters.

Liquor Control Board:
 Stephanie M. O'Brien, Chair, John P. Cassarino, Julian Shardella, Melissa Mazzu-Piquette, Thomas Lauzon, Members

2. We Recommend That The Board Retain The Power To Appoint The Commissioner Collaboratively With The Governor And/Or Legislature.

We have been operating with an Interim Commissioner since June and employed an industry leading consultant, David Jackson, to make recommendations for modernizing DLC. We have been implementing a variety of recommendations pertaining to the physical structure of the warehouse and DLC operations. We are currently engaged in a search for Commissioner and Deputy Commissioner (a newly-authorized position). In order to maintain the \$80 million (and growing) business and its operations we are looking within Vermont and beyond for the most qualified candidates, preferably with an expertise in the spirits industry and the requisite talent and leadership skills. This would require a commensurate compensation package.

We are aware that the Committee may recommend that the Board's appointment power be eliminated. In order to attract the talent required for this position, we are concerned that losing the power to appoint the Commissioner in favor of a position that serves at the pleasure of the Governor will be detrimental to the business in a number of ways:

- Liquor Control is not a dynamic, policy driven position. Its goals are unlikely to change, based on administration.
- Vermont has become a world-class destination for our beer and distilled spirits. We are building a brand for our Agency Stores, 802 Spirits, and it is important in doing so to have a level of continuity of service between our agents and DLC. Changing a CEO every two years or sooner is counterproductive.
- The Supreme Court confirmed that the Board is the paramount authority in the administration of our liquor laws and regulations. We create policy through rule making and an ever growing body of case law. Without the power to oversee the person charged with implementing these policies undermines that critical Board function.
- The Legislature recently affirmed the Board's significance, expanding the Board from three to five members in 2012.
- The Board is Governor-appointed, politically balanced, and from diverse communities across the state serving staggered terms. Our Board plays a pivotal role in setting the policies that govern Vermont's liquor control system. We offer a non-partisan view that has the citizens of our State in the forefront. Each member contributes by asking questions, listening and learning. We debate each point and are very thorough in making sure that the policies we create are beneficial to all.

Working with the Governor and Legislature, the Board should retain appointment power over the Commissioner.

3. We Seek The Committee's Support In Continued Investment In DLC's Business.

Budgetary constraints also have the ability to restrict us from making some business decisions that we might otherwise make, which would allow us to grow and modernize at a much faster pace. We would like to see the Board/Department have the ability to reinvest some of the funds

it generates into the growth and modernization of the Department and our agencies. DLC staffing is lean. There are no redundancies. Each position is critical to the successful operation of the Department. We need their skills and knowledge to operate a business within a government framework. As the Committee knows, we are engaged in a comprehensive overhaul of our point-of-sale technology. We still approve over 10,000 licensee applications (with 50 different license types) per year manually. We need to move on to automate these approvals in a manner similar to what Vermonters do with fishing & hunting licenses and motor vehicle registrations. Next, we need to provide our Agents and customers the ability to check inventory and place special orders online. We will outgrow our warehouse in three to five years. We must begin planning now for a more modern, efficient and, above all, safer warehouse. With the ability to reinvest our earnings in the business, we can accomplish our goals.

4. Vermont Would Benefit From A Professionalized Board.

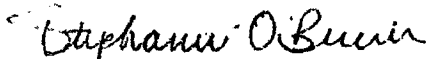
Our Board should be professionalized and made into, at least, a part-time position. One significant challenge we face is our limited meeting schedule. Each member contributes a significant amount of their own time, some working a 40-hour week or using vacation time, while putting their own full-time career on hold. At a \$50.00 stipend per public meeting, this is a huge sacrifice and a large benefit for the State and the Department. This becomes imperative should the Legislature ultimately determine that our Board would have oversight over the sale of marijuana.

5. We Request That The Committee Support DLC In An Effective Review Process Of Agents.

We want to ensure that our Agency stores are delivering the highest in customer service and providing an optimal shopping experience. We have recently expanded the number of Agencies to 80 over the past few months. We would like the number of Agents and locations to remain a business decision for the Board. We seek uniformity within our Agencies, providing Vermonters with a pleasant and educational shopping experience. We have started this process with our new branding of 802 Spirits. We need to implement higher standards and expectations in our contracts; these contracts do not come with a lifetime guarantee.

For being a citizens' Board, meeting on a very limited basis, we have made solid progress in carrying out DLC's mission. We are hopeful that the Modernization Study Committee can see that we are all dedicated in what we do and we look forward to working together.

Respectfully submitted,



Stephanie M. O'Brien, Chair
Vermont Liquor Control Board