

# **Liquor Control System Modernization Study Committee Report**

Pursuant to 2015 Acts and Resolves No. 51

December 2015

Legislative Council  
State House  
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# Liquor Control System Modernization Study Committee Report

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### **Liquor Control System Modernization Study Committee Members**

Two members of the House of Representatives .....Rep. 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 November 30. 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 utilizing a private contractor to warehouse and distribute spirits and wine

### **III. Findings and Recommendations**

#### **A. Liquor Control Board**

**Findings:**

**Recommendations:**

#### **B. Commissioner of Liquor Control**

**Findings:**

**Recommendations:**

#### **C. Vermont Department of Liquor Control Warehouse**

**Findings:**

**Recommendations:**

**D. Excise Tax Imposed on Spirits Sold in Vermont**

**Findings:**

**Recommendations:**

**E. Statutory Language of Title 7 of the Vermont Statutes Annotated**

**Findings:**

**Recommendations:**

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**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.

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**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 Griffin ➤ Interim Commissioner, Vermont Department of Liquor Control
- John Dubie ➤ Owner, Pearl Street Beverage
- Julian P. Sbardella ➤ Member, Vermont Liquor Control Board
- 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

## APPENDIX C: Draft Legislative Proposal

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~~ seven persons, not more than ~~three~~ four members of which shall belong to the same political party.

(2)(A) Biennially, 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 for staggered five-year terms.

(B) The Governor shall fill a vacancy occurring during a term by an appointment for the unexpired term.

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

(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 and qualified.

(c) At the time of his or her appointment, the Commissioner shall have demonstrated expertise in the business of producing, distributing, and selling alcoholic beverages.

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 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 to establish an agency in every town which votes to permit the sale of spirits and fortified wines.

(2) Make ~~regulations~~ rules subject to the approval of the Board governing the hours during which such agencies shall be open for the sale of spirits and fortified wines and governing the qualifications, department, and salaries of the agencies' employees.

(3) Make ~~regulations~~ rules subject to the approval of 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~~ rules subject to the approval of 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 storage thereof and the distribution to local agencies, druggists and, licensees of the third class, and holders of fortified wine permits, and make ~~regulations~~ rules subject to the approval of 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.]~~ Make rules subject to the approval of the Board governing the business, operational, financial, and revenue standards that must be met for the establishment and continued operation of a local agency.

(8) Devise methods and plans for eradicating intemperance and promoting the general good of the 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 propose to the Liquor Control Board draft rules to govern the business, operational, financial, and revenue standards that must be met for the establishment and continued operation of local agencies.

#### Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2016.



**APPENDIX D:**

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