

Memorandum

Department of Liquor Control

To: House Committee on General, Housing & Military Affairs
Senate Committee on Economic Development, Housing & General Affairs

From: Patrick Delaney, Commissioner Department of Liquor Control

RE: Department of Liquor Control 2018 Legislative Priorities

Date: February 8, 2018

Introduction

On behalf of the DLC I want to thank you for the work that both Committees put into reviewing and ultimately passing the re-write of Title 7 during the last session. This was a very significant effort which has created a much cleaner set of laws around beverage alcohol. During our discussion last session, the Department had a number of other areas in Title 7 that need updating, but the decision was made to postpone those for a future session.

One of the areas of review that was postponed was the appropriateness of existing penalties and fines contained in Title 7. Act 83 Section 162 directed the Department to prepare a report of existing penalties and fines for consideration by your Committees. A comprehensive report was completed and submitted for your consideration.

The Department is hopeful that while you consider the suggested changes contained in the penalty and fine report that you also consider the other changes to Title 7 briefly outlined below. As always, we look forward to working with you on these changes.

Legislative Goals for the 2018 Biennium

Adjust the licensing expiration date - 7 V.S.A. §205 & 1002

Presently all DLC annual licenses expire on April 30th of each calendar year. This single day when all licenses expire may have worked adequately when there were a small number of licensees, but in 2017 the DLC issued over 7000 annually renewed licenses. This results in a very unbalanced workflow. It would make much more sense from both a workflow and customer service/satisfaction perspective if the statute were changed to allow licenses to expire 12 months after they are issued. Making this change would also have the effect of boosting new businesses as they will know they will not have to renew (and pay a license fee) for a full 12-months. We cannot prorate the license application fees so many new businesses will avoid applying if they will only get three or four months of operation out of a new license. In the end this change will help *grow the economy, improve efficiency in state government and improve customer satisfaction.*

Updating of Title 7 sanctions for violations – 2017 Session Law, Bill #83 §162

As mentioned above the Title 7 rewrite required the DLC Commissioner to conduct a comprehensive analysis and submit a report regarding the adequacy of existing sanctions for violations contained in Title 7. This was deemed necessary because the legislative committees of jurisdiction did not believe the Title 7 modernization rewrite completed in 2017 allowed for substantive changes to these provisions. This report has been completed and has been submitted to the legislative committees of jurisdiction as required. In drafting the report every violation contained in Title 7 was evaluated. Many of these sanctions went back to 1933 and were in desperate need of being updated to 2018. The DLC will present this report and will work with the legislative committees on updating the sanctions, as they deem appropriate. In the end these sanctions only fall on those who fail to abide by Vermont laws. It makes sense that they be examined and modified to better deter violations in 2018. *The changes will enhance public safety and will protect the most vulnerable.*

As part of this sanction review the Department has highlighted 7 V.S.A. §210(b)(1) which limits the Board to the imposition of either a license suspension/revocation or a monetary sanction, but not both for the same violation. While the history behind this provision is not clear this does not make sense from an equitable punishment point of view and has resulted in longer license suspensions where the Board would have imposed a shorter suspension if a monetary penalty could have also been imposed. We will be seeking the elimination of the word “either” from the statute.

Discontinue the free combined licenses for tobacco and alcohol and allow local control over tobacco license issuance– 7 V.S.A. §1002

The present statutory scheme is a bit confusing and should be modified. Presently, it requires that all license applications go through the local municipality, yet they are nothing more than a pass through for the application and the money. They do not get a portion of the fee for their efforts, as they do in liquor licensing, nor do they have any control over the issuance of tobacco licenses which they have regarding new or renewed liquor licenses. The Department would like to change the law to make it more consistent with how liquor licenses are issued. This would provide municipalities with some local control and would allow them to retain a portion of the licensing fee for their efforts.

The present law is also confusing in that it appears that alcohol licensees can obtain free tobacco licenses. Clearly, the legislature intended to have a separate fee for tobacco licenses but the vagueness in the language has allowed free combined licenses. Many establishments obtain both licenses even though they do not and have never have sold tobacco products. This creates skewed results under both the state and federal underage testing requirements and also wastes time and effort on the part of those conducting the testing.

These changes will provide local control and compensate municipalities for work they are required to do under the present statute. It will improve compliance testing efficiency and results.

Modify the language of the advertising section to comply with current practices – 7 V.S.A. §660

The present statutory language prevents all outside signs that advertise beverage alcohol (beer, wine and spirits). This effectively means no store signs and no roadside directional signs. This is a throwback to the end of prohibition and is harmful to businesses that sell these products. The Department wants to change the law to better reflect current norms. *Making this change will help Vermont businesses and will help grow the economy.*

Broadening of solicitors Licenses to include spirits sales representatives/brokers – 7 V.S.A. §275

The present law requires that the Department must license sales staff and brokers who represent malt and vinous beverage manufacturers or distributors. This is useful as it provides a point of control over these individuals to insure they carry out their role responsibly or face sanctions including revocation of their license. Oddly, this provision does not extend to those working in the spirits industry. It appears that back when this provision was passed there were not representatives for sprits companies in Vermont as the state was the sole distributor. Times have changed and now it is common and expected that spirits brokers work accounts in Vermont to encourage them to purchase their products. While we have not had any serious issues with spirits brokers in recent times it makes sense that they are also be required to obtain a license from the Department to be able to work here. This would be consistent and would provide a similar control point should an issue arise.

Shift the bonding requirement for manufacturers of beverage alcohol to insure tax payment and collection to the Tax Department