

H.238 as Passed Senate Economic Development:
Substantive Amendments to Title 7

Sec. 2. 7 V.S.A. § 2. Definitions

- Subdivision 3 adds a definition of the Board of Liquor and Lottery.
- Subdivision 9 adds a definition of Commissioner of Liquor and Lottery.
- Subdivision 10 defines Department and the Department of Liquor and Lottery.
- Subdivision 14 adds a definition of the Division of Liquor and Lottery which will replace the existing Department of Liquor Control.
- Subdivision 23 amends definition of “keg” to reflect the increasing use of wine kegs and tap systems and to bring the Vermont statutes in line with Board’s rules for the refillable container program, which includes both beer and wine.
 - Senate’s version revises minimum size of wine kegs from three gallons to two-and-a-half gallons.
- Subdivision 25 amends definition of “malt beverages” to eliminate limitations based on and certification of terminal specific gravity to reflect Department’s existing practice.
- Subdivision 39 amends definition of “spirits” to eliminate reference to terminal specific gravity to reflect Department’s existing practice.

Sec. 4. 7 V.S.A. § 4. Nonprofit Organizations; Wine and Beer Auctions; Fundraising

- Amends section to permit nonprofit organizations to auction all alcoholic beverages at fundraising events, rather than just beer and wine.

Sec. 6. 7 V.S.A. § 61. Restrictions, Exceptions

- Repeals exception for cider sold in casks or barrels of 32 gallons or more as obsolete.

Sec. 8. 7 V.S.A. § 63. Importation or Transportation of Alcohol

- To conform the statute to existing practice, adds new language to provide that exemption from import restrictions only applies if beverages are not for resale.

Sec. 9. 7 V.S.A. § 64. Sale of Malt and Vinous Beverages in Kegs

- Adds language to address labeling requirements for kegs sold by manufacturers.
- Updates identification requirements for uniformity with other provision of Title 7.
- Adds permission for keg sales by fourth-class licensees.

- Updates language to reflect sales of kegs of wine.

Sec. 13. 7 V.S.A. chapter 5. Department of Liquor and Lottery

- Amended throughout chapter to reflect transition to new Department of Liquor and Lottery

§ 101. Composition of Department; Commissioner of Liquor and Lottery

- New language added addressing the administrative structure of the Department of Liquor and Lottery.
- Permits Commissioner to appoint Deputy Commissioners to oversee the Division of Liquor Control and Division of Lottery.

§ 107. Duties of Commissioner of Liquor and Lottery

- New language added to reflect creation of Department of Liquor and Lottery.
- Amends purchasing language to reflect that the Board and Commissioner purchase spirits and fortified wines directly rather than through the Department of Buildings and General Services pursuant to 29 V.S.A. § 902.

§ 110. Special Brands Purchase by Commissioner of Liquor and Lottery

- Amends to purchasing language to reflect that the Board and Commissioner purchase spirits and fortified wines directly rather than through the Department of Buildings and General Services pursuant to 29 V.S.A. § 902.

§ 111. Transfer of Local Agency Store in Conjunction with Sale of Real Property or Business

- Former section repealed as obsolete because the Vermont Seal of Quality program has been discontinued.
- New section added to codify session law governing the transfer of a liquor agency contract during a sale of the property or business.

Sec. 20. 7 V.S.A. § 201. Licenses Contingent on Town Vote

- Repeals open air and wayside dancing pavilions language as obsolete.

Sec. 23. 7 V.S.A. § 204. Application and Renewal Fees for Licenses and Permits; Disposition of Fees

- Amended to clarify that fee is for the application or renewal of a license.

Sec. 24. 7 V.S.A. § 205. Terms of Permits, Licenses, and Certificates

- Amended to reflect current license renewal practice for both 1st and 2nd class licenses, and all other licenses and permits.

Sec 25. 7 V.S.A. § 206. Disposal of Fees

- Amended to make language consistent with 7 V.S.A. § 204(b).

Sec. 30. 7 V.S.A. § 211. Hearing Officer

- Amends notice provisions for clarity.

Sec. 37. 7 V.S.A. § 224. Fourth-Class Licenses

- Adds language to reflect existing licensing procedure.
- Amended to permit fourth-class licensees to sell kegs of beer or wine.

Sec. 38. 7 V.S.A. § 251. Educational Sampling Event Permit

- Amends sample size provisions for consistency with other tasting provisions.
- Adds new language regarding the tax on specialty beers for consistency with the existing tax rate pursuant to § 421.

Sec. 43. 7 V.S.A. § 258. Promotional Railroad Tasting Permit

- Repeals Vermont-produced alcoholic beverage requirement to avoid potential conflict with Commerce Clause.

Sec. 44. 7 V.S.A. § 227. Outside Consumption Permits

- Amended to reflect that permits are issued for licenses that are not attached to a golf course.

Sec. 46. 7 V.S.A. § 229. Clubs

- Former provision repealed as obsolete because of the Board's practice of granting multiple licenses.

- Codifies Club provisions that were formerly in the definition section.

Sec. 52. 7 V.S.A. § 255. Retail Alcoholic Beverage Tasting Permits

- Amended to include promotional tastings by wholesale dealers in requirements for retail tastings to reflect current practice.
- Amended to permit the employee of a manufacturer to serve beverages pursuant to a tasting permit issued to a second-class licensee.

Sec. 76. 7 V.S.A. § 504. Action Founded on Tort; Certified Execution

- Repealed as obsolete.
- Close jail execution for an action founded on tort (imprisonment for inability to pay a civil judgment) was provided for under former 12 V.S.A. § 3624, which was repealed by 1979 Act No. 67, § 9. Currently, 12 V.S.A. § 3521, provides that “no person may be imprisoned on an execution . . . to enforce a judgment in any civil action for money damages.”

Sec. 77. 7 V.S.A. § 505. Notice to Prohibit Sales to Certain Persons

- Repealed as obsolete and because of Constitutional Due Process concerns.

Sec. 78. 7 V.S.A. § 506. Record of Notices

- Repealed as obsolete and because of Constitutional Due Process concerns.

Sec. 86. 7 V.S.A. § 569. Execution for Costs

- Repeals language relating to execution “against the body” and the final sentence as obsolete because chapter providing for close jail executions was repealed pursuant to 1979, Act. No. 67, § 9.

Sec. 88. 7 V.S.A. § 571. Search of Vehicle or Craft without Warrant

- Repealed because of Constitutional concerns related to the Fourth Amendment and Article I, Chapter 11 of the Vermont Constitution.

Sec. 92. 7 V.S.A. § 574. Reopening of Forfeiture Proceeding

- Amends bond requirement to avoid potential conflict with Constitutional Due Process and Equal Protection requirements. See *Boddie v. Connecticut*, 401 U.S. 371, 380–383 (1971).

Sec. 93. 7 V.S.A. § 575. Claim by Owner, Keeper, or Possessor for Seized Goods or Apparatus

- Amends bond requirement to avoid potential conflict with Constitutional Due Process and Equal Protection requirements. See *Boddie v. Connecticut*, 401 U.S. 371, 380–383 (1971).

Sec. 94. 7 V.S.A. § 576. Appeal; Bond

- Amends bond requirement to avoid potential conflict with Constitutional Due Process and Equal Protection requirements. See *Boddie v. Connecticut*, 401 U.S. 371, 380–383 (1971).

Sec. 102. 7 V.S.A. § 586. Notice to Federal Government

- Repeals section as obsolete because the federal Special (Occupational) Tax on Alcohol Occupations was repealed in 2005 by P.L. 109-59, § 11125.

Sec. 104. 7 V.S.A. § 585. Alcohol Dealer Registration as Evidence

- Amends section because the federal Special (Occupational) Tax on Alcohol Occupations was repealed in 2005 by P.L. 109-59, § 11125.

Sec. 106. 7 V.S.A. § 598. Form of Notice to Federal Government

- Repeals section as obsolete because the federal Special (Occupational) Tax on Alcohol Occupations was repealed in 2005 by P.L. 109-59, § 11125.

Sec. 107. 7 V.S.A. § 588. Fees of Sheriff, Constable, or Police Officer

- Amended to reference fees to current rates and to provide for approval of fees by the Commissioner of Liquor and Lottery.

Sec. 112. 7 V.S.A. § 654. Tampering with Samples

- Repealed as obsolete.

Sec. 116. 7 V.S.A. § 665. Prescriptions for other than Medical Use

- Repealed as obsolete.

Sec. 117. 7 V.S.A. § 660. Advertising

- Amends section to reflect existing practice of advertising alcoholic beverages on motor vehicles making deliveries within the State.
- Amended to permit advertising of all alcoholic beverages on motor vehicles making deliveries, not just beer and wine.

Sec. 119. 7 V.S.A. § 662. Limit of Sentence

- Reference to imprisonment for failure to pay a fine or costs repealed as obsolete because statutes permitting close jail execution were repealed pursuant to 1979, No. 67, § 9.

Sec. 120. 7 V.S.A. § 65. Purchase of Kegs

- Amended for sales of kegs by fourth-class licensees.

Sec. 130. Repeals 7 V.S.A. chapter 25 (rathskellars).

- Chapter is repealed as obsolete because its provisions are not currently used.

Sec. 131. 7 V.S.A. § 1002. License Required; Application; Fee; Issuance

- Vending machine language repealed because vending machines are prohibited throughout Vermont pursuant to 7 V.S.A. § 1003.

Sec. 133. 7 V.S.A. § 1003. Sale of Tobacco Products

- Amends vending machine provision to reflect changes to federal law, which permits states to adopt more stringent laws governing the sale of tobacco under 21 U.S.C. § 387p.

Sec. 134. 7 V.S.A. § 1004. Proof of Age for the Sale of Tobacco Products

- Identification language amended for uniformity in identification requirements for sale of alcohol and tobacco in Title 7.

Sec. 137. 7 V.S.A. § 1007. Furnishing Tobacco to Persons Under 18 Years of Age

- Amended to permit Division of Liquor Control to hire 16 or 17 year olds to conduct compliance checks.

Sec. 148. 18 V.S.A. § 4254. Immunity from Liability

- Amended to reflect repeal of 7 V.S.A. § 657 by 2015 (Adj. Sess.), No. 147, § 7.

Sec. 150. 20 V.S.A. § 2358. Minimum Training Standards; Definitions

- Amended to reflect repeal of 7 V.S.A. § 657 by 2015 (Adj. Sess.), No. 147, § 7.

Sec. 160. 33 V.S.A. § 5102. Definitions and Provisions of General Application

- Amended to reflect repeal of 7 V.S.A. § 657 by 2015 (Adj. Sess.), No. 147, § 7.

Sec. 164. Repeals

- Repeals 31 V.S.A. §§ 651, 652, and 653, which established the State Lottery Commission.

Sec. 165. 31 V.S.A. § 654. Powers and Duties of Board of Liquor and Lottery

- Amended to reflect replacement of Lottery Commission by Board of Liquor and Lottery and the Lottery Director by the Commissioner of Liquor and Lottery.

Secs. 166–168. 31 V.S.A. § 652–654.

- Amended generally to reflect transition to new Department of Liquor and Lottery

Sec. 169. 31 V.S.A. § 655. Duties of the Commissioner

- Amended to reflect the replacement of the Director of the Lottery by the Commissioner of Liquor and Lottery.

Secs. 170–178. 31 V.S.A. § 656–664.

- Amended generally to reflect transition to new Department of Liquor and Lottery.

Sec. 179. 3 V.S.A. § 212. Departments Created.

- Amended to reflect creation of Department of Liquor and Lottery.

Sec. 180. 32 V.S.A. § 1010. Members of Certain Boards.

- Amended to reflect creation of Department of Liquor and Lottery.

Sec. 181. 2016 Act No. 144, Sec. 20. Commissioner of Liquor and Lottery, Current Term, Appointment of Successor

- Amended to reflect replacement of Commissioner of Liquor Control with Commissioner of Liquor and Lottery.
- Proposed for deletion in technical amendment proposed by Senator Clarkson.

Sec. 182. Board of Liquor and Lottery, Department of Liquor and Lottery; Powers and Duties

- Transitional provision transferring legal authority from Department of Liquor Control and State Lottery to Department of Liquor and Lottery, and from the Liquor Control Board and Lottery Commission to the Board of Liquor and Lottery.

Sec. 183. Legislative Council; Preparation of Draft Bill

- Creation of a technical corrections bill necessary to effect the creation of the Department of Liquor and Lottery. Due by 1/15/2018.

Sec. 184. Department of Liquor and Lottery; Functions and Duties; Effectiveness; Report

- Directs Commissioner to review effectiveness of Department of Liquor and Lottery in fulfilling its functions and duties and to identify specific measures and legislative changes to improve its effectiveness and efficiency. Report by 11/15/2017.

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Sec. 185. 13 V.S.A. 2143. Nonprofit Organizations.

- Increases the number of casino events that a nonprofit organization can hold to one per month and permits a location owned by a nonprofit to host up to 2 per month (including the nonprofit's own event).

Sec. 186. 7 V.S.A. § 5. Department of Liquor Control; Raffles for Right to Purchase Rare and Unusual Products

- Permits Division of Liquor Control to raffle off the right to purchase certain rare and unusual products.
- Proceeds must be given to a nonprofit that provides educational programming related to the prevention of underage alcohol consumption.