

BILL AS PASSED BY THE HOUSE AND SENATE

2019

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H.13

Introduced by Representative Marcotte of Coventry

Referred to Committee on

Date:

Subject: Alcoholic beverages; general provisions; definitions

Statement of purpose of bill as introduced: This bill proposes to amend the definition of person for purposes of licensing to include individuals residing in the United States on a foreign investor visa.

An act relating to ~~alcoholic beverages~~ *miscellaneous amendments to alcoholic beverage and tobacco laws*

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

~~Sec. 1, 7 V.S.A., § 2 is amended to read:~~

§ 2. DEFINITIONS

As used in this title:

* * *

(30) "Person," as applied to licensees, means an individual who is a citizen ~~or~~ a lawful permanent resident of the United States, or a holder of an E-2 Visa; a partnership composed of individuals, a majority of whom are citizens ~~or~~ lawful permanent residents of the United States, or holders of an E-2 Visa, a corporation organized under the laws of this State or another state in

2019

1 ~~which a majority of the directors are citizens or lawful permanent residents of~~
2 ~~the United States, or holders of an E-2 Visa; or a limited liability company~~
3 ~~organized under the laws of this State or another state in which a majority of~~
4 ~~the members or managers are citizens or lawful permanent residents of the~~
5 ~~United States, or holders of an E-2 Visa.~~

6 * * *

7 Sec. 2. EFFECTIVE DATE

8 ~~This act shall take effect on July 1, 2019.~~

** * * Permitting Holders of an E-2 Visa to Acquire a Liquor License * * **

Sec. 1. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

As used in this title:

* * *

(30) "Person," as applied to licensees, means an individual who is a citizen or a lawful permanent resident of the United States, or a holder of an E-2 Visa; a partnership composed of individuals, a majority of whom are citizens or lawful permanent residents of the United States, or holders of an E-2 Visa; a corporation organized under the laws of this State or another state in which a majority of the directors are citizens or lawful permanent residents of the United States, or holders of an E-2 Visa; or a limited liability company organized under the laws of this State or another state in which a majority of

the members or managers are citizens or lawful permanent residents of the United States, or holders of an E-2 Visa.

* * *

** * * Modernization of Penalties for Violations of Alcoholic Beverage and Tobacco Laws * * **

Sec. 2. 7 V.S.A. § 63 is amended to read:

§ 63. IMPORTATION OR TRANSPORTATION OF ALCOHOL;

PROHIBITIONS; PERSONAL IMPORT LIMIT; PENALTY

(a)(1) All spirits and fortified wines imported or transported into this State shall be imported or transported by and through the Board of Liquor and Lottery. A person importing or transporting or causing to be imported or transported into this State any spirits or fortified wines, or both, in violation of this section shall be imprisoned not more than one year or fined not more than ~~\$1,000.00~~ \$5,000.00, or both.

* * *

~~*Sec. 3. 7 V.S.A. § 64 is amended to read:*~~

~~*§ 64. SALE OF MALT BEVERAGES AND VINOUS BEVERAGES IN*~~

~~*KEGS*~~

~~* * *~~

~~*(c) Any person, other than a wholesale dealer or manufacturer, who intentionally removes or defaces the label attached to a keg shall be*~~

~~imprisoned not more than two years one year or fined not more than \$1,000.00
or both~~

Sec. 3. 7 V.S.A. § 64 is amended to read:

§ 64. SALE OF MALT BEVERAGES AND VINOUS BEVERAGES IN
KEGS

* * *

(c) Any person, other than a wholesale dealer or manufacturer, who intentionally removes or defaces the label attached to a keg shall be ~~imprisoned not more than two years or~~ fined not more than \$1,000.00, ~~or both.~~

Sec. 4. 7 V.S.A. § 65 is amended to read:

§ 65. PURCHASE OF KEGS

Any individual who, within 60 days of purchase, fails to return a keg sold pursuant to section 64 of this chapter to the second-class or fourth-class licensee from which the keg was purchased shall be fined ~~not more than~~ \$200.00.

Sec. 5. 7 V.S.A. § 210 is amended to read:

§ 210. SUSPENSION OR REVOCATION OF LICENSE OR PERMIT;

ADMINISTRATIVE PENALTY

* * *

(b)(1) ~~As an alternative to and in lieu of~~ In addition to the authority to suspend or revoke any permit or license, the Board of Liquor and Lottery shall

also have the power to may impose an administrative penalty of up to ~~\$2,500.00~~ \$7,500.00 per violation against a holder of a wholesale dealer's license or a holder of a first-, second-, or third-class license for a violation of the conditions of the license or of this title or of any rule adopted by the Board.

* * *

(3) The Board may also impose an administrative penalty under this subsection against a holder of a tobacco license ~~for~~ of up to ~~\$100.00~~ \$250.00 for a first violation and up to ~~\$1,000.00~~ \$2,500.00 for subsequent violations.

* * *

Sec. 6. 7 V.S.A. § 213 is amended to read:

§ 213. LICENSEE EDUCATION

* * *

(c)(1) Each licensee, permittee, or common carrier certificate holder shall ensure that every employee who is involved in the delivery, sale, or serving of alcoholic beverages completes a training program approved by the Division of Liquor Control before the employee begins delivering, serving, or selling alcoholic beverages and at least once every 24 months thereafter. Each licensee shall maintain written documentation, signed by each employee trained, of each training program conducted.

(2) A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished or

approved by the Division of Liquor Control. A licensee who fails to comply with the requirements of this subsection shall be subject to a suspension of the license issued under this title for not less than one day or a fine of not more than \$100.00, or both.

* * *

Sec. 7. 7 V.S.A. § 274 is amended to read:

*§ 274. CERTIFICATE OF APPROVAL FOR DISTRIBUTION OF MALT
OR VINOUS BEVERAGES*

* * *

(e) A person who violates a provision of this section shall be fined not more than ~~\$300.00~~ \$750.00 or imprisoned not more than one year; or both, for each offense and shall forfeit any license issued under the provisions of this title.

Sec. 8. 7 V.S.A. § 281 is amended to read:

§ 281. PROHIBITIONS

(a)(1) Except as otherwise provided in section 226 of this title, direct shipments of malt or vinous beverages are prohibited if the shipment is not specifically authorized and in compliance with sections 277-280 of this subchapter.

(2) Any person who knowingly makes, participates in, imports, or receives a direct shipment of malt or vinous beverages from a person who does not hold a license, permit, or certificate pursuant to sections 226 or 277-280 of

this title may be fined not more than ~~\$1,000.00~~ \$2,500.00 or imprisoned not more than one year; or both.

* * *

Sec. 9. 7 V.S.A. § 651 is amended to read:

§ 651. SOLICITING ORDERS

A person who, for himself or herself or as agent, takes or solicits orders for the sale of malt or vinous beverages, except for licensees or from agencies of the U.S. Armed Forces as specified in section 421 of this title, or of spirits or fortified wines shall be imprisoned not more than six months ~~nor less than three months~~ or fined not more than \$500.00 nor less than \$100.00, or both.

Sec. 10. 7 V.S.A. § 652 is amended to read:

§ 652. TRANSPORTATION

A person who, by himself or herself, or through a clerk or agent, brings into the State, or conveys or transports over or along a railroad or public highway, or by land, air, or water, alcoholic beverages or alcohol ~~which~~ that the person knows or has reason to believe is to be unlawfully kept, sold, or furnished shall be imprisoned not more than six months nor less than three months or fined not more than ~~\$500.00~~ \$2,500.00 nor less than \$100.00, or both.

Sec. 11. 7 V.S.A. § 655 is amended to read:

§ 655. BARTER

(a) A licensee or permittee shall be imprisoned not more than ~~12~~ six months nor less than ~~six months~~ 30 days or fined not more than ~~\$1,000.00~~ \$1,500.00 nor less than ~~\$300.00~~ \$500.00, or both, if the licensee or permittee:

(1) purchases or receives apparel, tools, implements of trade or husbandry, household goods, furniture, or provisions, directly or indirectly, by way of sale or barter, the consideration for which is, in whole or in part, alcoholic beverages or alcohol or the price of the alcoholic beverages or alcohol; or

(2) receives apparel, tools, implements of trade or husbandry, household goods, furniture, or provisions in pawn for alcoholic beverages or alcohol or the price of the alcoholic beverages or alcohol.

** * **

Sec. 12. 7 V.S.A. § 658 is amended to read:

§ 658. SALE OR FURNISHING TO MINORS; ENABLING

CONSUMPTION BY MINORS; MINORS CAUSING DEATH OR

SERIOUS BODILY INJURY

(a) A person shall not:

(1) sell or furnish alcoholic beverages to a person under 21 years of age; or

(2) knowingly enable the consumption of alcoholic beverages by a person under 21 years of age.

* * *

(c) A person who violates subsection (a) of this section shall be fined not less than \$500.00 nor more than \$2,000.00 or imprisoned not more than two years, or both. However, an employee of a licensee or an employee of a State liquor agency, who in the course of employment violates subdivision (a)(1) of this section:

(1) during a compliance check conducted by a law enforcement officer as defined in 20 V.S.A. § 2358:

(A) shall be assessed a civil penalty of not more than \$100.00 for the first violation, and a civil penalty of not less than \$100.00 nor more than ~~\$500.00~~ \$1,000.00 for a second violation that occurs more than one year after the first violation; and

(B) shall be subject to the criminal penalties provided in this subsection (c) for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

* * *

Sec. 13. 7 V.S.A. § 661 is amended to read:

§ 661. VIOLATIONS OF TITLE

(a)(1) A person that furnishes, sells, or keeps with intent to sell, or bottles or prepares for sale any alcoholic beverages, except as authorized by this title, or sells, barbers, transports, imports, exports, delivers, prescribes, furnishes, or

possesses alcohol, except as authorized by the Board of Liquor and Lottery, or that unlawfully manufactures alcohol or possesses a still or other apparatus for the manufacture of alcohol shall be imprisoned not more than 12 months nor less than three months or fined not more than ~~\$1,000.00~~ \$2,500.00 nor less than \$100.00, or both.

(2) For a subsequent conviction under subdivision (1) of this subsection within one year, a person shall be imprisoned not more than three years nor less than six months or fined not more than ~~\$2,000.00~~ \$5,000.00 nor less than \$500.00, or both.

(b) A person that willfully violates a provision of this title for which no other penalty is prescribed or that willfully violates a rule of the Board of Liquor and Lottery shall be imprisoned not more than three months nor less than one month or fined not more than ~~\$200.00~~ \$500.00 nor less than ~~\$50.00~~ \$100.00, or both.

* * *

Sec. 14. 7 V.S.A. § 1002a is amended to read:

§ 1002a. LICENSEE EDUCATION

* * *

(b) The holder of a tobacco license that does not also hold a liquor license issued pursuant to this title for the same premises shall:

(1) Complete the Division's in-person or online enforcement seminar at least once every two years. A corporation, partnership, or association shall designate a director, partner, or manager to comply with this subdivision.

(2) Ensure that every employee involved in the sale of tobacco products completes a Division of Liquor Control in-person or online training program or other training programs approved by the Division before the employee begins selling or providing tobacco products, and at least once every 24 months thereafter. A licensee may comply with this subdivision by conducting its own training program on its premises using information and materials furnished by the Division of Liquor Control. A licensee that fails to comply with the requirements of this subsection shall be subject to suspension of its tobacco license for not less than one day or a fine of not more than \$100.00, or both.

* * *

Sec. 15. [DELETED] ~~7 VS 4 - § 1005 is amended to read:~~

~~*§ 1005. PERSONS UNDER 18 YEARS OF AGE; POSSESSION OF
TOBACCO PRODUCTS; MISREPRESENTING AGE OR
PURCHASING TOBACCO PRODUCTS; PENALTY*~~

~~*(a)(1) A person under 18 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco*~~

~~license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment.~~

~~(2) A person under 18 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia.~~

~~(b)(1) A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of subsection (a) of this section shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00.:~~

~~(A) for a first violation, a civil penalty of \$75.00 or be required to provide up to 10 hours of community service, or both;~~

~~(B) for a second violation, a civil penalty of \$100.00 or be required to provide up to 10 hours of community service, or both; and~~

~~(C) for subsequent violations, a civil penalty of \$200.00 or be required to provide up to 10 hours of community service, or both.~~

~~(2) An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.~~

~~(c)(1) A person under 18 years of age who knowingly misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than~~

~~\$50.00 or provide up to 10 hours of community service or both commits a civil violation.~~

~~(A) For a first violation of this subsection, a person shall be subject to a civil penalty of \$75.00 or required to provide up to 10 hours of community service, or both.~~

~~(B) For a second or subsequent violation of this subsection, a person shall be subject to a civil penalty of \$100.00 or required to provide up to 10 hours of community service, or both.~~

~~(2) An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. Chapter 24.~~

Sec. 16. 7 V.S.A. § 1007 is amended to read:

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER 18 YEARS OF AGE; REPORT

** * **

(b)(1) The Division of Liquor Control shall conduct or contract for compliance tests of tobacco licensees as frequently and as comprehensively as necessary to ensure consistent statewide compliance with the prohibition on sales to persons under 18 years of age of at least 90 percent for buyers who are 16 or 17 years of age. An individual under 18 years of age participating in a compliance test shall not be in violation of section 1005 of this title.

(2) Any violation by a tobacco licensee of subsection 1003(a) of this title and this section after a ~~first~~ sale violation or during a compliance test conducted within six months of a previous violation shall be considered a multiple violation and shall result in the minimum license suspension in addition to any other penalties available under this title. Minimum license suspensions for multiple violations shall be assessed as follows:

- (A) Two violations ~~one weekday~~ two weekdays;*
- (B) Three violations ~~two weekdays~~ 15-day suspension;*
- (C) Four violations ~~three weekdays~~ 90-day suspension;*
- (D) Five violations ~~three weekend days, Friday through Sunday~~
one-year suspension.*

** * **

Sec. 17. 7 V.S.A. § 1009 is amended to read:

§ 1009. CONTRABAND AND SEIZURE

(a) Any cigarettes or other tobacco products that have been sold, offered for sale, or possessed for sale in violation of section 1003 of this title, 20 V.S.A. § 2757, 32 V.S.A. § 7786, or 33 V.S.A. § 1919, and any commercial cigarette rolling machines possessed or utilized in violation of section 1011 of this title, shall be deemed contraband and shall be subject to seizure by the Commissioner, the Commissioner's agents or employees, the Commissioner of Taxes or any agent or employee of the Commissioner of Taxes, or by any law

enforcement officer of this State when directed to do so by the Commissioner.

All cigarettes or other tobacco products seized shall be destroyed.

(b)(1) Any person in possession of property considered contraband under this section shall be fined not more than \$1,000.00 nor less than \$500.00.

(2) Any vehicle, aircraft or watercraft, or other conveyance in which property considered contraband under this section is found may be seized and subject to forfeiture and condemnation pursuant to sections 570 and 572–574 of this title.

** * * Solicitor's License * * **

Sec. 18. 7 V.S.A. § 275 is amended to read:

§ 275. SOLICITOR'S LICENSE

(a) The Board of Liquor and Lottery may grant an individual a solicitor's license if he or she does all of the following:

(1) Submits an application to the Board of Liquor and Lottery on a form prescribed by the Board. The application shall include, at a minimum, the name, residence, and business address of the applicant, the name and address of the vendor, manufacturer, or employer to be represented by the applicant, and an agreement by the applicant to comply with the rules of the Board.

(2) Submits to the Board a recommendation by the vendor, manufacturer, or employer to be represented by the applicant that indicates the applicant is qualified to hold a solicitor's license.

** * **

(b) A solicitor's license holder may, by canvassing or interviewing holders of licenses issued under the provisions of this title:

(1) solicit orders for and promote the sale of malt or vinous beverages by canvassing or interviewing holders of licenses issued under the provisions of this title; and

(2) promote the sale of spirits and fortified wines.

* * *

(d) A person who solicits, or attempts to solicit, orders for malt or vinous beverages, or promotes, or attempts to promote, the sale of malt or vinous beverages, or attempts to solicit or promote the sale of malt or vinous beverages spirits, or fortified wines by canvassing or interviewing a holder of a license issued under the provisions of this title, without having first obtained a solicitor's license as provided in this section, or who makes a false or fraudulent statement or representation in an application for the license or in connection with an application shall be imprisoned not more than six months or fined not more than \$500.00, or both.

** * * Technical Corrections Related to Department of Liquor and Lottery * * **

Sec. 19. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) As used in this subchapter:

* * *

(9) "Employee" shall mean:

** * **

(B) Any regular officer or employee of the Department of Public Safety assigned to police and law enforcement duties, including the Commissioner of Public Safety appointed before July 1, 2001; but, irrespective of the member's classification, shall not include any member of the General Assembly as such, any person who is covered by the Vermont Teachers' Retirement System, any person engaged under retainer or special agreement or C beneficiary employed by the Department of Public Safety for not more than 208 hours per year, or any person whose principal source of income is other than State employment. In all cases of doubt, the Retirement Board shall determine whether any person is an employee as defined in this subchapter. Also included under this subdivision are employees of the Department of ~~Liquor Control~~ Liquor Control and Lottery who exercise law enforcement powers, employees of the Department of Fish and Wildlife assigned to law enforcement duties, motor vehicle inspectors, full-time deputy sheriffs compensated by the State of Vermont whose primary function is transports, full-time members of the Capitol Police force, investigators employed by the Criminal Division of the Office of the Attorney General, Department of State's Attorneys, Department of Health, or Office of the Secretary of State, who have attained Level III law enforcement officer certification from the Vermont Criminal Justice Training

Council, who are required to perform law enforcement duties as the primary function of their employment, and who may be subject to mandatory retirement permissible under 29 U.S.C. § 623(j), who are first included in membership of the system on or after July 1, 2000. Also included under this subdivision are full-time firefighters employed by the State of Vermont and the Defender General.

* * *

Sec. 20. 7 V.S.A. § 752 is amended to read:

§ 752. DEFINITIONS

As used in this subchapter:

* * *

(2) “Certificate of approval holder” means a holder of a certificate of approval issued by the ~~Liquor Control~~ Board of Liquor and Lottery pursuant to section 274 of this title that produces or distributes a total annual volume of not more than 50,000 barrels of malt beverages and whose products comprise three percent or less of a wholesale dealer’s total annual sales of malt beverages by volume.

* * *

Sec. 21. 10 V.S.A. § 1524 is amended to read:

§ 1524. LABELING

* * *

(b) The Commissioner of Liquor ~~Control~~ and Lottery may allow, in the case of liquor bottles, a conspicuous, adhesive sticker to be attached to indicate the deposit information required in subsection (a) of this section, provided that the size, placement, and adhesive qualities of the sticker are as approved by the Commissioner. The stickers shall be affixed to the bottles by the manufacturer, except that liquor that is sold in the State in quantities less than 100 cases per year may have stickers affixed by personnel employed by the ~~Department~~ Division of Liquor Control.

* * *

Sec. 22. 10 V.S.A. § 1528 is amended to read:

§ 1528. BEVERAGE REGISTRATION

No distributor or manufacturer shall sell a beverage container in the State of Vermont without the manufacturer registering the beverage container with the Agency of Natural Resources prior to sale, unless distributed by the Department of Liquor ~~Control~~ and Lottery. This registration shall take place on a form provided by the Secretary and include the following:

* * *

Sec. 23. 13 V.S.A. § 7043 is amended to read:

§ 7043. RESTITUTION

* * *

(n)(1) Any monies owed by the State to an offender who is under a restitution order, including ~~lottery~~ Vermont Lottery winnings, unclaimed property, and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the courts.

** * **

(4)(A) For all Vermont ~~lottery~~ Lottery games, the ~~Lottery Commission~~ Commissioner of Liquor and Lottery shall, before issuing prize money of \$500.00 or more to a winner, determine whether the winner has an outstanding restitution order. If the winner owes restitution, the ~~Lottery Commission~~ Commissioner of Liquor and Lottery shall withhold the entire amount of restitution owed and pay it to the Restitution Unit. The remainder of the winnings, if any, shall be sent to the winner. The winner shall be notified by the Restitution Unit of the offset prior to payment to the victim and given a period not to exceed 20 days to contest the accuracy of the information.

(B) The Restitution Unit shall inform the ~~Lottery Commission~~ Commissioner of Liquor and Lottery of persons with outstanding restitution orders upon request. Each person subject to such an order shall be identified by name, address, and Social Security number.

(C) If a ~~lottery~~ Vermont Lottery winner has an outstanding restitution order and an outstanding child support order, the ~~lottery~~ Lottery winnings

shall be offset first pursuant to 15 V.S.A. § 792 by the amount of child support owed, and second pursuant to this subsection by the amount of restitution owed. The remainder of the winnings, if any, shall be sent to the winner.

** * **

Sec. 24. 15 V.S.A. § 792 is amended to read:

§ 792. LOTTERY OFFSET

(a) For all Vermont ~~lottery~~ Lottery games, the ~~lottery commission~~ Commissioner of Liquor and Lottery shall, before issuing prize money of \$500.00 or more to a winner, determine whether the winner has an outstanding child support arrearage payable to the ~~office of child support~~ Office of Child Support. If the winner has a child support arrearage, the ~~lottery commission~~ Commissioner of Liquor and Lottery shall withhold the entire amount of winnings and pay the same to the ~~office of child support~~ Office of Child Support. The ~~office of child support~~ Office of Child Support shall offset the winnings by the amount of support arrearages and the remainder of the winnings, if any, shall be sent to the winner. The obligor shall be notified by the ~~office of child support~~ Office of Child Support of the offset prior to payment to the obligee and given a period not to exceed 20 days to contest the accuracy of the information.

(b) The ~~office of child support~~ Office of Child Support shall inform the ~~lottery commission~~ Commissioner of Liquor and Lottery of persons with child

support arrearages upon request. Each liable person shall be identified by name, address, and Social Security number.

(c) This section shall apply to ~~tri-state lottery~~ Tri-State Lottery games at such time as the same or similar provisions become law in Maine and New Hampshire in accordance with the ~~tri-state lotto compact~~ Tri-State Lotto Compact.

Sec. 25. 15 V.S.A. § 1151 is amended to read:

§ 1151. DEFINITIONS

Unless the context clearly requires otherwise, the definitions in this section apply throughout the subchapter.

** * **

(5) “Law enforcement agency” means the Department of Public Safety, a municipal police department, a sheriff’s department, the Attorney General’s Office, a State’s Attorney’s Office, or certified law enforcement officers of the Department of Motor Vehicles, Agency of Natural Resources, or Department of Liquor ~~Control~~ and Lottery. “Law enforcement agency” shall also mean the Department for Children and Families when engaged in:

** * **

Sec. 26. 18 V.S.A. § 9503 is amended to read:

§ 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

** * **

(c) The Department of Liquor ~~Control~~ and Lottery shall administer the component of the program that relates to enforcement activities.

* * *

Sec. 27. 18 V.S.A. § 9505 is amended to read:

§ 9505. GENERAL POWERS AND DUTIES

The Board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this section, and shall:

* * *

(6) Review and make recommendations regarding enforcement activities administered by the Department of Liquor ~~Control~~ and Lottery in accordance with the provisions of this chapter.

* * *

Sec. 28. 18 V.S.A. § 9504 is amended to read:

*§ 9504. CREATION OF THE VERMONT TOBACCO EVALUATION AND
REVIEW BOARD*

* * *

(b) The Board shall consist of 14 members, including ex officio the Commissioner of Health and the Secretary of Education or their designees; the Commissioner of Liquor ~~Control~~ and Lottery or designee; the Attorney General or designee; a member of the House of Representatives appointed by the Speaker of the House; a member of the Senate appointed by the Committee

on Committees; a member representing a nonprofit organization qualifying under Section 501(c)(3) of the Internal Revenue Code and dedicated to anti-tobacco activities appointed by the Speaker of the House; a member representing the low-income community appointed by the Senate Committee on Committees; two persons under ~~the age of~~ 30 years of age, one appointed by the Speaker of the House and one appointed by the Committee on Committees; and four members appointed by the Governor with the advice and consent of the Senate, including: one K-12 educator involved in prevention education; one tobacco use researcher; one member representing the health care community; and one tobacco industry countermarketing expert. The public members shall serve for three-year terms, beginning on July 1 of the year in which the appointment is made, except that the first members appointed by the Governor to the Board shall be appointed, two for a term of two years, one for a term of three years, and one for a term of four years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

* * *

Sec. 29. 18 V.S.A. § 9507 is amended to read:

§ 9507. ANNUAL REPORT

(a) On or before January 15 of each year, the Board shall submit a report concerning its activities under this chapter to the Governor and the General Assembly. The report shall include, to the extent possible, the following:

** * **

(2) a full financial report of the activities of the Departments of Health and of Liquor ~~Control~~ and Lottery, the Agency of Education, and the Board, including a special accounting of all activities from July 1 through December 31 of the year preceding the legislative session during which the report is submitted;

** * **

Sec. 30. 20 V.S.A. § 1883 is amended to read:

§ 1883. STATE LAW ENFORCEMENT; MEMORANDUM OF

UNDERSTANDING

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

** * **

(5) Providing for the Commissioner of Public Safety, with the approval of the Governor and in consultation with the Commissioners of Motor Vehicles,

of Fish and Wildlife, and of Liquor ~~Control~~ and Lottery, to assume the role of lead coordinator of statewide law enforcement units in the event of elevated alerts, critical incidents, and all hazard events. The lead coordinator shall maintain control until in his or her judgment the event no longer requires coordinated action to ensure the public safety.

* * *

Sec. 31. 20 V.S.A. § 2351a is amended to read:

§ 2351a. DEFINITIONS

As used in this chapter:

* * *

(3) “Law enforcement officer” means a member of the Department of Public Safety who exercises law enforcement powers; a member of the State Police; a Capitol Police officer; a municipal police officer; a constable who exercises law enforcement powers; a motor vehicle inspector; an employee of the Department of Liquor ~~Control~~ and Lottery who exercises law enforcement powers; an investigator employed by the Secretary of State; a Board of Medical Practice investigator employed by the Department of Health; an investigator employed by the Attorney General or a State’s Attorney; a fish and game warden; a sheriff; a deputy sheriff who exercises law enforcement powers; a railroad police officer commissioned pursuant to 5 V.S.A. chapter

68, subchapter 8; or a police officer appointed to the University of Vermont's Department of Police Services.

* * *

Sec. 32. 20 V.S.A. § 2367 is amended to read:

§ 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;

REPORTING

(a) As used in this section:

* * *

(2) "Law enforcement officer" means a sheriff, deputy sheriff, police officer, Capitol Police officer, State game warden, State Police officer, constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, and a certified law enforcement officer employed by a State branch, agency, or department, including the Department of Motor Vehicles, the Agency of Natural Resources, the Office of the Attorney General, the Department of State's Attorney, the Secretary of State, and the Department of Liquor Control and Lottery.

* * *

Sec. 33. 20 V.S.A. § 2757 is amended to read:

§ 2757. CIGARETTES; REDUCED IGNITION PROPENSITY

(a) As used in this section:

* * *

(8) *“Wholesale dealer” means any person that sells cigarettes or tobacco products to retail dealers or other persons for resale, and includes ~~any~~ person that owns, operates, or maintains one or more cigarette or tobacco product vending machines wherever located. ~~“Wholesale dealer” also includes the dealer’s agent.~~*

* * *

(c) *Each manufacturer shall submit to the Commissioner written certification attesting that each cigarette has been tested in accordance with and has met the performance standard required under subsection (b) of this section. The description of each cigarette listed in the certification shall include the brand; style; length in millimeters; circumference in millimeters; flavor, if applicable; filter or nonfilter; package description, such as a soft pack or box; and the mark approved pursuant to subsection (d) of this section. Upon request, this certification shall be made available to the Attorney General and Department of Liquor ~~Control~~ and Lottery. Each cigarette certified under this subsection shall be recertified every three years. For the certification or recertification of each brand style, the fee shall be \$1,000.00. The fees shall be paid into the Fire Prevention and Building Inspection Special Fund established in 20 V.S.A. § 2738.*

* * *

(e) A manufacturer shall provide a copy of certifications to all wholesale dealers and stamping agents to which the manufacturer sells cigarettes and shall provide sufficient copies of an illustration of the packaging marking approved and used by the manufacturer pursuant to subsection (d) of this section for each of the retail dealers that purchases cigarettes from any of those wholesale dealers and stamping agents. Wholesale dealers and stamping agents shall provide a copy of the illustration to all retail dealers to which they sell cigarettes. Wholesale dealers, stamping agents, and retail dealers shall permit the Commissioner of Public Safety or the Commissioner of ~~Liquor Control~~ and Lottery or their designees to inspect markings on cigarette packaging at any time.

(f) The Commissioner:

(1) may adopt rules necessary to implement and administer this section;

(2) in consultation with the Commissioner of ~~Liquor Control~~ and Lottery, may adopt rules regarding the conduct of random inspections of wholesale dealers, importers, retail dealers, and stamping agents to ensure compliance with this section; and

(3) shall ~~assure~~ ensure that the implementation and substance of this section is in accordance with the implementation and substance of the New York Fire Safety Standards for Cigarettes.

** * **

Sec. 34. 20 V.S.A. § 4621 is amended to read:

§ 4621. DEFINITIONS

As used in this chapter:

* * *

(3) "Law enforcement agency" means:

* * *

(G) the Department of Liquor ~~Control~~ and Lottery;

* * *

Sec. 35. 21 V.S.A. § 494b is amended to read:

*§ 494b. EMPLOYERS PERMITTED TO REQUIRE POLYGRAPH
EXAMINATIONS*

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

(1) the Department of Public Safety; the Department of Motor Vehicles, for applicants for law enforcement positions; the Department of Fish and Wildlife, for applicants for law enforcement positions; the Department of Liquor ~~Control~~ and Lottery and the Liquor ~~Control~~ Board of Liquor and Lottery, for applicants for investigator positions; municipal police departments and county sheriffs, as to sworn police officers and deputy sheriffs;

* * *

Sec. 36. 26 V.S.A. § 5305 is amended to read:

§ 5305. EXEMPTIONS

(a) Generally.

** * **

(2)(A) Persons employed by the Judiciary, including judges, Superior Court clerks, court operations managers, Probate registers, case managers, docket clerks, assistant judges, county clerks, and after-hours relief from abuse contract employees.

(B) Persons employed as law enforcement officers certified under 20 V.S.A. chapter 151; who are noncertified constables; or who are employed by a Vermont law enforcement agency, the Department of Public Safety, of Fish and Wildlife, of Motor Vehicles, of Liquor ~~Control~~ and Lottery, or for Children and Families, the Office of the Defender General, the Office of the Attorney General, or a State's Attorney or Sheriff.

** * **

Sec. 37. 31 V.S.A. § 1201 is amended to read:

§ 1201. DEFINITIONS

As used in this chapter:

** * **

(2) "Commissioner" means the Commissioner of Liquor ~~Control~~ and Lottery.

* * *

Sec. 38. 31 V.S.A. § 1203 is amended to read:

§ 1203. DISTRIBUTION; RETAIL PURCHASE AND SALE

* * *

(f) A nonprofit organization that sells break-open tickets, other than a club as defined in 7 V.S.A. § 2, shall report to the Department of Liquor ~~Control~~ and Lottery on a quarterly basis the number of tickets purchased and distributed, and the corresponding serial numbers of those tickets, the amount of revenue realized by the nonprofit organization, and the amounts accounted for under subdivisions (e)(2)(A)–(D) of this section. The nonprofit organization shall also identify an individual from the organization responsible for the reporting requirements under this subsection. If the Department of Liquor ~~Control~~ and Lottery determines that a nonprofit organization has failed to comply with the requirements of this subsection, the Department of Liquor ~~Control~~ and Lottery shall notify the nonprofit organization and any licensed distributors of this failure, and any licensed distributor that continues to sell break-open tickets to that nonprofit organization after notice shall be considered in violation of the requirements of this chapter until the Department of Liquor ~~Control~~ and Lottery has determined the nonprofit organization is back in compliance with this subsection.

* * *

Sec. 39. 31 V.S.A. § 1205 is amended to read:

§ 1205. RECORDS; REPORT

* * *

(d) Notwithstanding subsection (c) of this section, the Commissioner of Liquor ~~Control~~ and Lottery shall provide the records and reports filed under this section to the Attorney General, upon request.

Sec. 40. 31 V.S.A. § 1208 is amended to read:

§ 1208. RULEMAKING

The Department of Liquor ~~Control~~ and Lottery may regulate the licensing and reporting requirements of manufacturers and distributors of break-open tickets under this chapter. The Commissioner of Liquor ~~Control~~ and Lottery may adopt rules for licensure and indicia for boxes of break-open tickets, for record keeping relating to the distribution and sale of break-open tickets, and for the remittance of net proceeds from sales of break-open tickets to the intended eligible charitable recipients. The rules shall permit no proceeds to be retained by the operators of for-profit bars, except for:

* * *

Sec. 41. 32 V.S.A. § 602 is amended to read:

§ 602. DEFINITIONS

As used in this subchapter:

* * *

(2) "Fee":

* * *

(B) *The following charges are exempt from the provisions of this subchapter:*

* * *

(ii) *A charge established by the Liquor Control Board of Liquor and Lottery as provided by Title 7.*

* * *

Sec. 42. 32 V.S.A. § 1003 is amended to read:

§ 1003. STATE OFFICERS

* * *

(b) The Governor may appoint each officer of the Executive Branch listed in this subsection at a starting salary ranging from the base salary stated for that position to a salary that does not exceed the maximum salary unless otherwise authorized by this subsection. The maximum salary for each appointive officer shall be 50 percent above the base salary. Annually, the Governor may grant to each of those officers an annual salary adjustment subject to the maximum salary. The annual salary adjustment granted to officers under this subsection shall not exceed the average of the total rate of adjustment available to classified employees under the collective bargaining agreement then in effect. In addition to the annual salary adjustment specified

in this subsection, the Governor may grant a special salary increase subject to the maximum salary, or a bonus, to any officer listed in this subsection whose job duties have significantly increased, or whose contributions to the State in the preceding year are deemed especially significant. Special salary increases or bonuses granted to any individual shall not exceed the average of the total rate of adjustment available to classified employees under the collective bargaining agreement then in effect.

(1) Heads of the following Departments and Agencies:

		<i>Base Salary</i>	<i>Base Salary</i>
		<i>as of</i>	<i>as of</i>
		<i>July 7, 2019</i>	<i>January 5, 2020</i>
		<i>***</i>	
<i>(W)</i>	<i>Liquor Control and Lottery</i>	<i>93,155</i>	<i>94,413</i>
<i>(X)</i>	<i>Lottery</i>	<i>93,155</i>	<i>94,413</i>

[Repealed.]

Sec. 43. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

(e) The Commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide, including any

confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

* * *

(15) To the ~~Department~~ Division of Liquor Control, provided that the information is limited to information concerning the sales and use tax and meals and rooms tax filing history with respect to the most recent five years of a person seeking a liquor license or a renewal of a liquor license.

* * *

Sec. 44. 32 V.S.A. § 3113b is amended to read:

§ 3113b. LOTTERY WINNINGS; SATISFACTION OF TAX LIABILITIES

For all Vermont ~~lottery~~ Lottery games, the ~~Lottery~~ Commissioner of Liquor and Lottery may, before issuing prize money to a winner, determine whether the winner has an outstanding tax liability payable to the Department of Taxes. If any such winner owes taxes to the State, the Commissioner of Taxes, after notice to the owner, may request and the ~~Lottery Commission~~ Department of Liquor and Lottery shall transfer the amount of ~~such~~ the tax liability to the Department for setoff of the taxes owed. The notice shall advise the winner of the action being taken and the right to appeal the setoff if the tax debt is not the winner's debt; or if the debt has been paid; or if the tax debt was appealed within 60 days from the date of the assessment and the appeal has not been finally determined; or if the debt was discharged in bankruptcy. Any offset of

~~lottery~~ Lottery winnings for taxes shall be third in priority to the offset of ~~lottery~~ Lottery winnings to the Office of Child Support pursuant to 15 V.S.A. § 792 and the offset of ~~lottery~~ Lottery winnings for restitution pursuant to 13 V.S.A. § 7043.

~~*** Effective Date ***~~

~~Sec. 45. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2019.~~

~~*** Tax on Spirits and Fortified Wines ***~~

~~Sec. 45. 7 V.S.A. § 422 is amended to read:~~

~~§ 422. TAX ON SPIRITS AND FORTIFIED WINES~~

~~(a) A tax of five percent is assessed on the gross revenue from the sale of spirits and fortified wines in the State of Vermont by the Board of Liquor and Lottery or the retail sale of spirits and fortified wines in Vermont by a manufacturer or rectifier of spirits or fortified wines, in accordance with the provisions of this title. The tax shall be at the following rates based on the gross revenue of the retail sales by the seller in the current year:~~

~~(1) if the gross revenue of the seller is \$500,000.00 or lower, the rate of tax is five percent;~~

~~(2) if the gross revenue of the seller is between \$500,000.00 and \$750,000.00, the rate of tax is \$25,000.00 plus 10 percent of the gross revenues over \$500,000.00;~~

~~(3) if the gross revenue of the seller is \$750,000.00 or more, the rate of tax is 25 percent.~~

Sec. 45a. TRANSFER TO GENERAL FUND

(a) In fiscal year 2020, a minimum of \$18,370,000.00 shall be transferred from the Liquor Control Enterprise Fund to the General Fund. The amount transferred pursuant to this subsection shall include any amounts transferred pursuant to the fiscal year 2020 annual budget bill.

(b) In fiscal year 2021, a minimum of \$18,740,000.00 shall be transferred from the Liquor Control Enterprise Fund to the General Fund.

* * *

~~§ 104. Board of Liquor and Lottery; Duties~~

~~Sec. 46. 7 V.S.A. § 104 is amended to read:~~

~~§ 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS~~

~~The Board shall supervise and manage the sale of spirits and fortified wines within the State in accordance with the provisions of this title, and through the Commissioner of Liquor and Lottery shall:~~

~~* * *~~

~~(13) Set and periodically revise the prices for spirits and fortified wines sold in Vermont in a manner that is designed to ensure that the Department generates revenue for the State that is equal to or greater than the revenue generated by the Department during the prior fiscal year.~~

~~*** Effective Date ***~~

~~Sec. 47. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2019.~~

**** Retail Licenses and Permits ****

Sec. 46. 7 V.S.A. § 223 is amended to read:

§ 223. THIRD-CLASS LICENSES

(a)(1) The Board of Liquor and Lottery may grant to a person who operates a hotel, restaurant, club, boat, or railroad dining car; or who holds a manufacturer's or rectifier's license, a third-class license if:

(1) the person files an application accompanied by the fee provided in section 204 of this title for the premises in which the business of the hotel, restaurant, club, or manufacturer or rectifier is carried on or for the boat or railroad dining car;

(2) the local control commissioners have approved the application; and

(2)(3) The the applicant shall satisfy satisfies the Board that:

(A) the applicant is the bona fide owner or lessee of the premises, boat, or railroad dining car;

(B) except in the case of clubs, the premises, boat, or railroad dining car has adequate and sanitary space and equipment for preparing and serving meals to the public; and

(C) that it the premises, boat, or railroad dining car is operated for the purpose covered by the license.

* * *

(d)(1) Except as otherwise provided in ~~subdivision~~ subdivisions (2) and (3) of this subsection ~~and section 271 of this title~~, a person who holds a third-class license shall purchase from the Board of Liquor and Lottery all spirits and fortified wines dispensed in accordance with the provisions of the third-class license and this title.

(2) For a third-class license issued for a dining car or boat, the licensee may procure outside the State of Vermont spirits and fortified wines that are sold pursuant to the license.

(3) For a third-class license that is issued to a licensed manufacturer or rectifier of spirits or fortified wines, the licensee shall not be required to purchase from the Board of Liquor and Lottery spirits and fortified wines that it has manufactured or rectified before selling them pursuant to its third-class license.

* * *

** * * Tasting and Event Permits * * **

Sec. 47. 7 V.S.A. § 252 is amended to read:

§ 252. SPECIAL EVENT PERMITS

* * *

~~(c)(1) A licensed manufacturer or rectifier may be issued ~~no~~ not more than 104 10 special event permits during a for the same physical location in a calendar year.~~

~~(2) Each manufacturer or rectifier planning to attend a single special event pursuant to this section may be listed on a single permit for the special event. However, each attendance at a special event shall count toward the manufacturer's or rectifier's annual limit of 104 special event permits.~~

Sec. 48. [DELETED] ~~7 V.S.A. § 253 is amended to read:~~

~~§ 253. FESTIVAL PERMITS~~

~~* * *~~

~~(b) A festival permit holder shall be permitted to conduct an event that is open to the public at which malt beverages, vinous beverages, fortified wines, spirits, or any combination of the four are served.~~

~~(c)(1) A festival permit holder shall require individuals attending the festival to pay an entry fee of at least \$5.00.~~

~~(2) Alcoholic beverages served pursuant to a festival permit shall be served in compliance with the following limitations:~~

~~(A) Malt beverages shall be served to individuals attending the festival in amounts equal to not more than 12 ounces at one time and not more than 60 ounces total at any one festival.~~

(B) Vinous beverages shall be served to individuals attending the festival in amounts equal to not more than five ounces at one time and not more than 25 ounces total at any one festival.

(C) Fortified wines shall be served to individuals attending the festival in amounts equal to not more than three ounces at one time and not more than 15 ounces total at any one festival.

(D) Spirits shall be served to individuals attending the festival in amounts equal to not more than one ounce at one time and not more than five ounces total at any one festival.

(E) For festivals at which a combination of malt beverages, vinous beverages, fortified wines, and spirits are served, an individual shall not be served a combined total of more than six standard drinks. As used in this subdivision (E), a "standard drink" means an alcoholic beverage containing 0.6 fluid ounces or 14 grams of pure ethyl alcohol.

(3) A festival permit holder shall ensure that the festival complies with all applicable requirements of this title and the rules of the Board.

(d)(1) A festival permit holder may purchase invoiced volumes of malt or vinous beverages directly from a manufacturer or packager licensed in Vermont, or a manufacturer or packager that holds a federal Basic Permit or Brewers Notice or evidence of licensure in a foreign country that is satisfactory to the Board.

~~(2) The invoiced volumes of malt or vinous beverages may be transported to the site and sold by the glass to the public by the permit holder or its employees and volunteers only during the event.~~

~~(e)(e) A festival permit holder shall be subject to the provisions of this title, including section 214 of this title, and the rules of the Board regarding the sale of the alcoholic beverages and shall pay the tax on the malt or vinous beverages pursuant to section 421 of this title.~~

~~(d)(f) A person shall be granted ~~no~~ not more than ~~four~~ 10 festival permits per year; and each permit shall be valid for ~~no~~ not more than four consecutive days.~~

** * * Manufacturing and Distribution of Alcohol * * **

Sec. 49. 7 V.S.A. § 271 is amended to read:

§ 271. MANUFACTURER'S OR RECTIFIER'S LICENSE

(a)(1) The Board of Liquor and Lottery may grant a manufacturer's or rectifier's license upon application and payment of the fee provided in section 204 of this title that permits the license holder to operate a facility that manufacture manufactures or rectify rectifies:

(1)(A) malt beverages;

(2)(B) vinous beverages and fortified wines; or

(3)(C) spirits and fortified wines.

(2) A manufacturer or rectifier shall obtain a separate license for each facility at which it manufactures or rectifies alcoholic beverages.

* * *

(d)(1) The Board of Liquor and Lottery may grant to a licensed manufacturer or rectifier a first-class license or ~~a first-~~ and a third-class license, or both, permitting the licensee to sell alcoholic beverages to the public at an establishment located at the manufacturer's ~~premises~~ or rectifier's licensed facility, provided the manufacturer or rectifier owns or has direct control over that establishment.

(2) ~~For a~~ A licensed manufacturer of malt beverages, ~~the premises of the manufacturer may include~~ may operate up to two licensed establishments pursuant to this subsection that are located at the licensed manufacturing facility or on ~~the~~ property that is owned by the licensee and is contiguous ~~real estate of~~ with the license holder parcel of land on which the licensed manufacturing facility is located, provided the manufacturer owns or has direct control over both establishments.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, a manufacturer or rectifier that, on July 1, 2019, is operating at a location separate from its licensed manufacturing facility an establishment for which it was granted a first-class license or a third-class license, or both, before July 1, 2019 may continue to operate that establishment, and the local control

commissioners and the Board may annually renew the licenses in effect for that establishment on July 1, 2019.

(e) The Board of Liquor and Lottery may grant a licensed manufacturer of malt beverages a second-class license permitting the licensee to sell alcoholic beverages to the public anywhere on the ~~manufacturer's~~ premises of the licensed manufacturing facility.

(f)(1) A licensed manufacturer or rectifier may serve alcoholic beverages with or without charge at an event held ~~on the premises of the licensee~~ at the licensed manufacturing or rectifying facility or at a location on ~~the~~ property that is owned by the licensee and is contiguous real estate of the licensee with the parcel of land on which the licensed facility is located, provided the licensee at least five days before the event gives the Division written notice of the event, including details required by the Division.

* * *

Sec. 50. 7 V.S.A. § 271 is amended to read:

§ 271. MANUFACTURER'S OR RECTIFIER'S LICENSE

* * *

(d)(1) The Board of Liquor and Lottery may grant to a licensed manufacturer or rectifier a first-class license or a third-class license, or both, permitting the licensee to sell alcoholic beverages to the public at an establishment located at the manufacturer's or rectifier's licensed facility,

provided the manufacturer or rectifier owns or has direct control over that establishment.

(2) A licensed manufacturer of malt beverages may operate up to two licensed establishments pursuant to this subsection that are located at the licensed manufacturing facility or on property that is owned by the licensee and is contiguous with the parcel of land on which the licensed manufacturing facility is located, provided the manufacturer owns or has direct control over both establishments.

~~(3) Notwithstanding subdivisions (1) and (2) of this subsection, a manufacturer or rectifier that, on July 1, 2019, is operating at a location separate from its licensed manufacturing facility an establishment for which it was granted a first-class license or a third-class license, or both, before July 1, 2019 may continue to operate that establishment, and the local control commissioners and the Board may annually renew the licenses in effect for that establishment on July 1, 2019. [Repealed.]~~

** * **

** * * Effective Dates * * **

Sec. 51. EFFECTIVE DATES

(a) Sec. 47 (special event permits) and Sec. 50 (repeal of manufacturer grandfather provision) shall take effect on July 1, 2020.

(b) All remaining sections shall take effect on July 1, 2019.