

1 Introduced by

2 Referred to Committee on

3 Date:

4 Subject: Alcoholic beverages; recreation and sports; Department of Liquor and
5 Lottery

6 Statement of purpose of bill as introduced: This bill proposes to make
7 technical corrections necessary to reflect the creation of the Department of
8 Liquor and Lottery from the merger of the Department of Liquor Control and
9 the State Lottery and the creation of the Board of Liquor and Lottery from the
10 merger of the Liquor Control Board and the Lottery Commission.

11 An act relating to technical corrections related to the creation of the
12 Department of Liquor and Lottery and the Board of Liquor and Lottery

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

14 Sec. 1. 3 V.S.A. § 455 is amended to read:

15 § 455. DEFINITIONS

16 (a) As used in this subchapter:

17 * * *

18 (9) “Employee” shall mean:

19 * * *

1 (B) Any regular officer or employee of the Department of Public
2 Safety assigned to police and law enforcement duties, including the
3 Commissioner of Public Safety appointed before July 1, 2001; but, irrespective
4 of the member's classification, shall not include any member of the General
5 Assembly as such, any person who is covered by the Vermont Teachers'
6 Retirement System, any person engaged under retainer or special agreement or
7 C beneficiary employed by the Department of Public Safety for not more than
8 208 hours per year, or any person whose principal source of income is other
9 than State employment. In all cases of doubt, the Retirement Board shall
10 determine whether any person is an employee as defined in this subchapter.
11 Also included under this subdivision are employees of the Department of
12 Liquor Control and Lottery who exercise law enforcement powers, employees
13 of the Department of Fish and Wildlife assigned to law enforcement duties,
14 motor vehicle inspectors, full-time deputy sheriffs compensated by the State of
15 Vermont whose primary function is transports, full-time members of the
16 Capitol Police force, investigators employed by the Criminal Division of the
17 Office of the Attorney General, Department of State's Attorneys, Department
18 of Health, or Office of the Secretary of State, who have attained Level III law
19 enforcement officer certification from the Vermont Criminal Justice Training
20 Council, who are required to perform law enforcement duties as the primary
21 function of their employment, and who may be subject to mandatory

1 retirement permissible under 29 U.S.C. § 623(j), who are first included in
2 membership of the system on or after July 1, 2000. Also included under this
3 subdivision are full-time firefighters employed by the State of Vermont and the
4 Defender General.

5 * * *

6 Sec. 2. 7 V.S.A. § 752 is amended to read:

7 § 752. DEFINITIONS

8 As used in this subchapter:

9 * * *

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

16 * * *

17 Sec. 3. 10 V.S.A. § 1524 is amended to read:

18 § 1524. LABELING

19 * * *

20 (b) The Commissioner of Liquor ~~Control~~ and Lottery may allow, in the
21 case of liquor bottles, a conspicuous, adhesive sticker to be attached to indicate

1 the deposit information required in subsection (a) of this section, provided that
2 the size, placement, and adhesive qualities of the sticker are as approved by the
3 Commissioner. The stickers shall be affixed to the bottles by the
4 manufacturer, except that liquor that is sold in the State in quantities less than
5 100 cases per year may have stickers affixed by personnel employed by the
6 ~~Department~~ Division of Liquor Control.

7 * * *

8 Sec. 4. 10 V.S.A. § 1528 is amended to read:

9 § 1528. BEVERAGE REGISTRATION

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

15 * * *

16 Sec. 5. 13 V.S.A. § 7043 is amended to read:

17 § 7043. RESTITUTION

18 * * *

19 (n)(1) Any monies owed by the State to an offender who is under a
20 restitution order, including ~~lottery~~ Vermont Lottery winnings, unclaimed
21 property, and tax refunds, shall be used to discharge the restitution order to the

1 full extent of the unpaid total financial losses, regardless of the payment
2 schedule established by the courts.

3 * * *

4 (4)(A) For all Vermont ~~lottery~~ Lottery games, the ~~Lottery Commission~~
5 Commissioner of Liquor and Lottery shall, before issuing prize money of
6 \$500.00 or more to a winner, determine whether the winner has an outstanding
7 restitution order. If the winner owes restitution, the ~~Lottery Commission~~
8 Commissioner of Liquor and Lottery shall withhold the entire amount of
9 restitution owed and pay it to the Restitution Unit. The remainder of the
10 winnings, if any, shall be sent to the winner. The winner shall be notified by
11 the Restitution Unit of the offset prior to payment to the victim and given a
12 period not to exceed 20 days to contest the accuracy of the information.

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

17 (C) If a ~~lottery~~ Vermont Lottery winner has an outstanding restitution
18 order and an outstanding child support order, the ~~lottery~~ Lottery winnings shall
19 be offset first pursuant to 15 V.S.A. § 792 by the amount of child support
20 owed, and second pursuant to this subsection by the amount of restitution
21 owed. The remainder of the winnings, if any, shall be sent to the winner.

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Sec. 6. 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.

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

5 Sec. 7. 15 V.S.A. § 1151 is amended to read:

6 § 1151. DEFINITIONS

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

9 * * *

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

16 * * *

17 Sec. 8. 18 V.S.A. § 9503 is amended to read:

18 § 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

19 * * *

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

1 * * *

2 Sec. 9. 18 V.S.A. § 9505 is amended to read:

3 § 9505. GENERAL POWERS AND DUTIES

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

6 * * *

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

10 * * *

11 Sec. 10. 18 V.S.A. § 9504 is amended to read:

12 § 9504. CREATION OF THE VERMONT TOBACCO EVALUATION AND
13 REVIEW BOARD

14 * * *

15 (b) The Board shall consist of 14 members, including ex officio the
16 Commissioner of Health and the Secretary of Education or their designees; the
17 Commissioner of Liquor ~~Control~~ and Lottery or designee; the Attorney
18 General or designee; a member of the House of Representatives appointed by
19 the Speaker of the House; a member of the Senate appointed by the Committee
20 on Committees; a member representing a nonprofit organization qualifying
21 under Section 501(c)(3) of the Internal Revenue Code and dedicated to anti-

1 tobacco activities appointed by the Speaker of the House; a member
2 representing the low-income community appointed by the Senate Committee
3 on Committees; two persons under ~~the age of 30~~ years of age, one appointed
4 by the Speaker of the House and one appointed by the Committee on
5 Committees; and four members appointed by the Governor with the advice and
6 consent of the Senate, including: one K-12 educator involved in prevention
7 education; one tobacco use researcher; one member representing the health
8 care community; and one tobacco industry countermarketing expert. The
9 public members shall serve for three-year terms, beginning on July 1 of the
10 year in which the appointment is made, except that the first members appointed
11 by the Governor to the Board shall be appointed, two for a term of two years,
12 one for a term of three years, and one for a term of four years. Vacancies shall
13 be filled in the same manner as the original appointment for the unexpired
14 portion of the term vacated.

15 * * *

16 Sec. 11. 18 V.S.A. § 9507 is amended to read:

17 § 9507. ANNUAL REPORT

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

21 * * *

1 shall maintain control until in his or her judgment the event no longer requires
2 coordinated action to ensure the public safety.

3 * * *

4 Sec. 13. 20 V.S.A. § 2351a is amended to read:

5 § 2351a. DEFINITIONS

6 As used in this chapter:

7 * * *

8 (3) “Law enforcement officer” means a member of the Department of
9 Public Safety who exercises law enforcement powers; a member of the State
10 Police; a Capitol Police officer; a municipal police officer; a constable who
11 exercises law enforcement powers; a motor vehicle inspector; an employee of
12 the Department of Liquor Control and Lottery who exercises law enforcement
13 powers; an investigator employed by the Secretary of State; a Board of
14 Medical Practice investigator employed by the Department of Health; an
15 investigator employed by the Attorney General or a State’s Attorney; a fish
16 and game warden; a sheriff; a deputy sheriff who exercises law enforcement
17 powers; a railroad police officer commissioned pursuant to 5 V.S.A. chapter
18 68, subchapter 8; or a police officer appointed to the University of Vermont’s
19 Department of Police Services.

20 * * *

1 Sec. 14. 20 V.S.A. § 2367 is amended to read:

2 § 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;
3 REPORTING

4 (a) As used in this section:

5 * * *

6 (2) “Law enforcement officer” means a sheriff, deputy sheriff, police
7 officer, Capitol Police officer, State game warden, State Police officer,
8 constable who exercises law enforcement authority pursuant to 24 V.S.A.
9 § 1936a and who is trained in compliance with section 2358 of this title, and a
10 certified law enforcement officer employed by a State branch, agency, or
11 department, including the Department of Motor Vehicles, the Agency of
12 Natural Resources, the Office of the Attorney General, the Department of
13 State’s Attorney, the Secretary of State, and the Department of Liquor Control
14 and Lottery.

15 * * *

16 Sec. 15. 20 V.S.A. § 2757 is amended to read:

17 § 2757. CIGARETTES; REDUCED IGNITION PROPENSITY

18 (a) As used in this section:

19 * * *

20 (8) “Wholesale dealer” means any person that sells cigarettes or tobacco
21 products to retail dealers or other persons for resale, and includes ~~any person~~

1 ~~that owns, operates, or maintains one or more cigarette or tobacco product~~
2 ~~vending machines wherever located. “Wholesale dealer” also includes the~~
3 dealer’s agent.

4 * * *

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

18 * * *

19 (e) A manufacturer shall provide a copy of certifications to all wholesale
20 dealers and stamping agents to which the manufacturer sells cigarettes and
21 shall provide sufficient copies of an illustration of the packaging marking

1 approved and used by the manufacturer pursuant to subsection (d) of this
2 section for each of the retail dealers that purchases cigarettes from any of those
3 wholesale dealers and stamping agents. Wholesale dealers and stamping
4 agents shall provide a copy of the illustration to all retail dealers to which they
5 sell cigarettes. Wholesale dealers, stamping agents, and retail dealers shall
6 permit the Commissioner of Public Safety or the Commissioner of Liquor
7 ~~Control~~ and Lottery or their designees to inspect markings on cigarette
8 packaging at any time.

9 (f) The Commissioner:

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

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

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

18 * * *

19 Sec. 16. 20 V.S.A. § 4621 is amended to read:

20 § 4621. DEFINITIONS

21 As used in this chapter:

1 * * *

2 (3) “Law enforcement agency” means:

3 * * *

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

5 * * *

6 Sec. 17. 21 V.S.A. § 494b is amended to read:

7 § 494b. EMPLOYERS PERMITTED TO REQUIRE POLYGRAPH
8 EXAMINATIONS

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

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

18 * * *

19 Sec. 18. 26 V.S.A. § 5305 is amended to read:

20 § 5305. EXEMPTIONS

21 (a) Generally.

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(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. 19. 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.

* * *

1 (2) “Fee”:

2 * * *

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

5 * * *

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

8 * * *

9 Sec. 24. 32 V.S.A. § 1003 is amended to read:

10 § 1003. STATE OFFICERS

11 * * *

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

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

8 (1) Heads of the following Departments and Agencies:

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

16 Sec. 25. 32 V.S.A. § 3102 is amended to read:

17 § 3102. CONFIDENTIALITY OF TAX RECORDS

18 * * *

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

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

3 * * *

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

8 * * *

9 Sec. 26. 32 V.S.A. § 3113b is amended to read:

10 § 3113b. LOTTERY WINNINGS; SATISFACTION OF TAX LIABILITIES

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

1 ~~lottery~~ Lottery winnings for taxes shall be third in priority to the offset of
2 ~~lottery~~ Lottery winnings to the Office of Child Support pursuant to 15 V.S.A. §
3 792 and the offset of ~~lottery~~ Lottery winnings for restitution pursuant to 13
4 V.S.A. § 7043.

5 Sec. 27. EFFECTIVE DATE

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

DRAFT