

VBA Testimony on H.313 (and H. 379)

Hello committee members, and thanks for giving me the time to speak today. I'm Avery Schwenk, co-owner of Hermit Thrush Brewery in Brattleboro and current President of the Vermont Brewers Association Board of Directors.

The Vermont Brewers Association is a nonprofit organization that was founded in 1995 to promote and strengthen the culture of craft brewing in Vermont through marketing, education and advocacy for Vermont made beer. The Association is comprised of 68 businesses that supports nearly 3,000 jobs and has an economic impact of \$362M on our state.

Sec. 4 of H. 3113 RE: Curbside Service. Although the VBA has not taken a formal position on this proposal, many members have expressed their support for this language.

As drafted, Section 4 would allow, 1st and 3rd class licensees (think restaurants) to sell drinks to go when accompanied by a food order, if authorized by the local control commissioners and the Board of Liquor and Lottery. This has been allowed during the pandemic and it has been a huge help to our struggling businesses. This system has worked well for many licensees and customers. We expect that one of the lasting effects of the pandemic will be more take-out meals and approving this language will help our restaurants to recover and thrive. I have though, heard concern voiced about beer quality in to-go containers, and some members have pointed out that current laws allowing for growlers sales meet the same need with a more stringent quality restriction.

This section would also allow 4th and 2nd class licensees (think brewery tasting rooms) to offer curb side service, if authorized by the local control commissioners and the Board of Liquor and Lottery. Again, this system has worked well for many licensees and customers during the pandemic and we expect some customers will continue to choose this kind of service into the future.

Sec. 5 of H.313 RE: Festival Permits. The VBA supports this language.

In 2019, the VBA and the DLL worked together to craft the festival permit language in H.313.

In 2019, this committee and the House passed H.13, which included identical festival permit language. The festival permit language did not make it through the Senate.

In 2020, this committee and the House passed H.965, which included identical festival permit language. The festival permit language did not make it through the Senate.

The language in H.313, that has twice passed the House, is intended to clarify the rules that apply to alcohol promotion festivals. These are not the same festivals as music festivals, food festivals...these rules are specific to events for which the primary purpose is to promote alcohol, think the Vermont Brewers Festival.

The alcohol limits were proposed by the DLL and agreed to by the VBA and other interested parties. These limits previously were included, on a case by case basis, in each festival permit. Establishing these limits in statute, provides notice and clarity for all parties involved.

RE: H.379 Direct Shipping. While I am here, I also want to mention another bill in your committee that is a priority for the VBA. H. 379 An act relating to a reciprocity requirement for out of state consumer shipping licenses, was just recently introduced.

This is a very timely bill, made more necessary by the pandemic and the corresponding increase in direct shipping of beer to consumers in Vermont. States regulate what alcohol can be shipped into their state. Currently, Vermont brewers can ship beer direct to consumers in only the handful of states that allow direct to consumer shipping of beer. On the other hand, Vermont law allows Vermont consumers to receive beer from many states. Example, Vermont law allows a Vermonter to receive beer shipped directly from a brewer in CA, but CA law prohibits a Vermont brewer from shipping beer directly to a consumer in CA. In response to this unequal playing field, Oregon law only allows an out-of-state brewer to ship directly to an Oregon consumer **only if an Oregon brewer can ship directly to the consumers in the out-of-state brewer's state.** H.379 is modeled after the Oregon law. H. 379 would allow an out-of-state manufacturer to ship directly to a Vermont consumer only if a Vermont manufacturer can ship beer to a consumer in that manufacturer's state. The bill aims to level the playing field and encourage more states to open their consumer markets to Vermont manufacturers.

Given the increasingly negative economic impacts to Vermont business with unrestricted direct-to-consumer shipments flooding the market, I would think this is a slam-dunk easy amendment for lawmakers to pass to level the playing field. A year delay will undoubtedly harm not just breweries, but wholesalers and distributors

PROPOSED LANGUAGE in H.313

§ 253. FESTIVAL PERMITS

(a) The Division of Liquor Control may grant a festival permit if the applicant has:

- (1) received approval from the local control commissioners;
- (2) submitted a request for a festival permit to the Division in a form required by the Commissioner at least 15 days prior to the festival; and
- (3) paid the fee provided in section 204 of this title.

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(b)(1) A festival required to be permitted under this section is any event that is open to the public for which the primary purpose is to serve one or more of the following: malt beverages, vinous beverages, fortified wines, or spirits.

(c) A festival permit holder is permitted to conduct an event that is open to the public at which one or more of the following are served: malt beverages, vinous beverages, fortified wines, or spirits.

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(d) The permit holder shall ensure the following:

(1) Attendees at the festival shall be required to pay an entry fee of not less than \$5.00.

(2)(A) Malt beverages for sampling shall be offered in glasses that contain not more than 12 ounces with not more than 60 ounces served to any patron at one event.

(B) Vinous beverages for sampling shall be offered in glasses that contain not more than five ounces with not more than 25 ounces served to any patron at one event.

(C) Fortified wines for sampling shall be offered in glasses that contain not more than three ounces with not more than 15 ounces served to any patron at one event.

(D) Spirits for sampling shall be offered in glasses that contain not more than one ounce with not more than five ounces served to any patron at one event.

(E) Patrons attending a festival where combinations of malt, vinous, fortified wines, or spirits are mutually sampled shall not be served more than a combined total of six U.S. standard drinks containing 3.6 fluid ounces or 84 grams of pure ethyl alcohol.

(3) The event shall be conducted in compliance with all the requirements of this title.