

Testimony from the Vermont Brewers Association
Senate Economic Development Housing and General Affairs Committee
RE: H.470 An Act Relating to Miscellaneous Amendments to Alcoholic Beverage Laws

April 26, 2023

Thank – you for the opportunity to testify this morning. My name is **Joe Lemnah**, owner of Burlington Beer Company and President of the Vermont Brewers Association. With me is **Emma Arian**, the Associate Director of the Vermont Brewers Association. Also in the room is **Jessica Oski**, with **Necrason Group**, the VBA’s lobbyist.

Craft beer is a significant driver of the Vermont economy. Vermont Brewers Association has 62 brewery members, employing 2,709 full time employees. The average wage in our industry is \$41,036 annually. Craft beer contributes \$40,625,509 to the Vermont economy annually, surpassing on-mountain revenue contributed by the ski industry. Vermont brews 387,820 barrels of craft beer annually and ranks 1st in the nation for beer brewed per capita. The Vermont craft beer industry draws tourists to Vermont and is critical part of our rural economy – with many craft breweries drawing customers to our very rural towns and village centers. Craft breweries are gathering places contributing to the rich fabric of our communities. We are grateful for the continued support and consideration from the Vermont legislature and Scott administration. Thank you.

We are here today to comment on H.470 – the miscellaneous alcohol bill. We will start by commenting on what is in the bill as passed by the House, then we will comment on proposals under consideration to be added to the bill, and finally we will present our request for a proposed amendment.

1. H.470 As Passed by the House

The VBA supports the provisions in H.470 as passed by the House.

2. Proposed Amendments to Address the Concerns of the Vermont Grape & Wine Council

The Vermont Brewers Association is happy to support reasonable proposals to address concerns of our craft beverage colleagues. Although we do not support adding the provisions of S.107 to H.470, **the VBA supports DLL’s compromise proposal to allow 4th class licensees to offer limited full pours.** S.107 erodes Vermont’s tied house laws. The VBA does not support any proposals that erode tied house protections. Because we know you are pressed for time, we will not spend time now discussing tied house, but we have outlined the VBA’s position on tied house at the end of our testimony. We would be happy to engage in a more robust conversation with you about tied house at another time.

The **VBA supports** the following DLL proposal:

§ 224. Fourth-class licenses

(a) The Board of Liquor and Lottery may grant up to a combined total of 10 fourth-class licenses to a manufacturer or rectifier that submits an application and the fee provided in section 204 of this title.

(b) At each licensed location, a fourth-class licensee may sell by the unopened container or distribute by the glass, with or without charge, alcoholic beverages manufactured by the licensee.

(1) A licensee may, for consumption at the licensed premises or location, distribute the following amounts of alcoholic beverages to a retail customer:

(A) not more than ~~two ounces of~~ an aggregate quantity of sixteen ounces of hard cider and malt beverages, and not more than an aggregate quantity of twelve ounces of vinous beverages, or ready-to-drink spirits beverages with a total of eight ounces; and

(B) no more than one-quarter ounce of spirits or fortified wine with a total of ~~one~~ two ounces.

(2) At a fourth-class license location at the licensee's manufacturing premises, the licensee may distribute by the glass up to four mixed drinks containing a combined total of no more than one ounce of spirits or fortified wine to each retail customer for consumption only on the licensed premises.

(3) At each licensed location, a fourth-class licensee may, pursuant to section 64 of this title, sell malt beverages or vinous beverages, or both, by the keg.

3. DLL's proposed amendments to Festival Permits

The VBA does not object to DLL's proposal to amend Festival Permits.

4. VBA Requested Amendment to 7 VSA §252 Special Events Permits

Currently, manufacturers are allowed 10 special event permits at the same location and each permit is good for 4 days – for a total of not more than 40 days/year at the same location. **We would like the statute to be changed to allow for special event permits at the same location for up to 40 days per year (remove the 10 for 4 days specification).**

Why? Many special event are only one or two days. For example, a manufacturer may hold a special event one day a week at a weekly town event, e.g Movie Night on the Green. Or maybe one weekend a month for two days, e.g First Weekend Art Gallery Hop. Under the current scheme, they would only be allowed to do this on 10 occasions, regardless of the fact that the event was only for one or two days. We believe our proposal is consistent with the intent of current law and better reflects the reality of special events for manufacturers.

Proposal:

§ 252. Special event permits

(a)(1) The Division of Liquor Control may issue a special event permit if the application is submitted to the Division of Liquor Control with the fee provided in section 204 of this title at least five days prior to the date of the event.

*(2) A **Each** special event permit shall be valid for ~~the duration of each public event or four days, whichever is shorter~~ **one day**.*

(b)(1) A special event permit holder may sell alcoholic beverages manufactured or rectified by the permit holder by the glass within the event boundaries or the unopened bottle.

(2) For purposes of tasting, a special event permit holder may distribute beverages manufactured or rectified by the permit holder with or without charge, provided the beverages are distributed:

(A) by the glass; and

(B) in quantities of not more than two ounces per product and eight ounces total of malt beverages, vinous beverages, or ready-to-drink spirits beverages and not more than one ounce in total of spirits or fortified wines to each individual.

*(c) A licensed manufacturer or rectifier may be issued not more than ~~10~~ **40** special event permits for the same physical location in a calendar year.*

VBA POSITION - PROTECT AND UPHOLD EXISTING TIED HOUSE LAWS

The VBA supports the interpretation of Vermont law that allows a manufacturer to be granted a first-class license or a first- and a third-class license permitting the manufacturer to sell alcoholic beverages to the public **ONLY** at an establishment located on the premises of the licensed manufacturing facility or on or land contiguous to the licensed manufacturing facility.

The VBA opposes any proposal to allow a manufacturer to receive a first-class license or a first- and a third-class license permitting the manufacturer to sell alcoholic beverages to the public at **one** or more locations that are **not** located at the licensed manufacturing facility or on or land contiguous to the **licensed manufacturing facility**.

What is a “tied house?” A tied-house is any retail outlet (store, bar or restaurant) that is owned by (or otherwise beholden to) an alcohol manufacturer. Prior to Prohibition large alcohol manufacturers often would provide retailers with low-interest loans, free draft systems, and even direct payments in exchange for favorable or monopolistic treatment from that retailer. In some cases, a manufacturer might own a number of retail outlets in a town and those outlets would sell only that manufacturer’s product. The result of tied houses is a decrease in competition and consumer choice. After Congress repealed Prohibition in 1933 through the Twenty-First Amendment, every state enacted some version of laws designed to prohibit and minimize tied-houses. The most fundamental purpose of tied house laws was and remains the **preservation of the three-tier system**. This system is the marketing structure in

which alcoholic beverages are sold by manufacturers to wholesalers, and by wholesalers to retailers. Supplier, wholesaler, and retailer are the three tiers.

Why does the VBA care? The craft beverage industry is thriving in Vermont – creating jobs, generating tax revenue, supporting rural economic development and bringing tourist into the state. The industry has been able to grow and thrive with the support of the legislature and nimble and targeted changes to alcohol laws, including deliberate adjustments to tied-house laws. Over the years, the legislature has intentionally created opportunities for manufacturers to establish their own distribution companies, open tasting rooms, open tap rooms on their premises, sell at farmers’ markets, etc. Vermont’s three-tier and tied house statutes have evolved, but holding the line between the three tiers and the prohibition on tied houses has remained constant and has served our industry well.

Why does the VBA oppose allowing manufacturers to open bars that are not located at their manufacturing facility?

- Vermont’s craft beverage industry has emerged, grown and thrived under the current legal framework – one that prohibits manufacturers from owning bars and restaurants unless they are located at their manufacturing facility.
- If every alcohol manufacturer was allowed to open a bar or restaurant that is OFF the premises of the manufacturing facility, the demographics of craft beverage industry would change dramatically.
- Instead of drawing tourists and visitors to rural communities to tour and sample craft beverages, manufacturers would be pressured to open establishments in population centers.
- Competition in the population centers would be fierce, and many small manufacturers would not be able to survive. **This would undermine the current robust craft beverage industry and would be a disincentive to rural economic development.**

*** END ***