

VTFSC Testimony on S.131
Senate Government Operations Committee
April 17th, 2025

Please allow me to quickly summarize the severe issues with this bill:

- 1) In passing an Ordinance and then passing a Resolution on November 18th, 2024, Burlington appears to have broken the law specified by 24 VSA 2295.
- 2) As opposed to proposing a bill to amend 24 VSA 2295 through a clean legislative process, this bill blatantly attempts to circumvent it, when the language of 24 VSA 2295 seems to specifically prohibit that circumvention and has stood for 37 years.
- 3) If this bill passes, we would be killing 24 VSA 2295 without ever directly amending it or repealing it. There can be no question that other municipalities may be incentivized to follow Burlington to create their own carve outs, thereby creating the exact situation that Dillion's Rule avoids: **A patchwork of differing firearm laws that will entrap innocent citizens as they travel across Vermont.**
- 4) In creating the ballot item for Question 5, as well as the wording of the ordinance itself, Burlington clearly did not do the due diligence to consult any Constitutional lawyer(s). They thereby created an ordinance that our own Legislative Counsel has suggested is "Constitutionally vague" to such an extent that it required corrections.
- 5) In promoting that ballot item, it was repeatedly advertised as "No Guns in Bars," which is most probably what the voters thought they were voting for, when this bill is far more expansive than just guns in bars.
- 6) With the language of the bill being referred to as "constitutionally vague," a logical conclusion might be that the ballot item itself was also "constitutionally vague," again raising the specter that the voters may not have understood this poorly written bill and ballot item.
- 7) In attempting to "clean up" this bill, the committee requested clarity from Burlington as to what was truly intended. If this body must ask those questions so that we understand what was intended because what was written was not clear, would this not also be an indication that the voters might have similar uncertainty?
- 8) Through all this "vagueness:" Is this committee or this legislature going to now try and interpret what the voters really wanted when it should have been clear in the

VTFSC Testimony on S.131
Senate Government Operations Committee
April 17th, 2025

first place?

- 9) In the “normal” course of events, Charter Changes always originate in the House, where there is a broader representation of Vermont, yet this bill was submitted into this committee. Why?
- 10) When there is a law on the books that addresses the “guns in bars” issue today, and that law is apparently already being successfully used by some Burlington Liquor establishments, why do we even need another law, and were the voters even aware that this other existing law was available and already being used?
- 11) It should be clear to everyone that this bill touches on constitutional and legal issues that are typically examined by the Judiciary Committees. Currently, we have no indication that the Judiciary will look at this when this seems logical.
- 12) Within the list of Liquor License holders in Burlington, there are 6 hotels, places like the Courtyard Marriot, Hilton Garden and Hotel Champlain. If the definition of premises is what a dictionary and existing statute define it to be, then that includes all building and lands of the hotel. Has the effect this ordinance on travelers been considered, and were the voters aware of this consideration?

Ideally: We should first have a legislative discussion about 24 VSA 2295, with a bill brought forward to amend or repeal it. What is occurring now is that Burlington broke the law without penalty; they are attempting to be the tail that wags the dog through questionable actions, a constitutionally vague bill, and what is likely to be a constitutionally vague ballot item. If it is so critically important to whittle down a law that has been embraced by most of the States and has served Vermont for 200 years without strong supporting evidence of the need to change it – then a clean democratic process is required, and this is not it.

The process leading up to this bill was tainted if not outright illegal; the creation of the ballot item and bill were, at best, poorly written; and with all that plus the constitutional vagueness – Burlington needs to do this again, but right.

Given the above, we are in a state of disbelief that this bill, with what we know right now, is not dead already, or that there is a vote scheduled for tomorrow.

VTFSC Testimony on S.131
Senate Government Operations Committee
April 17th, 2025

VTFSC Testimony on S.131
Senate Government Operations Committee
April 17th, 2025

24 VSA 2295 – Dillion’s Rule

I ask the committee to consider the wording of [24 VSA 2295](#), Vermont’s preemption statute, a statute which codifies Vermont as being a Dillion’s Rule state.

“Except as otherwise provided by law, no town, city, or incorporated village, by ordinance, resolution, or other enactment, shall directly regulate hunting, fishing, and trapping or the possession, ownership, transportation, transfer, sale, purchase, carrying, licensing, or registration of traps, firearms, ammunition, or components of firearms or ammunition.”

On November 18th, 2024, the Burlington City Council passed a Resolution to ban guns in bars and they also adopted the wording of an ordinance to Ban guns in bars.

From the perspective of the “common man”, both of those actions seem to not be allowed per [24 VSA 2291](#) and 24 VSA 2295; a law that has been in the books for 37 years.

In addition: The ordinance is also in violation of [24 VSA1971](#), which states that a municipal ordinance cannot have both civil and criminal penalties, which this Charter Change specifies, when that law has been on the books for 56 years.

That is three existing state statutes that have served Vermont very well which are now being set aside by Burlington. While we note that the Charter Change exempts itself from 24 VSA 2291 and 2295 – it is in error as it does not also exempt itself from 24 VSA 1971.

There are 31 states which are Dillion’s Rule states, 10 are “home rule” states, with the 9 other states applying Dillion’s Rule in differing ways. Clearly: Most states see value in Dillion’s Rule, just as Vermont did and at least currently, still does.

Burlington’s Charter Change

As a result of the questionable actions by the Burlington City Council, an item was placed on the Town Meeting ballot for Burlington. It was titled:

BAN ON FIREARMS IN ANY ESTABLISHMENT WITH A LIQUOR LICENSE

In the substance of the ballot item, the Bill was to be entitled as:

VTFSC Testimony on S.131
Senate Government Operations Committee
April 17th, 2025

BAN ON FIREARMS IN ANY ESTABLISHMENT WITH A FIRST-CLASS LIQUOR LICENSE

We have heard from Legislative Counsel that this title was “constitutionally vague” in that the substance of what passed applied to any establishment licensed to serve alcohol on premises, which was not consistent with the first-class liquor license within the title. To address this vagueness issue, the Legislative Counsel suggested that the title be changed to:

BAN ON FIREARMS IN PREMISES LICENSED TO SERVE ALCOHOLIC BEVERAGES

If clarification were needed on how the ballot item was titled after consideration of the substance of that ballot item, why wouldn't the whole ballot question also be considered to be “unconstitutionally vague?”

When portrayed in the media, this Charter Change initiative was repeatedly billed as being “no guns in bars.” This bill however is not just “no guns in bars,” this bill is far more expansive.

What did the voters understand when they voted for this? Did they think it would include Class 2 license holders to include grocery stores and mini marts? Did they think it was only bars? Did they know that this would affect restaurants as well? Did they know it would include hotels? Many of us here had to educate ourselves on the various classes of License Licenses: Is it reasonable to expect that Burlington citizens understood them when the term “constitutionally vague” has been used?

We do understand that 86.65% of the Burlington voters who voted in their Town Meeting voted for this bill for a total of 8,335 YES votes. For the record: In the 2025 Burlington Town Meeting vote only 33% of the registered voters bothered to vote, with 19,129 not voting.

Certainly, it is within the realm of reason that some significant percentage of voters that did vote thought that this would be JUST guns in bars. It is entirely likely that many voters were unaware that this bill would affect any other locations, and it is equally likely that most were unaware that another alternative law already existed (such as [13 VSA 3705](#)), which we believe we understand is already successfully being used by some Burlington liquor establishments.

VTFSC Testimony on S.131
Senate Government Operations Committee
April 17th, 2025

Using data from the Vermont Department of Liquor Control, and setting aside Class 2 and even Class 4 licenses, we understand that there are approximately 413 Liquor Licenses in Burlington which include:

- **152** First-Class Restaurant/Bar Licenses
- **118** Third-Class Restaurant/Bar Licenses
- **117** First-Class Outside Consumption Permits
- **6** First-Class Hotel Licenses, including:
 - Courtyard Marriot
 - Hilton Garden Inn
 - Hotel Champlain Burlington
- **20** Other assorted First- or Third-Class Licenses

In considering that list, and setting aside any incredulity that Burlington did not immediately have those numbers available, if a traveler comes thru Burlington and opts to stay the night at one of the 6 Burlington hotels, and they happen to have firearms either on their person or in their vehicle – they would be criminals - even if they never drank at all, never went into any bar or restaurant, and were quite literally just passing through.

When Burlington attempted to pass several ordinances concerning firearms previously, the VTFSC made a Public Records Request asking for all documents concerning that process. As a result: The VTFSC uncovered a number of interesting discussions, but one in particular interaction was stunning.

That exchanged was between the Chair of the Charter Change Committee and the City Council President, where the Committee Chair complained that every time she had a Charter Change Meeting on the topic of guns, a large number of “gun people” would show up. The Chair asked the President if she could hold those meetings during the day, to **“keep the crowd down,”** with the President condoning the idea, and the Committee meeting schedule reflecting day meetings almost entirely from then on.

To coin a phrase: “Liberties were taken” when Burlington first started its attack on 24 VSA 2295 over 10 years ago. It was a tainted process then just as it is a tainted process now.

VTFSC Testimony on S.131
Senate Government Operations Committee
April 17th, 2025

Existing Laws

As was mentioned in testimony on Tuesday, there are existing bars in Burlington that sell alcohol who have already addressed the issue of firearms at their establishments. The rule of law that they can and have used is [13 VSA 3705](#) – Vermont’s No Trespass law.

Per that law and should the owner / operator choose to post their property to not allow firearms: If an un-authorized person is discovered to have a firearm, anyone could call the police to intercede. When the police interceded, 13 VSA 3705 allows the officer to use discretion: They are empowered to immediately interact with the person involved by telling them that they must immediately remove the firearm from that location, with failure to immediately comply resulting in their arrest. Of course, if a person does anything untoward with their firearm – we have at least 9 laws addressing those actions already:

| Description | Statute |
|------------------------------------|-------------|
| Simple Assault | 13 VSA 1023 |
| Aggravated Assault | 13 VSA 1024 |
| Reckless endangerment | 13 VSA 1025 |
| Criminal Threatening | 13 VSA 1702 |
| Carrying with intent to Injure | 13 VSA 4003 |
| Carrying While Committing a Felony | 13 VSA 4005 |
| Negligent use | 13 VSA 4009 |
| Aiming at another | 13 VSA 4011 |
| Extreme Risk Protection | 13 VSA 4053 |

Why do we need another law, when we already have an existing law that is successfully being used in Burlington?

Other State’s Laws

You have heard that there are several states have laws that ban guns in bars, including states like Texas and Florida. [Everytown for Gun Safety](#) lists 15 such states.

What you need to know about those other state laws is:

- Concealed Carry licenses are typically exempted,
- Some laws make a distinction between whether you are drinking or not,
- Some laws only pertain to that part of the establishment which is a “bar” while not pertaining to the portion which is a restaurant, and

VTFSC Testimony on S.131
Senate Government Operations Committee
April 17th, 2025

- Some laws only apply depending upon the percentage of the establishment's revenue that is based on alcohol sales.

We believe that it is important to understand those nuances when it has been stated that “15 other states have laws that ban guns in bars”. We also suggest that some of those provision be examined for inclusion in this bill, assuming the committee is comfortable in interpreting the will of the voters.

Other Issues

On the first day this bill was introduced to the committee, there arose a question as to why this bill was introduced into Senate Government Operations. It was a great question given that historically: All Charter Changes are first vetted in the House Government Operations Committee. There are good reasons for this, as a wider cross-section of Vermont is represented, which is critically important when considering something like Dillion's Rule.

When Burlington last tried to backdoor 24 VSA 2295, the House Committee on Government Operations decided not to move it for several reasons, with the violation of 24 VSA 2295 taking a central focus, and to a lesser degree Constitutional concerns. Perhaps that explains why this bill was started in the Senate: Were there no representatives from Burlington that would do it?

To move forward regardless, we believe it will need some exceptional fixing, with a brief list of the problems needing to be addressed being:

- **Drunks with Guns**

The core of this bill is attempting to address people who get drunk and who have a firearm when we know that not everyone who may enter an establishment where alcohol is served will drink to excess.

This bill addresses locations and not behavior. I think we all might agree that a person who is drunk should not be carrying a firearm – so instead of a law like this – shouldn't we be looking at a law that attempts to control that behavior, which could then span all sorts of locations?

VTFSC Testimony on S.131
Senate Government Operations Committee
April 17th, 2025

- **“Premises”**

The Cambridge Dictionary defines “premises” as: “***the land and buildings owned by someone, especially by a company or organization.***”

9 VSA 4451(6) provides the following definition: “***Premises***” means a dwelling unit, its appurtenances and the building, and the grounds, areas, and facilities...”

We believe vagueness remains with the new language of (b), as it would seem one would be “in” the premises if one was standing in an establishment’s parking lot.

- **Unbelievably Expansive**

This bill cuts an incredibly wide swath regarding affected establishments and property (i.e. premises), encompassing:

- Restaurants,
- Hotels,
- Parking lots?
 - Firearms cannot be left in a vehicle in the parking lot?

- **No Signage Requirement**

- Today in Vermont, we are still encountering people who are not aware that there is a 72-hour waiting period or a high-capacity magazine ban.

Without any required signage, how would an uninformed Vermonter or tourist even know they might be breaking the law when municipal lines are not clearly marked?

Consider the Wayside Restaurant and assume that Berlin passed such an ordinance. The Wayside’s parking lot spans the municipal line between Montpelier and Berlin. Is it reasonable to have an innocent party unwittingly become a criminal – just because of where they parked?

- **Inside versus Outside**

Legislative counsel was quite clear in stating that as of now, today, under the current jurisprudence of the 2nd Circuit, guns can be banned IN bars, and he provided language that exempted outside areas.

VTFSC Testimony on S.131
Senate Government Operations Committee
April 17th, 2025

The proposed language of 3.1, as reinforced by the testimony of Burlington on Tuesday, has been changed to fly in the face of Legislative Council's Constitutional recommendation.

- **Completely Ineffective without Screening**

- To be effective at ensuring compliance for anyone entering the establishment, expensive screening equipment like magnetometers and Xray machines would have to be employed, in addition to personnel who are trained in screening.
- Isn't it common sense to require such screening to keep people safer if that is the desired goal?

- **Forfeiture**

We are incredibly pleased to see this section removed and are grateful that the committee has the ability to interpret that this is removal is also what the voters really intended.

- **Owner's liability**

- Nothing in this bill exempts an owner / operator from failing to stop a person entering their establishment with a firearm. If someone DID smuggle a firearm in and then used it in an illegal fashion, why wouldn't the owner / operator be held in some way responsible for failing to prevent it?
- And what about the parking lot itself? This bill makes the owner / operator responsible for someone having a firearm in their car?

- **Vulnerability of Employees, Patrons, Security Personnel and Vendors**

- This bill is written to only allow "*the holder of the license for the premises*" to have a firearm. According to the data we have seen from VDLC, we believe that most licenses are issued to business names, with that business having a contact person. If I am correct and the License is a business name, would that mean no one at all could have a firearm, or the business owner of record, its partners or shareholders?
We believe the intent was to be a person, and the previous language stated, "owner or operator", which is what I would believe the voters voted for.
- All workers at that establishment would have to come to work disarmed and then leave to go home disarmed, some late at night, some possibly having to

VTFSC Testimony on S.131
Senate Government Operations Committee
April 17th, 2025

make security deposits, with no provision for vendors or armed security personnel.

- In trying to think like a criminal, we believe that criminals want victims, they do not want adversaries. We believe that people who are inclined towards criminal behavior might look at people coming out of establishments that sell liquor as “easy prey”, because there would be a high probability that those folks are unarmed.

Summary

The Federation understands that the irresponsible consumption of alcohol impairs good judgment, and we agree that the irresponsible consumption of alcohol and the carrying of firearms has no place. The same is true for alcohol and driving. Yet, in considering alcohol and driving, we have the concept of a “designated driver” who stays sober to ensure the safety of their friends, with the ability to measure the level of impairment. Certainly: It is a safe bet that almost everyone in this room has consumed some small amount of alcohol and then driven a vehicle knowing they were not truly impaired.

Many Vermonters choose to regularly carry firearms, or otherwise have them nearby, and these firearms provide the means to self-defense. What a law such as this does is discriminate, as it discriminates against honest and law-abiding citizens who chose to carry for self-defense; people who we should not have any concern about whatsoever as they obey the law. And because they will obey – we disarm them?

24 VSA 2295 makes us a Dillion’s Rule state, and it has served the State of Vermont exceptionally well. By adhering to that Rule – we avoid creating a patchwork of conflicting laws that can only serve to entrap innocent Vermonters and tourists who are unaware of city lines or laws that have constitutional questions.

As one of the committee members stated, and I paraphrase: “With all the money Burlington has, why couldn’t they get a constitutional lawyer?” Spot on Senator Clarkson.

Why are we dealing with a Charter Change that was the result of a Constitutionally vague Burlington Ballot item?

Would a smartly written bill require the need to question its intent on several points?

VTFSC Testimony on S.131
Senate Government Operations Committee
April 17th, 2025

In changing this or that due to whatever reasons, how far away does this become from what the voters thought they voted for?

If we want to change what 24 VSA 2295 does, then let's have that discussion with a bill that addresses changing that statute in whatever fashion, as that is what would be more "fair", straight-forward and more in keeping with a democratic process that clearly has bearing on constitutional issues.

Put this on the wall and make Burlington do it right.