



State of Vermont
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Patrick Delaney, Commissioner

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December 8, 2017

Vermont State House
115 State Street
Montpelier, VT 05633

To the Honorable:
Senate Judiciary Committee,
Senate Economic Development, Housing & General Affairs Committee,
House Judiciary Committee,
House General, Housing & Military Affairs Committee

Honorable Committee Members:

Pursuant to Act Number 83 Section 162 (2017), I have reviewed and evaluated the adequacy of all the provisions in Title 7 that contain a penalty or a fine. Based on that review I have determined that many of these provisions are inadequate, and should be updated to more effectively deter the prohibited conduct. Attached to this cover letter is my report which contains my findings and recommendations for legislative action to address the present statutory shortcomings.

I look forward to working with you during the upcoming legislative session to explore and address these important issues.

Sincerely,

A handwritten signature in blue ink that reads "Patrick Delaney". The signature is fluid and cursive, with the first and last names clearly legible.

Patrick Delaney, Commissioner
Department of Liquor Control



**REPORT TO THE LEGISLATURE
REGARDING ACT 83, SECTION 162 (2017)
REVIEW OF TITLE 7 FINES & PENALTIES**

**Submitted to the
House Judiciary Committee
Senate Judiciary Committee
House General, Housing & Military Affairs Committee
Senate Economic Development, Housing & General Affairs Committee**

Department of Liquor Control

December 11, 2017

Introduction

During the 2017 legislative session Act 83 relating to the modernization and reorganization of Title 7 became law. This was the first comprehensive re-write of this chapter since the end of prohibition on alcohol in 1933. While Title 7 was modernized and reorganized a decision was made not to burden the process with substantive changes as that was deemed outside the scope of the 2016 legislative mandate that brought this process into motion. The legislative committees who worked on Act 83 recognized that there was a pressing need to update substantive provisions of Title 7 and so in Section 162 of the Act required that the Commissioner of the Department of Liquor Control conduct a review of the adequacy and effectiveness of all fines and penalties contained in Title 7. The objective of this review is to determine if the existing fines and penalties should be amended to improve their efficacy. Section 162 further directed the Department to prepare a written report regarding the findings of the review on or before January 15, 2018.

I have examined all the applicable sections and have highlighted the corresponding penalties and fines in yellow for ease of review. I have recommended changes where the existing sanction are inappropriate. The green highlighted areas reflect recommended language changes to Title 7. The review is being submitted in both Word and Excel to facilitate the review.

Fine and Penalty Review with Recommendations

§ 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 Liquor Control Board. A person importing or transporting or causing to be imported or transported into this State any spirits and 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, or both.

The current jail sentence in this case is a sufficient deterrent to illegal importation.

I would recommend however that the maximum fine be increased to \$5,000.00.

There has been a recent increase in the number of instances where organized bootleggers have used Vermont as a route to market in New York. The DLC compliance and enforcement team has recorded three smuggling interventions and confiscated over \$80,000 worth of distilled spirits purchased in New Hampshire and in route to the New York City metropolitan area in the last 6 months. The current monetary fine of \$1,000.00 is an insufficient deterrent to this scale of activity.

(b)(1) Except as provided in sections 66 and 68 277, 278, and 283 of this title, all malt or vinous beverages, or both, imported or transported into this State shall be imported or transported by and through a wholesale dealer holding the holder of a wholesale dealer's license issued by the Liquor Control Board. A person importing or transporting or causing to be imported or

transported into this State any malt or vinous beverages, or both, in violation of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

*The current jail sentence in this case is a sufficient deterrent to illegal importation.
The current fine in this case appears to be a sufficient deterrent.*

The Department has had only one incident of illegal importation of wine, which accompanied one of the distilled spirits traffic stops. The financial incentive for smuggling beer and wine is much lower than distilled spirits due to lower retail prices and smaller profit margins in selling smuggled goods. I would recommend leaving the penalty as written.

Sec. 9. 7 V.S.A. § 64 is amended to read:

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

(c) Any person, other than the wholesaler 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.

The jail sentence in this case does not appear to consistent with the seriousness of the infraction. I feel that it is too severe for what appears to be a property damage issue. The legislature decreased the amount of time that a customer may hold on to an empty keg to 60 days before returning to a retailer in the 2017 session to address the financial impact to producers of non-returned kegs.

I would recommend decreasing the potential jail sentence to one year and maintain the monetary fine at \$1,000.

§ 67. POWDERED ALCOHOL PRODUCTS

(a) It shall be unlawful for a person to knowingly possess or sell a powdered alcohol product.

(b) A person that knowingly and unlawfully possessing possesses a powdered alcohol product shall be fined not more than \$500.00.

The word "possessing" needs to be changed to "possesses."

This fine appears to be appropriate for the possession of powdered alcohol by a private citizen. The substance is very dangerous and should be recognized accordingly. There is no jail sentence involved so the monetary fine needs to be a deterrent.

(c) A person that knowingly and unlawfully sells a powdered alcohol product shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.

This incarceration period and fine appear to be appropriate to address the seriousness of this infraction. This level of penalty and fine collectively provide a strong message and deterrent to discourage the commercial sale and distribution of this dangerous substance.

§210. SUSPENSION OR REVOCATION OF LICENSE OR PERMIT; ADMINISTRATIVE PENALTY

(b)(1) As an alternative to and in lieu of the authority to suspend or revoke any permit or license, the liquor control board Liquor Control Board shall also have the power to impose an administrative penalty of up to \$2,500.00 per violation against a holder of a wholesale dealer's license or a holder of a first first-, second, or third class third-class license for a violation of the conditions under which of the license was issued or of this title or of any rule regulation prescribed by the liquor control board Liquor Control Board.

I would propose that we remove in the alternative to or in lieu. I propose that the Board should be able to suspend a license and impose a penalty for any violation.

Remove the redundant liquor control board and third - class mention.

This fine has been an effective tool for the Board to use at its discretion to penalize licensees who have been negligent in enforcing the Department's rules and regulations and Vermont law. It is worth noting that the Board may and has exercised this discretion for each infraction on the part of the licensee.

I also think that the penalty should have a maximum of \$7,500.

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

The administrative penalty reflects a change to Title 7 that was initiated at the request of the Department. Historically, there was no fine associated with a first infraction of selling tobacco to a minor. We felt that a free pass on the first infraction does not reflect the seriousness of the infraction or our mission of decreasing access to children of retail tobacco products. It is still not possible to suspend a retailer's tobacco license for the first offense.

We feel that a \$100.00 administrative fine is an appropriate starting point to reinforce our message that this infraction is serious and that the opportunity to retail tobacco is a privilege and must be treated as such. I think we should up this to a maximum of \$250.00 and use our discretion in applying it or issue tickets for \$100.00 and if it goes to hearing have the possibility of \$250.00

The Department appreciates the discretion to treat repeat offenders with the expanded fine structure of up to \$2,500. This fine range will help the Department ensure that retailers share

our sense of importance in checking IDs and minimizing exposure to minors of this highly addictive substance.

§ 255. RETAIL ALCOHOLIC BEVERAGE TASTING PERMITS

(e) The holder of a permit issued under this section that provides alcoholic beverages to a minor or permits an individual under 18 years of age to serve alcoholic beverages at a tasting event under 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.

This fine is appropriate for the seriousness of this infraction and provides the Board with adequate and appropriate discretion to levy fines on a case by case basis. This penalty structure is consistent with other similar infractions in section 658.

§ 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 or imprisoned not more than one year, or both, for each offense and shall forfeit any license issued under the provisions of this title.

The \$300.00 amount of this fine would not be an effective deterrent to someone weighing the financial incentive for violating law. I believe that the jail penalty is sufficient.

I would recommend raising the maximum fine to \$750.00

§ 275. SOLICITOR'S LICENSE

(d) A person who solicits orders for, or promotes the sale of malt or vinous beverages, or attempts to solicit or promote the sale of malt or vinous beverages 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.

This penalty appears to be adequate to serve as an effective deterrent to not registering as a beer and wine solicitor with the State.

The \$10,000 question here is why does the statute not require solicitors of distilled spirits to register as well. In the relative scheme of the beverage alcohol business solicitors of distilled spirits are selling a product that is recognized to present more serious consequences than the lower alcohol products of beer and wine. The department would like to see this requirement expanded to solicitors of distilled spirits held to the same standard. The projected increase in

licensing revenue would be \$10,000. More importantly requiring licensing will provide the Department with a control point should a solicitor fail to follow the rules.

§ 281. PROHIBITIONS

(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 or imprisoned not more than one year, or both.

The potential penalty of \$1,000 in this case is not significant enough to provide a deterrent to discourage direct shipments of beverage alcohol products into the state by a person without a license to do so.

I recommend that the range be extended to a maximum penalty of \$2,500.00 to address the potential for commercial importation and the potential margins that may exist for large quantity shipments of high margin products.

(b) The holder of a license issued pursuant to section 277 or 278 of this title or a common carrier that ships malt or vinous beverages to an individual under 21 years of age shall be fined not less than \$1,000.00 or more than \$3,000.00 or imprisoned not more than two years, or both.

This penalty appears to be adequate to focus attention on this requirement and to encourage consistent policies and procedures by commercial shippers to check requiring ID when delivering beverage alcohol to private citizens and commercial establishments.

§570. FORFEITURE AND CONDEMNATION OF SEIZED VEHICLE OR CRAFT

(b) The same proceedings shall be had as with respect to the liquor alcoholic beverages or alcohol and the vehicle and team or automobile, motor vehicle, boat, air or water craft, or other conveyances as would be had if malt or vinous beverages, spirits, or fortified wines had been seized, except that if the vehicle and team, or automobile, boat, air or water craft, or other conveyance, shall be finally is adjudged forfeited and condemned the same, it shall, upon the written order of the magistrate court, shall be sold at a public sheriff's sale for the benefit of the State.

The highlighted language should be modernized

This penalty is appropriate for dealing with illegal importation issues.

This section, however, is not consistently enforced by Vermont State's Attorneys who are empowered to make these decisions when seizures occur within their jurisdictions. In the three interventions that occurred in Vermont in the past six months all the vehicles were returned to

their owners for re-use in the same activities. This an issue that should be addressed by the House and Senate judicial committees. It is not an effective deterrent if the law is not enforced.

§ 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. Army 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.

This financial penalty is appropriate for the seriousness of the infraction.

I would recommend that the minimum sentence be removed and left to the discretion of the court to implement as they see fit based on a case by case basis and the specific nature of the infraction.

§ 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, malt or vinous beverages or spirituous liquor alcoholic beverages, or alcohol which 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 nor less than \$100.00, or both.

I recommend increasing the monetary penalty to a maximum of \$2,500.00 to reflect the seriousness of the infraction.

I would recommend maintaining the minimum sentence to serve as a deterrent to smugglers.

§ 655. BARTER

(a) A licensee or permittee who shall be imprisoned not more than 12 months nor less than six months or fined not more than \$1,000.00 nor less than \$300.00, or both, if the licensee or permittee: (1) purchases or receives wearing apparel, tools, implements of trade or husbandry, household goods, furniture, or provisions, directly or indirectly, by way of sale or barter, the consideration of for which is, in whole or in part is, malt or vinous beverages or spirituous liquor alcoholic beverages or alcohol or the price thereof, of the alcoholic beverages or alcohol; or

The penalties in this case appear to be incongruent. The monetary fine range appear to be somewhat insignificant and the jail term appears to be overly punitive.

I recommend that the fine range be increased to a minimum of \$500.00 and maximum of \$1,500.00 and the jail term be revised to between 30 days and six months. This fine range would be more relevant, and the jail range would also continue to be an effective deterrent.

(2) receives such article apparel, tools, implements of trade or husbandry, household goods, furniture, or provisions in pawn for such beverage or liquor alcoholic beverages or alcohol or the price thereof, shall be imprisoned not more than twelve months nor less than six months or fined not more than \$1,000.00 nor less than \$300.00, or both of the alcoholic beverages or alcohol.

The penalties in this case appear to be incongruent. The monetary fine range appear to be somewhat insignificant and the jail term appears to be overly punitive.

I recommend that the fine range be increased to a minimum of \$500.00 and maximum of \$1,500.00 and the jail term be revised to between 30 days and six months. This fine range would be more relevant, and the jail range would also continue to be an effective deterrent.

§ 658. SALE OR FURNISHING TO MINORS; ENABLING CONSUMPTION BY MINORS; MINORS CAUSING DEATH OR SERIOUS BODILY INJURY

(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 contracted 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:

These penalties appear to be appropriate for the seriousness of the offense.

(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 for a second violation that occurs more than one year after the first violation.; and

I would increase the fine to a maximum of \$1,000.00 for the second offense.

(B) shall be subject to the criminal penalties provided in this subsection 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.

These penalties appear to be appropriate for the seriousness of the offense for the first two occurrences. I recommend doubling the minimum fine to \$200 and the maximum fine to \$2000 for a third occurrence within three years.

(d) A person who violates subsection (a) of this section, where the person under the age of 21 years of age, while operating a motor vehicle on a public highway causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

These penalties appear to be appropriate for the seriousness of the offense.

§ 659. REFUSAL OR NEGLECT OF OFFICERS TO PERFORM DUTIES

(a) The sheriffs of the several counties and their county sheriffs, sheriff's deputies, constables, officers or members of the village or city police, state police State Police, and investigators of the liquor control board are hereby empowered, and it is hereby made their Liquor Control Board shall have the authority and duty to see that the provisions of this title and the rules and regulations made as authorized adopted by the liquor control board herein provided for Liquor Control Board pursuant to this title are enforced within their respective jurisdictions. Any such officer who willfully refuses or neglects to perform the duties imposed upon him or her by this section shall be fined not more than \$500.00 or imprisoned not more than 90 days, or both.

These penalties appear to be appropriate for the seriousness of the offense.

(b) A control commissioner, state's attorney State's Attorney, or town grand juror who willfully refuses or neglects to investigate a complaint for a violation of this chapter, when accompanied by evidence in or neglects to investigate a support thereof of the complaint, shall be fined \$300.00.

State's attorney should not be capitalized.

This penalty appears to be appropriate for the seriousness of the offense.

§ 660. ADVERTISING

(a) A person shall not display on outside billboards or signs erected on the highway any advertisement of any kind of malt, vinous beverage or spirituous liquor relating to alcoholic beverages, or indicate where the same alcoholic beverages may be procured. However, the prohibition contained in this section shall not apply to a motor vehicle lawfully transporting in transit malt, vinous beverage or spirituous liquor from a place in another state to a place in another state. A person who violates any provision of this section shall be fined not more than \$100.00 nor less than \$10.00, for each offense, and such a conviction for a violation shall be cause for revoking the person's license after conviction issued under this title.

We need to make significant changes to this section. Local beverage alcohol delivery trucks may now have exterior signage with some branded imaging attached. There is widespread use of OBGS signage throughout the State highlighting the locations of distillers, restaurants and stores that retail beverage alcohol. The regulations in title 7 and those of the Agency of Transportation differ. These regulations need to be lined up.

The structuring of the penalty range would lead one to believe that this is considered a minor offense

§ 661. VIOLATIONS OF TITLE

(a)(1) A person, partnership, association, or corporation who that furnishes, sells, exposes, or keeps with intent to sell, or bottles or prepares for sale any malt or vinous beverages, spirits, or fortified wines alcoholic beverages, except as authorized by this title, or sells, barter, transports, imports, exports, delivers, prescribes, furnishes, or possesses alcohol, except as authorized by the Liquor Control Board, or who 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 nor less than \$100.00, or both.

The current jail sentence in this case is a sufficient deterrent to illegal importation.

I would recommend that the fine maximum be increased to \$2,500.00.

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

I recommend that the fine maximum be raised to \$5,000. This amount would be more appropriate for someone that consciously re-offends and provides the board with discretion to assess appropriate penalties over a broad range of illegal importation infractions.

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

The incarceration piece of this penalty seems sufficient.

I would suggest that the financial penalty range is not significant enough to make a meaningful impression on someone who consciously decides not to comply with any aspect of the statute. The Board should have broader discretion on implementing fines and penalties. I recommend a penalty range of \$100.00 to \$500.00

§ 665. PURCHASE OF KEGS OF MALT BEVERAGES

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

We need to add fourth class licensees to this section to reflect the fact that they may now retail kegs from their licensed establishments.

I also recommend establishing a flat penalty for not returning a keg rather than a range. Section 665 does not indicate who can assess a penalty and who has the discretion to establish an amount.

I recommend establishing \$200.00 per keg as a flat penalty because it covers the cost of replacing a 15.5-gallon keg.

§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES; TOBACCO PARAPHERNALIA; REQUIREMENTS; PROHIBITIONS

(d) The sale and the purchase of bidis is prohibited. A person who holds a tobacco license who sells bidis as prohibited by this subsection shall be fined not more than \$500.00. A person who purchases bidis from any source shall be fined not more than \$250.00.

These penalties appear to be appropriate for the seriousness of the offense.

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

(b) A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this 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

I recommend increasing the penalty for a first-time offense to \$75.00 and \$100.00 for a second offense, \$200.00 for a third offense. The community service requirement would apply to all infractions.

(c) A person under 18 years of age who 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.

I recommend increasing the penalty for a first-time offense to \$75.00 and \$100.00 for future offenses along with 30- day driver license suspension.

§ 1006. POSTING OF SIGNS

(b) A person violating this section shall be guilty of a misdemeanor and fined not more than \$100.00.

These penalties appear to be appropriate for the seriousness of the offense.

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

(a) An individual who A person that sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under 18 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense.

These penalties appear to be appropriate for the seriousness of the offense.

(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~~ three years 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;
- (B) Three violations two weekdays;
- (C) Four violations three weekdays;
- (D) Five violations three weekend days, Friday through Sunday.

These penalties do not convey the appropriate message. The first offense receives no suspension of the business' tobacco license. With that thought in mind the penalties for repeat infractions should be stiffened.

I recommend the following:

- (A) Two violations two weekdays*
- (B) Three violations 15-day suspension*
- (C) Four violations 90-day suspension*
- (D) Five violations one year suspension*

The time frame for repeat violation is far to short especially for the large number of licensees. I would recommend that this time frame be extended from six months to three years to harmonize it to Section 210 (b)(4).

The word "first" should be struck as it appears to eliminate intended penalties for subsequent sales.

§ 1009. CONTRABAND AND SEIZURE

All cigarettes or other tobacco products seized shall be destroyed.

This penalty appears to be appropriate for the seriousness of the offense.

I also recommend the following:

A monetary fine of between \$500.00-\$1,000

Possible confiscation of the vehicle used in the illegal importation activity.

§ 1010. INTERNET SALES

32 V.S.A. § 7702(13).

(1) A knowing or intentional violation of this section shall be punishable by imprisonment for not more than five years or a fine of not more than \$5,000.00, or both.

This penalty appears to be appropriate for the seriousness of the offense.

(2) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a person has violated this section, the Attorney General may impose a civil penalty in an amount not to exceed \$5,000.00 for each violation. For purposes of this subsection, each shipment or transport of cigarettes, roll-your-own tobacco, little cigars, or snuff shall constitute a separate violation.

This penalty appears to be appropriate for the seriousness of the offense.

§ 1011. COMMERCIAL CIGARETTE ROLLING MACHINES

(a) A person shall not possess or use a cigarette rolling machine for commercial purposes.

(2) A civil penalty of up to \$50,000.00 in any action brought by the Department of Taxes, the Department of Liquor Control, or the Attorney General.

This penalty appears to be appropriate for the seriousness of the offense.

(d) A person who violates subsection (a) of this section shall be imprisoned for not more than three years or fined not more than \$100,000.00, or both.

This penalty appears to be appropriate for the seriousness of the offense.

§ 301. PENALTY FOR REFUSAL TO ASSIST

A person being required in the name of the State by a sheriff, deputy sheriff, high bailiff, deputy bailiff, or constable, who neglects or refuses to assist such the officer in the execution of his or her office, in a criminal cause, or in the preservation of the peace, or in the apprehension and securing of a person for a breach of the peace, or in a search and seizure of intoxicating liquors alcohol as defined in 7 V.S.A. § 2 or in transporting such liquors the alcohol when seized, or in a case of escape or rescue of persons arrested on civil process, shall be fined not more than \$500.00, unless the circumstances under which his or her assistance is called for amount to a riot, in which case he or she shall be imprisoned not more than six months or fined not more than \$100.00, or both.

This penalty appears to be appropriate for the seriousness of the offense.

Respectfully Submitted,


Patrick Delaney, Commissioner
Department of Liquor Control