PROPOSED RULE # _____.

Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the "Rule on Rulemaking" (CVR 04-000-001) adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms and enclosures with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted to the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of Proposed Filing Coversheet will be used to generate a notice of rulemaking in the portal of "Proposed Rule Postings" online, and the newspapers of record. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Department of Liquor and Lottery, Administrative Rules Update

/S/Wendy Knight _____, on 11/23/2022

(signature) (date)

Printed Name and Title:

Wendy Knight, Commissioner, Dept. of Liquor and Lottery

RECEIVED BY: _____

- ☐ Coversheet
- ☐ Adopting Page
- ☐ Economic Impact Analysis
- ☐ Environmental Impact Analysis
- ☐ Strategy for Maximizing Public Input
- ☐ Scientific Information Statement (if applicable)
- ☐ Incorporated by Reference Statement (if applicable)
- ☐ Clean text of the rule (Amended text without annotation)
- ☐ Annotated text (Clearly marking changes from previous rule)
- ☐ ICAR Filing Confirmed

1. TITLE OF RULE FILING:
   Department of Liquor and Lottery, Administrative Rules Update
2. ADOPTING AGENCY:
   Vermont Department of Liquor and Lottery
3. PRIMARY CONTACT PERSON:
(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Skyler Genest, Chief

Agency: Vermont Department of Liquor and Lottery

Mailing Address: 1311 US Rt 302, Barre VT 05641

Telephone: (802)477-2429 Fax: (802)828-2803

E-Mail: skyler.genest@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:
liquorandlottery@vermont.gov

4. SECONDARY CONTACT PERSON:
(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Brandon King, Lieutenant

Agency: Vermont Department of Liquor and Lottery

Mailing Address: 1311 US Rt 302, Barre VT 05641

Telephone: (802)522-8954 Fax: (802)828-2803

E-Mail: brandon.king@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:
(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

N/A

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

N/A

6. LEGAL AUTHORITY / ENABLING LEGISLATION:
(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).
3 V.S.A. § 212(14); 7 V.S.A. §§ 101 to 108; 31 V.S.A. § 1208

7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

The Legislature specifically via Title 7 V.S.A. § 108 has empowered the Board of Liquor and Lottery to adopt rules necessary to enforce the provisions of Title 7. The legislature via Title 31 V.S.A. § 1208 has empowered the Commissioner of Liquor and Lottery to adopt rules for licensure and handling of proceeds.

8. CONCISE SUMMARY **(150 WORDS OR LESS)**:

The rules adopted by the Board of Liquor and Lottery includes several groups of regulations to ensure public safety by preventing the misuse of alcohol and tobacco through controlled distribution, providing for applicable enforcement, and establishing robust education requirements.

Several Acts as enacted by the Vermont Legislature in recent years have amended significant portions of Title 7, including the consolidation of the Departments of Liquor and Lottery. As such, many contradictions between statute and regulation have emerged. Additionally, the impact of modern business practices is ever-changing, and regulatory agencies must remain agile to respond.

This proposed rule removes General Regulations 9, 39, 44, 46, Advertising Regulation 2, Section 7, Wholesale Regulations 4, 5, and 7, and Education Regulations 4, 5 and 6.

Many additional sections and regulations were updated, renumbered, and clarified.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

The Board of Liquor and Lottery has drafted several groups of regulations to ensure public safety by preventing the misuse of alcohol and tobacco through controlled distribution, providing for applicable enforcement, and establishing robust education requirements, and ensuring the proper administration of games of chance.

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY AS DEFINED IN 3 V.S.A. § 801(b)(13)(A):

In order to modernize and deconflict our currently regulatory model, a recent drafting process involved an

extensive study of issues, over 11 hours of working group discussion, and input from industry stakeholders. The result of the proposed rules directly reflects an attempt to accommodate a modern beverage alcohol, tobacco, and gaming landscape in Vermont, with a clear goal of simplifying and modernizing the current regulations.

11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Any and all holders of the following licenses issued by the Board of Liquor and Lottery: First Class Licenses, Second Class Licenses, Third Class Licenses, Catering Licenses, Tobacco Licenses, Wholesale Dealers License, Manufacturer's or Rectifiers License, Break-Open Ticket Distributor of Manufacturers License, Master Resort License or any number of permits available to the persons within the state of Vermont.

12. BRIEF SUMMARY OF ECONOMIC IMPACT **(150 WORDS OR LESS)**:

The Department of Liquor and Lottery anticipates a net neutral economic impact of these proposed rules. Many of the proposed changes remove regulatory requirements, aiding in the net decrease in the cost of compliance. Several rules are expanded and clarified which may have some minor increased cost included to maintain compliance. However, it is believed that the decreases in compliance cost are balanced by potential increases, therefore, the overall economic impact is neutral.

13. A HEARING WILL BE SCHEDULED.

IF A HEARING WILL NOT BE SCHEDULED, PLEASE EXPLAIN WHY.
Not applicable.

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date: 1/20/2024

Time: 17:00 PM

Street Address: 1311 US Rt 302, Suite 200, Barre VT

Microsoft Teams meeting

https://tinyurl.com/su725m7a
Meeting ID: 275 441 994 641
Passcode: z93QVc
Or call in (audio only)
+1 802-828-7667,,938521039#
Zip Code: 05641

Date:
Time: AM
Street Address:
Zip Code:

Date:
Time: AM
Street Address:
Zip Code:

Date:
Time: AM
Street Address:
Zip Code:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING): 01/30/2023
16. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Beverage Alcohol
Gaming
Tobacco
Liquor & Lottery
Break Open Tickets

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

---

1. TITLE OF RULE FILING:
   Department of Liquor and Lottery, Administrative Rules Update
2. ADOPTING AGENCY:
   Vermont Department of Liquor and Lottery
3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):
   - **AMENDMENT -** Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
   - **NEW RULE -** A rule that did not previously exist even under a different name.
   - **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

   This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE)*:
   Regulations Related to the Sale of Alcoholic Liquor
   January 3, 2017 Secretary of State Rule Log #16-065

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

---

1. TITLE OF RULE FILING:

   Department of Liquor and Lottery, Administrative Rules Update

2. ADOPTING AGENCY:

   Vermont Department of Liquor and Lottery

3. CATEGORY OF AFFECTED PARTIES:

   LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

   Liquor License Holders, Tobacco License Holders, Beverage Alcohol Manufacturers, Beverage Alcohol Wholesale Distributors, Non-Profits, Break Open Ticket Manufacturers. No cost increase is associated with the adoption of the proposed modifications. The Benefits of the proposed adoption include a less burdensome

regulatory environment, alignment of the regulatory model with industry needs, and deconfliction with statutory changes to Title 7..

4. IMPACT ON SCHOOLS:
INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

No Impact.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

Not applicable.

6. IMPACT ON SMALL BUSINESSES:
INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

The adoption of the proposed modifications would result in a less burdensome regulatory environment for small business, decreasing the cost of compliance.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

As the bulk majority of the proposed modifications lessen the cost/burden of compliance by creating a less burdensome regulatory environment, the Department believes that this explanation is not required.

8. COMPARISON:
COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:
Not applicable.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
This economic impact analysis sufficiently explains that the proposed modifications generally anticipate a net neutral economic impact of these proposed rules. Many of the proposed changes remove regulatory

requirements, aiding in the net decrease in the cost of compliance. Several rules are expanded and clarified which may have some minor increased cost included to maintain compliance. However, it is believed that the decreases in compliance cost are balanced by potential increases, therefore, the overall economic impact is neutral.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

---

1. TITLE OF RULE FILING:

   Department of Liquor and Lottery, Administrative Rules Update

2. ADOPTING AGENCY:

   Vermont Department of Liquor and Lottery

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
   No Impact

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
   No Impact

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
   No Impact

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*
   This updated rule eases many regulatory burdens in terms of ability to operate beverage alcohol and tobacco retail establishments in Vermont.
7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
   No Impact
8. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
   No Impact
9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
   There is generally no environmental impact of the proposed modifications.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

---

1. TITLE OF RULE FILING:

   Department of Liquor and Lottery, Administrative Rules Update

2. ADOPTING AGENCY:

   Vermont Department of Liquor and Lottery

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

   During the summer months of 2022, the Department of Liquor and Lottery held weekly 1-hour meetings over 11 weeks which were open to the public and advertised to industry, community, and policy stakeholders to work with DLL as we exhaustively looked at each section of the administrative rule. This review weighed industry standards, best practices, and common sense to align the regulatory framework with current statutes. Several stakeholders were routine participants and feedback was constant and persistent throughout the process. As the filing moves through the appropriate processes, the Department will maintain a section of it's website dedicated to these efforts, and the information will be directly relayed to stakeholder groups through the department's regularly scheduled quarterly stakeholder meetings.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

   Amy Spear, Vermont Chamber of Commerce

   Claire Buckley, Wholesale Beverage Association

   Kevin O'Flaherty, Campaign for Tobacco-Free Kids

   Amy Brewer, Franklin Grand Isle Tobacco Prevention Coalition

   Michael Rollo, American Cancer Society

   Tina Zuk, American Heart Association

   Sophia Light, Caledonia Spirits

   Cassandra LaRae-Perez, Gravel & Shea PC

   Jessica Oski, Necrason Group

   Mellissa Cornin, Vermont Brewers Association

   Erin Sigrist, Vermont Retail & Grocers Association

   Amy Spear, Vermont Independent Restaurants (VTIR)

   Sheri Baraw Smith, Vermont Lodging Association

2022

Proposed Rule

Chief Skyler Genest

Senior Director of Licensee Operations

Vermont Department of Liquor and Lottery

11/23/2022

26 020 001. RULES AND REGULATIONS

Section 1. Administrative Organization and Procedures, and Agency Rules of Practice.
1. In addition to the provisions as set forth in applicable sections of Title 7 of the Vermont State Statutes Annotated, all general information relative to general administration, agencies, warehouse, licensing, enforcement procedures, and personnel may be obtained at the central office of the Department of Liquor and Lottery.

2. Definitions. The definitions set forth in 3 VSA, Chapter 25 are hereby adopted and made applicable to these regulations.

3. Formal and Informal Proceedings. The following types of proceedings will be treated as formal proceedings:
a. Revocation of licenses.
b. Rule-making proceedings initiated by the Board of Liquor and Lottery under Regulation No. 9(b).

All other petitions, applications, submissions, requests, charges, etc., will be treated as informal proceedings.

4. Appearances in Formal Proceedings.

a. A party to a formal proceeding before the Board of Liquor and Lottery may represent themself or may be represented by an attorney admitted to practice in the State of Vermont.

b. Upon the filing of a petition, charge or other pleading initiating a formal proceeding before the Board of Liquor and Lottery, the name of the attorney or person who has signed such pleading will be entered on the agenda of the Board of Liquor and Lottery by the Department of Liquor and Lottery. Except for appearances entered during a hearing, all other appearances in formal proceedings by attorneys or persons appearing for themselves shall be by notice in writing filed with the Department.

c. All notice given to or by an attorney of record for a party in a formal proceeding shall be considered in all respects as notice to or from the party represented by such attorney.

d. When an attorney has entered their appearance for a party in a formal proceeding, they shall remain counsel for such party until they have been granted leave to withdraw by order of the Board of Liquor and Lottery.

e. An attorney not residing or not admitted to practice in the State of Vermont may appear for a party if they are associated with a resident and admitted attorney who has entered their appearance for the same party.

5. Filing and Service of Documents in Formal Proceedings.

a. The petition, charge or other pleading initiating a formal proceeding before the Board of Liquor and Lottery shall be signed by the petitioner or complainant or an officer thereof and shall be filed with the Department of Liquor and Lottery. Such pleadings shall be drawn so as to fully and completely advise the Board of Liquor and Lottery and respondents, if any, as to the order of rule sought and the statutory authority and reasons therefor.

b. Filing with the Board of Liquor and Lottery shall be deemed to occur when a document is received by the Department of Liquor and Lottery except that filing shall be deemed to occur upon receipt by the Board of Liquor and Lottery when a document is submitted to the Board of Liquor and Lottery during a hearing.

c. A petition for leave to intervene as a party must set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and whether petitioner's position is in support of or opposition to the order sought.

d. Every document or paper filed by any party subsequent to the initial pleading in a formal proceeding shall be served upon the attorneys of record for all other parties and upon all persons who have appeared for themselves.

e. In its discretion the Board of Liquor and Lottery may treat any written communication to it concerning a matter within its jurisdiction as a pleading initiating a formal proceeding.

f. Briefs and proposed findings of fact and conclusions of law, if any, shall be filed within ten days after hearing or, in the event that the hearing has been waived under Regulation No. 7(a), within ten days after the date originally set for the hearing.

6. Hearings.

a. An oral hearing shall be held in every formal proceeding except: (1) in a formal rule-making proceeding if no request to be heard is submitted within five days of the date set for such hearing, in accordance with the provisions of Title 3 in any other formal proceeding if all the parties to the proceeding file written waivers of opportunity to be heard.

b. Upon the filing of a pleading initiating a formal proceeding, or upon the initiation of such a proceeding by the Board of Liquor and Lottery on its own motion, the Board of Liquor and Lottery shall by order or otherwise assign a time and place for the hearing thereof and the Department of Liquor and Lottery shall cause written notice of the hearing in the form as provided by Title 3 to be served upon each party and, if required by statute, shall arrange for publication thereof.

c. Every party and counsel representing the Board of Liquor and Lottery, if any, shall have the right to participate fully in any hearing before the Board of Liquor and Lottery, and, in the case of rule-making proceedings, all interested persons shall also be permitted to participate in accordance with the terms of the notice of the proceeding.

d. The admissibility of evidence in all formal proceedings before the Board of Liquor and Lottery shall be determined under the criteria specified in Title 3 e. The testimony of a hearing witness on direct examination may be offered in written form, either by having it read into the record or by offering it for incorporation in the record without reading, provided that a copy of such testimony shall be supplied to the Board of Liquor and Lottery, each attorney of record, and each party appearing for himself at a reasonable time in advance of the hearing at which testimony will be offered. Such testimony shall be subject to the same rules of admissibility and cross-examination as extemporaneous testimony.

7. Petitions for Rule-making and Declaratory Rulings.

a. Petitions for the adoption, amendment, or repeal of any rule will be entertained by the Board of Liquor and Lottery. Such petitions shall be filed with the Department of Liquor and Lottery pursuant to Regulation No. 6 hereof. Such petitions will be considered and disposed of pursuant to the procedure specified in Title 3 and Regulation No. 9(b) hereof.

b. Petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Board of Liquor and Lottery will be entertained by the Board of Liquor and Lottery in an informal manner. Such petitions shall be filed with the Department of Liquor and Lottery and shall be so drawn as to fully and completely advise the Board of Liquor and Lottery the reasons why such a ruling is sought. The Board of Liquor and Lottery shall within thirty days after such petition has been filed advise the petitioner of its decision and the facts involved.

8. Special Procedures for Certain Informal Proceedings.

a. Any formal proceeding for revocation of a license, certificate, etc., shall be preceded by notice to the licensee of facts or conduct which warrant the intended action, and the licensee shall be given an opportunity informally to show compliance with all lawful requirements for the retention of the license prior to initiation of such formal proceeding under Regulation No. 7 hereof.

b. Petitions for rule-making filed under Regulation No. 7(a) hereof will be considered informally and the Board of Liquor and Lottery shall within thirty days after the filing of such a petition either deny the petition in writing (stating its reasons for the denial) or shall initiate formal rule-making proceedings in accordance with Title 3 and Regulation No. 6(b) hereof.

9. Enlargement of Rules.

The Board of Liquor and Lottery may take a proceeding partially or entirely out of these rules when the law so permits and, in its opinion, the interest of the public so requires.

Section 2. Definitions.

The following words as used in these regulations, unless a contrary meaning is required by the context, shall have the following meaning:

Department: The Department of Liquor and Lottery.

Board: The Board of Liquor and Lottery.

Commissioners: The Local Control Commissioners.

Commissioner: Appointing Authority of the Department.

Beverage Alcohol: All malt, vinous, fortified wine, ready-to-drink spirits beverages and spirits as defined by Title 7.

Person: Individuals and partnerships composed solely of individuals, corporations organized under the Laws of any of the United States or corporations subject to the jurisdiction of the Interstate Commerce Commission or the Public Service Commission.

REGULATIONS RELATING TO THE SALE OF BEVERAGE ALCOHOL

Section 3. General Regulations.

For purposes of these Regulations, "license" shall have the same meaning as defined in 3 V.S.A. § 801(b)(3), including lithe whole or part of any [Department of Liquor and Lottery (DLL) or Board of Liquor and Lottery] permit, certificate, approval, registration, charter, or similar form of permission required by law"; "licensed premises" shall mean any location subject to a license; and "licensee" shall mean any individual or entity holding a license.

1. The Board may establish a schedule of penalties for specifically enumerated violations, which may be imposed by the Department, allowing for the licensee to waive a hearing and accept the stated penalty(s). licensees may decline to accept the stated penalty(s) and ask for a hearing before the Board.

2. It shall be unlawful for any common or contract carrier, or any individual or entity operating transportation facilities in this state or otherwise transporting goods for hire to receive or cause to be imported into this state any spirituous liquor unless such liquors are consigned for delivery to the Board, or malt ,vinous, or ready-to-drink spirits beverages unless consigned for delivery to a wholesale dealer holding a wholesale dealer's license issued by the Board. However, it shall be lawful to accept individual consignments of malt, vinous, or ready-to-drink spirits beverages for transportation into and delivery within the state to an individual only when such malt, vinous, or ready-to-drink spirits beverages are sold and shipped pursuant to applicable provisions of law.

3. A licensee shall not permit or suffer the possession, consumption, or sale on its licensed premise of any beverage alcohol, tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product other than allowed by the licenses granted for said premises.

4. Except for holders of a manufacturer's license who also have a 1st and/or 3rd class license located on their manufacturing premises, a licensee shall not possess or allow the consumption of malt, vinous, fortified wine, ready-to-drink spirits beverages or spirituous liquors other than those purchased on invoice from a bottler's or wholesale dealer or on invoice from the Board, or on invoice from a direct-to-retail shippers licensee. A licensee shall not possess or allow the consumption or sale of any tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product other than those purchased on invoice from a holder of a Wholesaler Dealer Licensed issued by the Vermont Department of Tax. No retail tobacco licenses, or endorsements shall be issued to or renewed for entities that are also holders of a Wholesaler Dealer Licensed issued by the Vermont Department of Tax.

a. Holders of a manufacturer's license that are granted any permit to occur upon a licensed premise, may introduce products lawfully manufactured by the holder of the permit onto the license premise so long as the licensed manufacturer engages in on-premise sampling and off-premise sales only and clearly labels all beverage alcohol brought onto the licensed premise "for sale to the public only".

5. Requests for catering must be made by licensees holding a catering license, or a commercial caterers license, at least five days prior to the date of the catered event. The five-day requirement may be shortened if the request is approved by the local control commissioners. Any single catering event permit may not exceed 4 consecutive days.

a. Events with more than 200 people shall notify the Department by indication on the application.

6. Only third class licensees may possess, sell or furnish any malt or vinous beverages containing an alcoholic content greater than 16% unless otherwise specified in state law. Cooking wines, which contain an alcohol content greater than 16% and 1.5% of sodium, extracts, tinctures and bitters not regulated by the Tax and Trade Bureau are not considered beverages and are therefore not governed under these regulations.

7. Licensees and licensee employees shall allow at any time the Commissioner any of their assistants or Liquor Investigators to examine the licensed premises as well as all records, papers, stock, merchandise or equipment in reference to the operation of the license, and shall retain such items for inspection. Excluding video footage all licensees shall keep on their licensed premises for a period of two years a complete record covering the operation of their license, including all invoices covering the purchase or transfer of beverage alcohol, tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product, and all financial records including but not limited to daily receipts for the sale of beverage alcohol, tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product. If any licensee has more than one licensed location, the licensee may keep all records in one centralized business location in

the State of Vermont and the Department shall be notified in writing, in advance, of the name, street address, and telephone number of such designated location. Except as provided in Education Regulations, licensees shall retain all training certificates and records, on the licensed premises where the individual in question works. Should any licensee employ a video surveillance system at the licensed establishment the Commissioner and/or any of their assistants or Investigators may at any time examine such system or resulting retained video recordings.

a. No licensee, licensee employee or any individual performing work or services for a licensee on a licensed premises shall interfere with, nor permit any other individual to interfere with, provide false written or verbal information to, or fail to cooperate with a Liquor Control Investigator or other Vermont Law Enforcement Officer in the performance of their duties.

b. A licensee, licensee employee, or any individual performing work or services for a licensee on a licensed premises, related to the liquor licenses held, shall provide a liquor investigator or a law enforcement officer with such bona-fide identification as is acceptable under Vermont law when requested.

8. No licensee shall keep within or in connection with the licensed premises any illegal implement, machine or device of any kind or nature by the use or operation of which there is an element of chance for the winning or losing of money or other things of value, nor permit said premises to be used for illegal gambling purposes.

9. No license shall be issued to an individual or entity that is not first licensed with the Vermont Department of Taxes to collect tax as required by Title 32. Suspension of any licenses issued by the Board may result by action of the Board, after notice and hearing, upon certification to the Board by the Vermont Department of Taxes that the licensee has failed to collect tax, has failed to pay over to the Vermont Department of Taxes the tax collected, is not licensed with the Vermont Department of Taxes to collect the tax, or is not in good standing with the Vermont Department of Taxes pursuant to Title 32. A licensee and licensee employees must allow the Commissioner of Taxes or any of their assistants or investigators on the licensed premise at all times to examine records covering the operation of the licensee's business.

10. All licenses shall be displayed in a conspicuous location viewable to the general public on the licensed premises described therein.

11. Unless when allowable by state law, no licensee or licensee employee shall sell or furnish beverage alcohol, tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product to any individual who is less than twenty-one years of age, nor shall a licensee or the licensee employee permit or suffer beverage alcohol, tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco products to be consumed our used upon the licensed premises by any individual who is less than twenty-one years of age.

12. For individuals of questionable age, all licensees and their employees shall demand that such individual exhibit a valid operator's license, valid non-driver identification card, or enhanced driver's license, which has been issued by this state or another state or foreign jurisdiction, a valid United States military identification card, a valid passport card or valid passport all of

which bear the person's photograph, name, date of birth, and expiration date. No temporary identification documents shall satisfy the requirements of this regulation.

13. No licensee shall permit an individual under eighteen years of age to be involved in the preparation, sale or service of beverage alcohol for on-premise consumption.

14. No licensee shall permit an individual under sixteen years of age to sell beverage alcohol for off-premise consumption, any tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product to the public at their licensed establishment.

15. No licensee or licensee employee, or any individual involved in the sale, preparation or furnishing of beverage alcohol, or sale of tobacco products and/or the enforcement on the premises of the laws, rules and regulations of this State pertaining to the sale or furnishing of beverage alcohol, or sale of tobacco products, shall consume or display the effects of alcohol or any impairing substance while in the performance of their duties.

16. No licensee shall sell or furnish beverage alcohol to any individual displaying signs of impairment from beverage alcohol or other drugs / substances. No licensee shall allow beverage alcohol to be consumed on the licensed premises by any individual displaying such signs of impairment. No licensee shall allow any individual displaying such signs of impairment to stay on the licensed premises, except under direct personal supervision by a licensee or licensee employee in a segregated nonpublic area when the patron's immediate departure could be expected to pose a risk of bodily injury to the patron or any other individual.

a. Licensees or licensees' employees shall not serve beverage alcohol to any individual whom it would be reasonable to expect would be under the influence as a result of the amount of alcohol served to that person. Under the influence, in this Regulation, shall mean that degree of impairment that would render it unsafe or illegal for the patron to undertake normal and expected activities upon leaving the licensed premises.

17. Licensees shall store all beverage alcohol, tobacco products, tobacco substitutes, tobacco paraphernalia, or other tobacco products on the licensed premises unless otherwise authorized in writing by the Board. First, Second and/or Third-Class Licensees, and Master Resort Licenses may transfer beverage alcohol without prior authorization among similarly licensed locations so long as the locations are controlled by the same licensed entity. Tobacco Licensees may transfer tobacco products, tobacco substitutes, tobacco paraphernalia, or other tobacco products without prior authorization among locations so long as the locations are controlled by the same licensed entity.

18. No licensee that sells or distributes beverage alcohol to the public may accept free malt or vinous beverages, services, monetary payments or other things of value from a manufacturer, holder of a certificate of approval, bottler, wholesale dealer, or holder of a solicitor's permit, nor purchase malt or vinous beverages below the uniform price charged by the bottler or wholesale dealer. The Board is empowered to define the terms "things of value" as contained within Liquor and Lottery Board Guidance Bulletin No. 1; "things of value" exclude brand-identified items that are primarily valuable for advertising purposes and are approved by the Board.

19. If a license is issued to a partnership and the partnership is dissolved, the remaining partner may continue to operate under the same license until its expiration. If a new partnership is formed, a new license must be issued and the former license surrendered.

20. Any individual having a direct or vested financial interest in the business of the licensee must be disclosed on the license application. Except for Clubs, a licensee must notify the Department no less than 20 days before any intended changes in the ownership of and or financial interest of any person or entity in the licensed entity can occur. Any such changes not approved by the Department, may place the license in jeopardy and/or may result in administrative penalties after a Board hearing.

a. Licensees shall have prior approval from the Board of any change of directors, officers, members, managers, or affiliates, and of any change in shares that causes the holdings of any new or existing shareholder, including the holdings of that shareholders immediate family, to equal ten percent or more of a corporation's voting shares. Notices shall be given in writing to the Board not later than 20 days prior to any change. The Board will consider changes in the same way that new licenses are considered. If changes, other than changes caused by the death of a joint tenant, are concluded without obtaining prior Board approval, in writing, the license shall be subject to suspension or revocation.

21. First class licensees shall purchase on invoice, beverage alcohol from holders of a bottler's or Vermont wholesale dealer's license issued by the Board, or from holders of a direct-to-retailer shipping license for vinous beverages issued by the Board, for consumption only on the licensed premises, except as permitted by General Regulation 4 herein.

22. Second class licensees shall purchase on invoice, beverage alcohol only from holders of a bottler's or wholesale dealer's license issued by the Board, or from holders of a direct-to-retailer shipping license for vinous beverages issued by the Board, for consumption off the licensed premises. A second class licensee that sells kegs must keep copies of their keg logs for 90 days.

23. Except as permitted by applicable state law or General Regulation 4 herein, Third class licensees shall purchase on invoice, spirituous liquors only from the Board. Said liquor must be consumed on the licensed premises.

24. No first and/or third class license application may be issued until the applicant has on the premises a license issued by the Vermont State Board of Health. All licensed first and/or third-class establishments, except for clubs and holders of a manufacturer’s or rectifiers license, must at all times when open for business have some form of food service available at the licensed establishment.

25. If a license is suspended or conditioned the license shall immediately notify the Board and/or Local Control Commissioners giving the reason as well as the effective date and length of time of the suspension or condition. If a license is suspended, the licensee is required to post notice of that suspension to the public giving the effective date and length of the time of the suspension in every entry way. Licensees under suspension shall not sell, serve, allow the

consumption of, make orders for, or receive deliveries of regulated products upon the licensed premises.

26. No licensees shall sell beverage alcohol, tobacco products, tobacco substitutes, tobacco paraphernalia, or other tobacco products at a price lower than the price in effect at the time of purchase from the wholesale dealer, the Board, or holders of a direct-to-retail shipping license.

27. All licensees shall have present on the licensed premises at all times when open for business a responsible employee, agent or principal.

28. Any licensee that closes may sell all unopened beverage alcohol remaining in stock only to another licensee of the same class, and an invoice covering same shall be retained by the purchasing licensee. All sales under this regulation shall be made within 30 days after such surrender or closing.

29. All licensees shall keep their licensed premises at all times in a safe and sanitary condition or in compliance with State Board of Health statutes and regulations. Safe and Sanitary conditions for holders of first and/or third-class licenses include adequate restroom facilities.

30. Licensees must comply with the Vermont Department of Labor, and the Vermont Department of Public Safety, statutes and regulations.

31. A licensee shall not lock the doors of its licensed premises where beverage alcohol is stored, sold, furnished or consumed if any individual other than the on duty licensee or on duty licensee employees are on the licensed premises.

a. Notwithstanding the above, licensed clubs, may choose to have their doors locked or unlocked.

32. All licensees shall ensure that lighting in their licensed premises is of such degree that a Department Investigator, and the licensee and licensee employees, shall be able to read the identification cards of the patrons and observe all individuals wherever alcohol is served or consumed.

33. All licensees shall control the conduct of all individuals on their licensed premises. All licensees must ensure the safety of individuals entering, leaving, or remaining on the licensed premises. No licensee shall permit, suffer, or enable any disturbances, brawls, fighting or illegal activity upon the licensed premises; nor shall a licensee permit or suffer such premises to be conducted in such a manner as to render such premises or the streets, sidewalks, parking lots or highways adjacent thereto a public nuisance.

a. The Board may find, that a licensee suffered a disturbance, brawl, fight or illegal activity upon the licensed premises or upon the streets, sidewalks, parking lots or highways adjacent thereto if any individual engaged in such conduct had been allowed to stay on the licensed premises while displaying signs of impairment from alcohol, drugs or other substances, and/or if it would be reasonable to expect that such individual would be intoxicated as a result of the

amount of alcohol served to that individual. Under such facts, the Board may conclude that any such individual's conduct should have been anticipated.

34. Except as otherwise authorized by law or Board regulation, no licensee may serve malt beverages otherwise than in glasses, mugs, pitchers, or other containers, of a maximum capacity of thirty two ounces, nor serve more than four fluid ounces of spirituous liquor to any individual at one time or in the making of a single mixed drink, nor serve more than two of the above containers to any individual at one time. Bucket service by licensee staff is permissible under this regulation so long as number of containers per patron does not exceed 2 containers per patron and all service is provided in respect to all other regulations and provisions of state law.

35. Licensees dispensing any beverage alcohol from a draft system, shall display tap signs, clearly visible to the patrons, disclosing the brand of each beverage alcohol that is being dispensed.

36. No licensee or licensee employees shall serve to any customer any brand of beverage alcohol other than that actually ordered.

37. Licensees shall use a container under any beverage alcohol taps to catch drippings and dispose of drippings. in a sanitary manner.

38. No licensee shall allow consumption of beverage alcohol in any open area, on or in connection with licensed premises, without first obtaining an outside consumption permit from the local control commissioners and approval by the Board. Licensees shall control and define such area with a physical barrier, unless the area is segregated from the general public and used for a private group event open to invited attendees only such as a wedding or banquet. If an event is attended by 200 people or more, the Department may require a licensee to place a double barrier no less than six feet inside of the outer boundary of the defined area to prevent attendees from handing beverage alcohol to any individual outside of the licensed area.

39. Except as otherwise authorized by law or by the Board, licensees shall not reuse, refill or tamper with any bottle of beverage alcohol nor shall such licensee adulterate, dilute, fortify, or cause any substitution of any nature to be made in or to the contents of any bottle of beverage alcohol.

a. “Adulterate” does not include a licensee that colors, flavors, mixes, blends or infuses beverage alcohol in preparation for later service at the licensed premise. The mixture/infusion must be clearly labeled with the following information: the date of production, the name of the person who created the mixture/infusion, the ingredients in the mixture/infusion including the alcohol brand name(s) and quantity, and the estimated proof of the mixture/infusion. Any mixture/infusion created shall be produced in a safe and sanitary manner. Any vessel used for dispensing the mixture/infusion shall not have a beverage alcohol brand label, nor shall it be dispensed from a vessel that is of a design that would signify a particular brand of beverage alcohol to a consumer.

40. All licensee employees must be hired by the licensee and paid on a fixed salary or hourly basis except when allowable by state law. All employees must have the required withholdings deducted from their wages and the required reporting of such withholdings must be made to the Vermont Department of Labor. A first, second and/or third class licensee shall not contract out any work, labor or services directly or indirectly related to the preparation, sale or service of beverage alcohol. All such duties shall be performed by individuals who are employees in fact and by law.

41. Second class licensees shall not sell or furnish malt or vinous beverages for consumption on the licensed premises nor allow any individual to consume beverage alcohol on the licensed premises except as authorized by the Board or other applicable provisions of law. Second class licensees shall not sell or furnish any malt or vinous beverages in other than the original container unless otherwise authorized in writing by the Board. Should second class licenses wish to fill containers for off-premise consumption, those licensees shall meet the following conditions:

* Containers shall be sealed and sanitary.

* Consumption is only for off-premise.

* Retailers will notify the Department of their intent to participate in the container program.

* Manufacturers may elect to participate in the retailer container program by written authorization to their wholesale dealer with a copy sent to the Department.

* Clean containers will be provided by the retailer for each sale.

* Labels will contain the name of the retailer, **beverage** alcohol, alcohol by volume, name of manufacturer, date and time of fill, and best if consumed in 72 hours.

* Containers will be filled from a direct sealed draught system.

42. No licensee, or licensee agent or employee shall carry a stock of beverage alcohol in a vehicle for the purpose of soliciting orders to be filled directly from such stock. The intent and purpose of the foregoing is that no licensee shall engage in the business of peddling beverage alcohol from vehicles. No first, second, third or fourth-class licensee, licensee agent or employee shall make deliveries of beverage alcohol, unless permitted by the Board or applicable provisions of law.

43. First and/or third class licensees shall not offer alcohol beverages at reduced prices for any period of time during daily legal hours. This Regulation shall not be construed to regulate prices charged for group events to its attendees only, such as banquets, nor to prohibit cover charges or price adjustments during times when live entertainment is presented on the licensed premises, nor to prohibit lower alcohol beverage prices for a full business day.

a. No licensee or licensee employee shall offer, permit or suffer on the licensed premises games, contests, or promotions, which encourage the rapid or excessive consumption of beverage alcohol. No licensee or licensee employee shall furnish beverage alcohol to any individual for no charge.

44. Each applicant for a license or permit shall file with the Board and/or Local Control Commissioners an application signed by the applicant on prescribed forms.

a. Misrepresentation of a material fact on any Department form or in other written communication with the Department shall be grounds for non-issuance, suspension or revocation of the liquor license, after notice and hearing.

45. Any licensee that is serving beverage alcohol for on premise consumption shall post in a prominent place where beverage alcohol is served, a sign with the words, "Do You Have a Designated Driver?".

46. No licensee shall display, distribute, or furnish any materials, signs, or postings of any kind that advertise beverage alcohol free of charge, or anything that would lead any consumer to believe he or she can receive beverage alcohol for free. For any licensee promoting food and beverage alcohol combination specials, the licensee shall, during the promotion period, enter the sale of the beverage alcohol as a separate full price sale and must add all applicable tax. All receipts must specifically outline the separate beverage alcohol purchase at full price.

47. Prior to approval from Department to engage in break-open ticket sales, a licensee must provide an IRS 501(c) designation letter, or provide enough proof to the Department that the non-profit they are benefiting via sale of break-open ticket sales would qualify for 501(c) status pursuant to Title 31. That document or proof must accompany a non-profit disclosure form or be provided to the Department upon request.

(a) Except for clubs as defined by Title 7, No owners or employees of a licensed establishment may order or take delivery of break-open tickets from a wholesale distributor, pursuant to Title 31, unless the owners or employees are bona-fide members or certified agents of the nonprofit. Only nonprofit organizations may purchase break-open tickets from a license wholesale distributor.

(b) Except for clubs as defined by Title 7, No licensee may engage in games of chance that would benefit or support any non-profit of which they have direct or indirect control of, or have a direct or indirect financial interest in. No licensee, employee of a licensee, or their volunteers may engage in any game of chance play at their respective licensed establishment(s).

(c) Licensees who engage in break-open ticket sales at their establishment must account for proceeds generated for each game on forms prescribed by the Department. That accounting shall include: Serial number of the game, Number of tickets per game, Number of tickets sold, Total dollar amount in payout for prizes awarded, Total dollar amount given to nonprofit organization, and Total dollar amount of any retained

accounting fees. Licensees may retain a reasonable accounting fee pursuant to applicable sections of Title 13.

(d) Except for clubs as defined in Title 7, prior to the sale of any single implement of a game of chance (such as a break-open ticket) on behalf of an eligible non-profit defined in General Regulation 46 herein, the licensed establishment shall provide funds in the amount of the total expected net revenue as identified by the manufacturer of the game of chance, minus the reasonable accounting fees identified General Regulation 47 herein.

48. Retail Delivery- Second Class Licensees also holding a Retail Delivery Permit shall have and maintain all insurance coverages as required by Vermont law. Permit holders shall not deliver, to any one physical address in any twenty-four (24) hour period, malt and ready-to-drink spirits beverages in quantities equal to or more than an aggregate amount of 288 ounces and/or vinous beverages in quantities equal to or more than an aggregate amount of 3,000 milliliters. Deliveries shall only be made between the hours of 9:00am and 5:00pm by an employee of the permit holder who is at least eighteen (18) years of age and who has successfully completed the required Second Class training. Permit holders shall comply with all applicable requirements of Title 7. Permit holders shall maintain a log of all deliveries made, which shall be subject to inspection upon request pursuant to General Regulation No.7. Such log shall at a minimum include:

A. Name of recipient and physical address in Vermont to where the product was delivered;
B. How ID was verified in compliance with General Regulation No. 11;
C. A signature of recipient at least twenty-one (21) years of age;
D. Complete description of the product and quantity delivered;
E. The price;
F. Time of delivery (delivery shall be permitted only between the hours of9:00 am-5:00pm); and
G. The name of the employee making the delivery.

49. Second class licensees also holding a Fortified Wine Permit allowing for the sale and export of Fortified Wines for consumption off the licensed premises will sell Fortified Wine products at prices no less than or equal to current prices set by the Board in Vermont Liquor Agencies. Second class licensees will be allowed to purchase Fortified Wines not currently listed by the Board in full case-load quantities only. The Permit Holder must pick up the case lot from the Agent within 7 days.

Section 4. Advertising.
1. Federal regulations relating to the advertising of distilled spirits, wine and malt beverages promulgated under the Federal Alcohol Administration Act (27 U.S.C. 201-211), as now existing or as amended in the future, are hereby adopted as a part of this regulation to the same extent as if set forth herein, and shall, to the extent so adopted, govern the advertising of beverage alcohol by manufacturers, certificate of approval holders, wholesalers, and retailers in Vermont.

2. No person, partnership, or corporation shall display a sign of a first class, second class, third class, wholesale dealer's or bottler's license unless the person is actually the holder of the type of license he advertises.

3. Certificate of Approval holders and wholesale dealers may distribute bottle openers, can openers, and cork screws to retail dealers. These openers may carry the name of the manufacturer and/or brand name of the product. Retail dealers may distribute the openers to their customers with the sale of malt or vinous beverages. These openers are for the convenience of the public and not for advertising purposes.

4. Consumer advertising specialties, such as ash trays, bottles or can openers, cork screws, shopping bags, matches, printed receipts, pamphlets, cards, leaflets, recipe booklets, blotters, post cards, and pencils, which bear advertising matter may be furnished, given or sold to a retailer for unconditional distribution by the retailer to the general public. The retailer may not be paid or credited in any manner, directly or indirectly, for this distribution service.

5. Any malt or vinous beverage point of sale advertising shall be submitted to the Board for approval prior to its use by manufacturers, holders of certificate of approval, wholesale dealers, or retailers in Vermont.

6. Definitions for advertising, display or distribution service as used in the advertising regulations are:

a. Manufacturers, holders of certificate of approval or wholesale dealers are prohibited from influencing or controlling the purchases of a retailer by paying or crediting the retailer for any advertising, display or distribution service, whether or not the advertising, display or distribution service received is commensurate with the amount paid by the retailer.

b. An arrangement where manufacturer, holder of a certificate of approval, or wholesale dealer participates with a retailer in paying for an advertisement placed by the retailer constitutes paying the retailer for advertising.

c. Manufacturer, certificate of approval holder or wholesale dealer payments to retailers as compensation for setting up product or other displays constitutes paying the retailer for rendering a display service.

d. A promotion whereby a manufacturer, holder of a certificate of approval, or wholesale dealer rents display space at a retail establishment constitutes paying the retailer for rendering a display service.

Section 5. Hours of Sale.
1. Holders of a first class license or first and third class licenses shall sell or serve any beverage alcohol on the licensed premises between the hours of 8:00 a.m. and 2:00 a.m. the following morning. Consumption on the premises of such beverages and liquors sold and served pursuant to this regulation shall be prohibited after 2:30 a.m. Except as otherwise prohibited by law or regulation, the hours provided in this regulation shall be extended one hour for New Year's Day.

2. No licensee holding a second-class license shall sell, furnish, or deliver, or allow to be removed from the licensed premises, any beverage alcohol except between the hours of six

o'clock in the forenoon and twelve o'clock midnight. The time of day mentioned herein shall be construed to mean U.S. Standard Eastern Time, except that during the period of each year from the last Sunday in April to the last Sunday in September, inclusive unless the Governor shortens or lengthens the period specified, by proclamation, or as provided in state law and such time of day shall be construed to mean U.S. Daylight Saving Time.

3. Notwithstanding the provisions in these Regulations, the Control Commissioners shall have the right to prescribe shorter periods of sale within the hours specified above.

Section 6. Credit.
1. No beverage alcohol shall be purchased on credit by any licensee Upon termination of a distributorship, or unsalability of a product or for cooperage or other containers, the payment for merchandise returned by a wholesale dealer to a certificate of approval holder must be paid within ten business days after receipt of the merchandise by the certificate of approval holder. Payment rendered via debit/credit card is not credit as prohibited by this regulation.

Section 7. Wholesale Dealers and Certificate of Approval Holders and Vermont Manufacturers.
1. A liquor representative, employee of a wholesale dealer, holder of a certificate of approval or manufacturer's license shall not be employed directly or indirectly on a paid or voluntary basis by a first class and/or third-class licensee. This shall not apply to employees of a manufacturer's license who also hold a first- or third-class license, so long as the license holder of both the manufacturer's license and first and/or third class license are the same legal entity. Holders of a certificate of approval, manufacturer's license, wholesale dealer's license, solicitor permit, or any full-time employee of such licensees may, at a retail establishment, stock, rotate, build and move displays and price products which they sell, provided products purchased from other wholesalers are not altered or disturbed.

a. An employee of a wholesale dealer or manufacturer of beverage alcohol may also work for a second class licensee in a store that sells beverage alcohol for off premise consumption, provided the employee has no management role and does not exercise any control over the business or any business decisions of the second class licensee, and that neither of these employment relationships has the effect of excluding another wholesale dealer or any brand of beverage handled by another wholesale dealer.

2. Employees of wholesale dealers are not to be employed as representatives of distilleries distributing fortified wines or spirits in Vermont or by a holder of a manufacturer's license.

3. All beverage alcohol sold under a bottler's license or a wholesale dealer's license shall be purchased only from holders of certificates of approval or manufacturer's licenses issued by the Board.

4. No beverage alcohol shall be returned by a retail dealer to a wholesale dealer unless the beverages are of substandard packaging or quality, are misordered, out of code or if the licensee is going out of business or closing for the season and then only when duly reported to the Board. Reporting to the Board is not required when a wholesale dealer wishes to exchange product for

another with the same SKU and move product going out of code to another licensed premises where it will sell. No such authorization shall be required for the return of draft beer in barrels.

5. All invoices furnished by the wholesale dealer to the retail dealer must carry serial numbers and can be either manually or electronically generated and transmitted. One invoice is to be left on the premises of the wholesale dealer and a copy is to be left with the retail dealer upon delivery. All invoices must show the name or the initials of the person taking the order. Invoices are to be made out in the name of the licensee as it appears on the trade name of the establishment.

6. Tapping accessories, such as standards, faucets, rods, vents, taps, hoses, washers, couplings, vent tongues, shanks, pressure gauges, and check valves may be sold to a retailer, if the tapping accessories are sold at a price not less than the cost to the certificate of approval holder, manufacturer, or wholesale dealer who initially purchased those items. Invoices on all such sales must be maintained on the licensed premises for a period of two years. However, in an existing system, servicing and cleaning of all draught equipment from the barrel to the glass, and replacing of rods, taps, hoses and washers is approved.

7. Holders of a certificate of approval or manufacturer's license shall not ship any beverage alcohol to a wholesale dealer in Vermont unless same is covered by an invoice.

8. No wholesale dealer or bottler may solicit or accept orders for beverage alcohol except from the holder of a first or second class license and all such beverages must be delivered by the wholesale dealer or bottler to the licensed premises of the licensee giving the order. Deliveries may be made at the wholesale dealer's licensed premises to a first or second-class licensee or their employee at the posted delivered price.

9. All wholesale dealers shall post their malt beverage prices to first and second-class licensees with the Department. Prices will be posted as to each brand and size container. In the event of any proposed price change, the wholesale dealer will post same with the Board. Said price change or changes will not become effective until the seventh day after receipt of the proposed price change or changes at the office of the Board. Said price change or changes must remain in effect for a minimum period of fourteen days, and will remain in effect thereafter until notice of price change is posted as above provided. Each first and second-class licensee in the wholesale dealer's territory must receive at least one opportunity to buy at the changed price. When a wholesale dealer runs out of product, they shall be allowed to offer rain checks to all licensees who were not able to purchase the product at the posted price for a period not to exceed fourteen days. No price posting involving quantity discounts will be made. Any sale made by a wholesale dealer lower than their posted prices shall be construed as a violation of Regulation under this heading, in addition to a violation of this regulation.

10. In case of a change of distributors, holders of certificate of approval or holders of manufacturer's licenses or the new distributor shall make provision for taking over stock on hand, including empties and cooperage, supplied by said holders to distributors; and said holder of a certificate of approval or manufacturer's license or new distributor shall, within fifteen days from effective date of said change, pick up said stock on hand, including empties and cooperage,

from the distributor who is surrendering its stock. Distributors who so surrender said stock, including empties and cooperage, shall be reimbursed by said holder of certificates of approval or manufacturer's licenses or new distributor on the date the stock is received by the holder of certificate of approval, holder of manufacturer's license or the new distributor at cost price plus handling expenses not to exceed fifteen percent of the cost price and an invoice shall accompany the sale. After effective date of said change, said distributors shall not sell the products of said holders of certificates of approval or manufacturer's licenses.

11. A person, partnership or corporation holding a wholesale dealer's license issued by the Board, or any agent representing the wholesale dealer is prohibited from taking orders, selling or delivering any beverage alcohol in an aggregate quantity of less than seven and one half gallons or, if the quantity is less than seven and one half gallons, the cost is less than $ 75.00; nor shall a person, partnership, association or corporation holding a first or second class license order, purchase, or accept delivery of any beverage alcohol in an aggregate quantity of less than seven and one half gallons or if the quantity is less than seven and one half gallons, the cost is less than $ 75.00.

12. No manufacturer, certificate of approval holder, or wholesale dealer shall directly or indirectly or through any affiliate induce any licensee to purchase any beverage alcohol by giving or offering to such purchaser anything of value except brand-identified items which are primarily valuable to the retailer for advertising purposes only or explicitly allowed under Board Guidance Bulletin No. 1

13. A person to be eligible to hold a solicitor's permit must have reached their eighteenth birthday and be an employee of the licensee they represent.

Section 8. Manufacturing, Mechanical, Medicinal or Scientific Alcohol Regulations.
1. Completely denatured alcohol may be lawfully possessed, furnished, purchased, sold, bartered, transported, imported, or delivered into, from and within the State of Vermont in accordance with the rules, laws and regulations of the Federal Government pertaining thereto.

2. Pure ethyl or grain alcohol, including special denatured alcohol, for manufacturing, mechanical, medicinal, and scientific purposes must not be transported or delivered into or within the State of Vermont by other than a common carrier and only when consigned to the Board or to persons designated as , industrial users, hospitals, druggists, institutions of learning, etc., and only in wholesale quantities in containers of five gallons or more when accompanied by permit issued by the Board. This regulation shall not pertain to holders of manufacturer’s licenses issued by the Board.

3. Upon application made on forms provided for this purpose by the Department, the Commissioner may issue a permit to persons designated in Regulation No. 2, requiring alcohol in quantities of five gallons or more for hospitals, manufacturing, mechanical and scientific purposes to purchase such alcohol direct from duly registered manufacturers of alcohol or manufacturers' agents.

Section 9. Education Regulations.
1. It shall be the duty of all licensees to know and to ensure that their employees know the laws and regulations of the State of Vermont relative to the sale of beverage alcohol and tobacco products, paraphernalia, and substitutes as well as the rules and regulations of the Board applying to their particular licenses. In case of an infraction of the laws, rules or regulation by any licensee, such infractions shall be deemed prima facie evidence of the licensee's unfitness to hold a license.

2. All licensees shall complete the Department of Liquor and Lottery licensee training associated with their license as designated by the Board and pass the associated test prior to licensure and at least once every two years thereafter.

a. A licensee shall designate an owner, director, partner, or manager who shall comply with the terms of this regulation

b. The Department shall not consider a renewal application of any license or permit complete until satisfactory proof can be accessed or provided to the Department showing that the licensee has complied with the terms of this regulation.

c. Wine Storage Facility, Wholesale Dealer, Certificate of Approval, and Bottler's licenses do not require training.

3. Each licensee shall ensure that every employee who is involved in the sale, service, or solicitation of beverage alcohol, or the sale of tobacco products, paraphernalia, and substitutes, or the enforcement of beverage or tobacco laws and regulations must complete the training program associated with the licenses at that location offered or approved by the Department. Completion of this training includes passing the associated test before the employee beings working in that capacity and at least once every two years.

a. A licensee may comply with this requirement by delivering training to their own employees using an employee who meets all trainer requirements as defined by the Department. The Board may revoke trainer status due to failure to comply with requirements as established by the Department.

b. A licensee may comply with this requirement using a Department approved 3rd party training that meets all 3rd party training requirements as defined by the Department. The Board may revoke 3rd party training approval due to failure to comply with requirements as established by the Department.

c. A licensee who fails to comply with the requirements as established by the Department shall be subject to a fine or suspension of their license of no less than one day after appropriate notice to appear for a hearing pursuant to Section 1 provisions of this Administrative Rule.

d. Licensees shall maintain physical or have access to electronic records at the licensed location. These records must be made available within a reasonable amount of time to

a Department's Investigator or a Vermont Law Enforcement Officer for verification if requested.

4. Failure to comply with these Education Regulation provisions may result in suspension or revocation of a license after notice and an opportunity for a hearing.

Statutory Authority

STATUTORY AUTHORITY:

3 V.S.A. § 212(14); 7 V.S.A. §§ 101 to 108; 31 V.S.A. § 1208

2022

Regulation Rewrite Workgroup Proposal

Chief Skyler Genest

Senior Director of Licensee Operations

Vermont Department of Liquor and Lottery

9/16/2022

PURPOSE

Title 7 VSA § 108 gives statutory authority to the Board of Liquor and Lottery to adopt rules as necessary to carry out to provisions of Title 7. As such, one administrative rule is kept under the Vermont Code of Rules, which includes several groups of regulations to ensure public safety by preventing the misuse of alcohol and tobacco through controlled distribution, providing for applicable enforcement, and establishing robust education requirements.

These Regulations have been updated periodically over the years to reflect changes in statute and realities in the regulatory landscape, with the most recent update having occurred in late 2016. Since then several Acts as enacted by the Vermont Legislature have amended significant portions of Title 7, including the consolidation of the Departments of Liquor and Lottery. As such, many contradictions between statute and regulation have emerged. Additionally, the impact of modern business practices is ever-changing, and regulatory agencies must remain agile to respond. Therefore, a process began in the early summer of 2022 to modernize and deconflict our currently regulatory model. This process involved an extensive study of issues, over 11 hours of working group discussion, and significant input from industry stakeholders.

RESULTS

This document shall serve as a proposal to the Board to review the initial outcomes of the process. Many individual alterations to the Administrative Rules were made, pointed directly at adjusting verbiage reflecting the consolidation of the departments of Liquor and Lottery. Aside from those, the following will highlight the substantive adjustments to regulations of significant impact. The remainder of this document includes the entire work product, annotating all amendments to the entirety of the Administrative Rule, and an appendix with all received written stakeholder input.

HIGHLIGHTS

- Section 1 titled "Administrative Organization and Procedures, and Agency Rules of Practice" was amended to remove the types of licenses issued by the Board. These are all identified in statute and do not need duplication in Administrative Rule.
- Section 3, titled "General Regulations" underwent a litany of adjustments. In addition, many General Regulations were re-numbered. Adjustments of note:
    - Tobacco products, tobacco substitutes, tobacco paraphernalia, or other tobacco product products were added in all general regulations to bring parity with regulations that pertain to beverage alcohol where applicable.
    - General Regulation 4 provided an exemption for holders of a Manufacturer's license who also have a 1st and/or 3rd class license located on their manufacturing premises to "self-source" their own alcohol. An exemption allows beverage alcohol to be brought onto a license premise under a Special Event Permit. A loophole correction would prohibit retailers of tobacco products to also become their own wholesale dealer.
    - General Regulation 7 includes video surveillance and video surveillance systems as a business record but exempts the retention of those video records from the 2-year requirement.
    - General Regulation 9 was removed (incorporated into General Regulation 53)
    - General Regulation 10 was renumbered and amended to include the penalty of suspension for any reason that a licensee may not be in "good standing" with the Dept. of Taxes pursuant to Title 32.
    - General Regulation 11 was renumbered and amended to remove the clear protective covering requirement but requiring the license/permit to be posted in a conspicuous place.
    - General Regulation 13 was renumbered and excluded the use of temporary identification documents as valid identification. This is in response to a change in protocol on how Vermont DMV issues driver's licenses.
    - General Regulation 16 was renumbered and changed the term "illegal substances" to "impairing substances" reflecting the legalization of marijuana/cannabis.
    - General Regulation 17 was renumbered and changed the term "intoxication" to "impairment" to reflect industry standard and scientific terminology.
    - General Regulation 18 was renumbered and allows licensees the ability to transfer regulated products without prior authorization among locations so long as the locations are controlled by the same licensed entity. This reflects input from industry stake holders on the ability to better manage inventory.
    - General Regulation 25 was removed as this was not an enforceable regulation, merely describing the statutorily prescribed protocol for applying for a license.
    - General Regulation 26 was renumbered and requires all first and/or third-class licensed establishments, except for clubs and holders of a manufacture's or rectifier's license, to have some food service available at the establishment.

- General Regulation 27 was renumbered and requires posted notice of suspension to the public upon the licensed premises.
- General Regulation 29 was renumbered and removed the requirement for staff to be able to read, write, and speak the English language.
- General Regulation 32 was renumbered and decouples the regulation from Health Department statutes and regulations. Allows for regulatory action to occur for unsafe or unsanitary conditions not explicitly covered by Health Department statutes and regulations.
- General Regulation 39 was removed.
- General Regulation 41 was renumbered and removes the requirement for all draft systems to be connected to a plumbed drain and simply requires all caught draft drippings to be discarded in a sanitary manner.
- General Regulation 43 was renumbered and amended to allow for licensees the ability to color, flavor, mix, blend or infuse beverage alcohol in preparation for later service at the licensed premise. It further adds some requirements around that practice to ensure public health. This reflects industry stakeholder input on current practices in the craft beverage industry.
- General Regulation 44 was removed to allow for the ability of first and/or third-class licenses to partner with business in food preparation and service. This reflects the industry trend of pairing craft food with craft beverage.
- General Regulation 46 was removed.
- General Regulation 53 was updated with regulations that put into place fraud protections for vulnerable non-profit entities.

- Section 4 titled "Advertising" was amended by removing Advertising Regulation 2. This was reflective of the Department wishing to rely on federal advertising regulations and ceasing being the arbiter of what is or is not appropriate advertising.
- Section 6 titled "Credit" was amended to allow for licensees to purchased beverage alcohol using credit/debit payments.
- Section 7 titled "Clubs" was removed.
- Section 8 was renumbered and Regulation 1 under this section was amended to exempt employees of a manufacturer's license who also hold a first or third class license, allowing them to work at a first and/or third class establishment so long as the license holder of both the manufacturer's license and first and/or third class license are the same legal entity.
- Wholesale Regulation 4 and 5 were removed.
- Wholesale Regulation 7 was removed.
- Section 9 was renumbered and renamed to reflect that the regulations therein pertained to Manufacturing, Mechanical, Medicinal or Scientific uses of Alcohol.
- Section 10 titled "Education Regulations" was renumbered and Regulation 2 and 3 of this section was amended to reflect current education and training standards as approved by the Board.
- Education Regulations 4, 5, & 6 were removed.

The following is the complete work product of the workgroup. The existing Administrative Rule was used as the working document and was amended using legal markup to reflect the addition and removal of content.

- Code of Vermont Rules
- AGENCY 26. DEPARTMENT OF LIQUOR ~~CONTROL~~ AND LOTTERY
- SUB-AGENCY 020. BOARD OF LIQUOR ~~CONTROL~~ AND LOTTERY ~~BOARD~~
- CHAPTER 001. RULES AND REGULATIONS

26 020 001. RULES AND REGULATIONS

Section 1. Administrative Organization and Procedures, and Agency Rules of Practice.
1. In addition to the provisions as set forth in ~~VSA, Title 7, Sections 101 through 107,~~ applicable sections of Title 7 of the Vermont State Statutes Annotated, all general information relative to general administration, ~~stores and~~ agencies, warehouse, licensing, enforcement procedures, and personnel may be obtained at the central office of the ~~Liquor Control Board~~ Department of Liquor and Lottery ~~in Montpelier~~. ~~All information relative to licensing and enforcement procedures is available at the central office in Montpelier.~~

~~2. Requests for information relative to the establishment of new state liquor stores or agencies shall be directed to the Commissioner of Liquor Control in Montpelier. Prospective licensees must make application for the following licenses at the town or city clerk's office where the premises are located:~~

~~* First class license (beer under 16% alcoholic content by volume and wine under 16% alcoholic content by volume) for cabarets, restaurants, hotels and clubs.~~

~~* Second class license (beer under 16% alcoholic content by volume and wine under 16% alcoholic content by volume) for stores.~~

~~Applications for the following licenses are available at the Division of Liquor Control, Office of Licensing Liquor Control Board Office, State Office Building, Green Mountain Drive, Montpelier, Vermont.~~

~~* Third class license (spirituous liquor) for restaurants, hotels, clubs, and cabarets.~~

~~* Caterer's permit~~

~~* Wholesale dealer's license (beer under 16%) alcoholic content by volume and wine under 16% alcoholic content by volume).~~

~~* Certificate of Approval, Malt~~

~~* Certificate of Approval, Vinous~~

~~* Solicitor's Permit~~

~~* Bottler's license~~

~~* Druggist's permit~~

~~* First class license for dining cars and boats~~

~~* Third class license for dining cars and boats~~

~~* Wholesale Alcohol permit~~

~~* Alcohol permit (medicinal, mechanical, scientific or manufacturing purposes)~~

~~* Manufacturer's or rectifier's license~~

~~Requests for altar wine permits, etc. are submitted in letter form to the mailing address below. (Note: There is no fee required.)~~

~~Vermont Department of Liquor Control~~

~~Attention: Licensing Division~~

~~Green Mountain Drive, Drawer 20~~

~~Montpelier, Vermont 05620-4501~~

~~Vermont Liquor Control Identification Card applications (for persons between the ages of 21 and 30) are available at all state liquor agencies. The fee of $ 5.00 accompanies the application.~~

~~3.~~ 2. Definitions. The definitions set forth in 3 VSA, ~~Sec. 801~~ Chapter 25 are hereby adopted and made applicable to these regulations.

~~4.~~ 3. Formal and Informal Proceedings. The following types of proceedings will be treated as formal proceedings:
a. Revocation of licenses.
b. Rule-making proceedings initiated by the Board of Liquor ~~Control~~ and Lottery ~~Board~~ under Regulation No. 9(b).

All other petitions, applications, submissions, requests, charges, etc., will be treated as informal proceedings.

~~5.~~ 4. Appearances in Formal Proceedings.

a. A party to a formal proceeding before the Board of Liquor ~~Control~~ and Lottery ~~Board~~ may ~~appear for himself or he~~ represent themself or may be represented by an attorney admitted to practice in the State of Vermont.

b. Upon the filing of a petition, charge or other pleading initiating a formal proceeding before the Board of Liquor ~~Control~~ and Lottery ~~Board~~, the name of the attorney or person who has signed such pleading will be entered on the agenda of the Board of Liquor ~~Control~~ and Lottery ~~Board~~ by the ~~Enforcement Secretary~~ Department of Liquor and Lottery. Except for appearances entered during a hearing, all other appearances in formal proceedings by attorneys or persons appearing for themselves shall be by notice in writing filed with the ~~Enforcement Secretary of the Liquor Control Board~~ Department. ~~and served pursuant to Regulation No. 6 herein.~~

c. All notice given to or by an attorney of record for a party in a formal proceeding shall be considered in all respects as notice to or from the party represented by such attorney.

d. When an attorney has entered ~~his~~ their appearance for a party in a formal proceeding, ~~he~~ they shall remain counsel for such party until ~~he has~~ they have been granted leave to withdraw by order of the Board of Liquor ~~Control~~ and Lottery ~~Board~~.

e. An attorney not residing or not admitted to practice in the State of Vermont may appear for a party if ~~he is~~ they are associated with a resident and admitted attorney who has entered ~~his~~ their appearance for the same party.

~~6.~~ 5. Filing and Service of Documents in Formal Proceedings.

a. The petition, charge or other pleading initiating a formal proceeding before the Board of Liquor ~~Control~~ and Lottery ~~Board~~ shall be signed by the petitioner or complainant or an officer thereof and shall be filed with the ~~Enforcement Secretary~~ Department of Liquor and Lottery ~~in quadruplicate~~. Such pleadings shall be drawn so as to fully and completely advise the Board of Liquor ~~Control~~ and Lottery ~~Board~~ and respondents, if any, as to the order of rule sought and the statutory authority and reasons therefor.

b. ~~All formal pleadings addressed to the Liquor Control Board and other documents and papers filed in formal proceedings shall be on paper measuring eight and one-half by eleven inches.~~ Filing with the Board of Liquor ~~Control~~ and Lottery ~~Board~~ shall be deemed to occur when a document ~~or paper~~ is received by the ~~Enforcement Secretary~~ Department of Liquor and Lottery ~~of the Liquor Control Board~~ except that filing shall be deemed to occur upon receipt by the Board of Liquor ~~Control~~ and Lottery ~~Board~~ when a document is submitted to the Board of Liquor ~~Control~~ and Lottery ~~Board~~ during a hearing.

c. A petition for leave to intervene as a party must set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and whether petitioner's position is in support of or opposition to the order sought.

d. Every document or paper filed by any party subsequent to the initial pleading in a formal proceeding shall be served upon the attorneys of record for all other parties and upon all persons who have appeared for themselves.

e. In its discretion the Board of Liquor ~~Control~~ and Lottery ~~Board~~ may treat any written communication to it concerning a matter within its jurisdiction as a pleading initiating a formal proceeding.

f. Briefs and proposed findings of fact and conclusions of law, if any, shall be filed within ten days after hearing or, in the event that the hearing has been waived under Regulation No. 7(a), within ten days after the date originally set for the hearing.

~~7.~~ 6. Hearings.

a. An oral hearing shall be held in every formal proceeding except: (1) in a formal rule-making proceeding if no request to be heard is submitted within five days of the date set for such hearing, in accordance with the provisions of Title 3 ~~VSA Sec. 836(4) and 3 VSA Sec. 840~~ in any other formal proceeding if all the parties to the proceeding file written waivers of opportunity to be heard.

b. Upon the filing of a pleading initiating a formal proceeding, or upon the initiation of such a proceeding by the Board of Liquor ~~Control~~ and Lottery ~~Board~~ on its own motion, the Board of Liquor ~~Control~~ and Lottery ~~Board~~ shall by order or otherwise assign a time and place for the hearing thereof and the ~~Enforcement Secretary~~ Department of Liquor and Lottery shall cause written notice of the hearing in the form as provided by Title 3 ~~VSA Sec. 809(b) and Sec. 836(c) and 839~~ to be served upon each party and, if required by statute, shall arrange for publication thereof.

c. Every party and counsel representing the Board of Liquor ~~Control~~ and Lottery ~~Board~~, if any, shall have the right to participate fully in any hearing before the Board of Liquor ~~Control~~ and Lottery ~~Board~~, and, in the case of rule-making proceedings, all interested persons shall also be permitted to participate in accordance with the terms of the notice of the proceeding.

d. The admissibility of evidence in all formal proceedings before the Board of Liquor ~~Control~~ and Lottery ~~Board~~ shall be determined under the criteria specified in Title 3 ~~VSA Sec. 810(1)-(4) which are attached hereto as Appendix A.~~

e. The testimony of a hearing witness on direct examination may be offered in written form, either by having it read into the record or by offering it for incorporation in the record without reading, provided that a copy of such testimony shall be supplied to the Board of Liquor ~~Control~~ and Lottery ~~Board~~, each attorney of record, and each party appearing for himself at a reasonable time in advance of the hearing at which testimony will be offered. Such testimony shall be subject to the same rules of admissibility and cross-examination as extemporaneous testimony.

~~8.~~ 7. Petitions for Rule-making and Declaratory Rulings.

a. Petitions for the adoption, amendment, or repeal of any rule will be entertained by the Board of Liquor ~~Control~~ and Lottery ~~Board~~. Such petitions shall be filed with the ~~Enforcement Secretary~~ Department of Liquor and Lottery pursuant to Regulation No. 6 hereof. Such petitions will be considered and disposed of pursuant to the procedure specified in Title 3 ~~VSA Sec. 836 and Sec. 806~~ and Regulation No. 9(b) hereof.

b. Petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Board of Liquor ~~Control~~ and Lottery ~~Board~~ will be entertained by the Board of Liquor ~~Control~~ and Lottery ~~Board~~ in an informal manner. Such petitions shall be filed with the ~~Enforcement Secretary~~ Department of Liquor and Lottery and shall be so drawn as to fully and completely advise the Board of Liquor ~~Control~~ and Lottery ~~Board~~ the reasons why such a ruling is sought. The Board of Liquor ~~Control~~ and Lottery ~~Board~~ shall within thirty days after such petition has been filed advise the petitioner of its decision and the facts involved.

~~9.~~ 8. Special Procedures for Certain Informal Proceedings.

a. Any formal proceeding for revocation of a license, certificate, etc., shall be preceded by notice to the licensee of facts or conduct which warrant the intended action, and the licensee shall be given an opportunity informally to show compliance with all lawful requirements for the retention of the license prior to initiation of such formal proceeding under Regulation No. 7 hereof.

b. Petitions for rule-making filed under Regulation No. ~~8~~7(a) hereof will be considered informally and the Board of Liquor ~~Control~~ and Lottery ~~Board~~ shall within thirty days after the filing of such a petition either deny the petition in writing (stating its reasons for the denial) or shall initiate formal rule-making proceedings in accordance with Title 3 ~~VSA Sec. 836~~ and Regulation No. ~~7~~6(b) hereof.

~~10.~~ 9. Enlargement of Rules.

The Board of Liquor ~~Control~~ and Lottery ~~Board~~ may take a proceeding partially or entirely out of these rules when the law so permits and, in its opinion, the interest of the public so requires.

~~Appendix A. Rules of Evidence, Official Notice.~~

~~1. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the county courts of this State shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;~~

~~2. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original;~~

~~3. A party may conduct cross-examinations required for a full and true disclosure of the facts;~~

~~4. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experienced, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.~~

Section 2. Definitions.

The following words as used in these regulations, unless a contrary meaning is required by the context, shall have the following meaning:

Department: The Department of Liquor and Lottery.

Board : The Board of Liquor ~~Control~~ and Lottery ~~Board~~.

Commissioners : The Local Control Commissioners.

Commissioner : ~~Executive Officer of the Board.~~ Appointing Authority of the Department.

~~Alcoholic Liquor~~ Beverage Alcohol : All malt ~~and~~ ,vinous, ~~beverages and~~ , fortified wine, ready-to-drink spirits beverages and ~~spirituous liquors~~ spirits as defined by ~~law~~ Title 7.

~~Restaurant : For purposes of granting licenses of the first class or first and third class, means a place located in a suitable building adequately equipped, and having a sufficient number of employees, to serve meals regularly in a public dining room provided for that purpose. Regular meals for the purpose of this regulation shall mean the usual assortment of food commonly ordered at various hours of the day.~~

~~Dance Hall : A room, hall, eating place, building, structure or place shall be deemed a dance hall for the purposes of these regulations at all times and occasions when dancing, for which admission is charged and which is open to the general public, is conducted or permitted therein. A dining room in which regular meals are served and in which occasional dancing occurs for which no charge is made shall not be deemed a dance hall. A cover or minimum charge, imposed or collected during hours when meals are served and live entertainment consisting of one or more performers is presented, shall not be construed as the charging of admission.~~

Person : Individuals and partnerships composed solely of individuals, corporations organized under the Laws of any of the United States or corporations subject to the jurisdiction of the Interstate Commerce Commission or the Public Service Commission.

REGULATIONS RELATING TO THE SALE OF ~~ALCOHOLIC LIQUOR~~ BEVERAGE ALCOHOL

Section 3. General Regulations.

For purposes of these Regulations, "license" shall have the same meaning as defined in 3 V.S.A. § 801(b)(3), including lithe whole or part of any ~~[Department of liquor Control (DLC) or liquor Control Board]~~ [Department of Liquor and Lottery (DLL) or Board of Liquor and Lottery] permit, certificate, approval, registration, charter, or similar form of permission required by law"; "licensed premises" shall mean any location subject to a license; and "licensee" shall mean any individual or entity holding a license.

1. The ~~Liquor Control~~ Board may establish a schedule of penalties for specifically enumerated violations, which may be imposed by the Department, allowing for the licensee to waive a hearing and accept the stated penalty(s). licensees may decline to accept the stated penalty(s) and ask for a hearing before the Board.

2. It shall be unlawful for any common or contract carrier, or any individual or entity operating transportation facilities in this state or otherwise transporting goods for hire to receive or cause to be imported into this state any spirituous liquor unless such liquors are consigned for delivery to the ~~Vermont liquor Control~~ Board, or malt ~~or~~ ,vinous, or ready-to-drink spirits beverages unless consigned for delivery to a wholesale dealer holding a wholesale dealer's license issued by the ~~Liquor Control~~ Board. However, it shall be lawful to accept individual consignments of malt ~~or~~ , vinous, or ready-to-drink spirits beverages for transportation into and delivery within the state to an individual only when such malt ~~or~~ ,vinous, or ready-to-drink spirits beverages are sold and shipped pursuant to ~~7 V.S.A. §§ 66, 68 or other~~ applicable ~~provision~~ provisions of law.

3. A licensee shall not permit or suffer the possession ~~or~~, consumption, or sale ~~of any alcoholic beverages~~ on its licensed premise of ~~a higher alcoholic content than that~~ any beverage alcohol, tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product other than allowed by the licenses granted for said premises.

4. Except for holders of a manufacturer's license who also have a 1st and/or 3rd class license located on their manufacturing premises, ~~A~~ a licensee shall not possess or allow the consumption of malt, vinous, fortified wine, ready-to-drink spirits beverages or spirituous liquors other than those purchased on invoice from a bottler's or wholesale dealer or on invoice from the ~~Vermont Liquor Control~~ Board, or on invoice from a direct-to-retail shippers licensee. A licensee shall not possess or allow the consumption or sale of any tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product other than those purchased on invoice from a holder of a Wholesaler Dealer Licensed issued by the Vermont Department of Tax. No retail tobacco licenses or endorsements shall be issued to or renewed for entities that are also holders of a Wholesaler Dealer Licensed issued by the Vermont Department of Tax.

a. Holders of a manufacturer's license that are granted any permit to occur upon a licensed premise, may introduce products lawfully manufactured by the holder of the permit onto the

license premise so long as the licensed manufacturer engages in on-premise sampling and off-premise sales only and clearly labels all beverage alcohol brought onto the licensed premise "for sale to the public only".

5. Requests for catering must be made by ~~first class~~ licensees ~~or first and third class licensees also~~ holding a catering license, or a commercial caterers license, at least five days prior to the date of the catered ~~party~~ event. The five-day requirement may be shortened~~, but not less than one day prior to the occasion, at the discretion of the~~ if the request is approved by the local control commissioners. Any single catering event permit may not exceed 4 consecutive days.

a. ~~Pre-approval of certain locations may be granted annually at the time of renewal by the Department.~~ Events with more than 200 people shall notify the Department by ~~fax or e-mail at least 24 hours in advance of the event.~~ indication on the application.

6. Only third class licensees may possess, sell or furnish any malt or vinous beverages containing an alcoholic content greater than 16% unless otherwise specified in state law. Cooking wines, which contain an alcohol content greater than 16% and 1.5% of sodium, extracts, tinctures and bitters not regulated by the Tax and Trade Bureau are not considered beverages and are therefore not governed under these regulations.

7. Licensees and licensee employees shall allow at any time~~, a member of the Liquor Control Board,~~ the Commissioner~~, and/or~~ any of their assistants or Liquor Investigators to examine the licensed premises as well as all records, papers, stock, merchandise or equipment in reference to the operation of the license, and shall retain such items for inspection. Excluding video footage all licensees shall keep on their licensed premises for a period of two years a complete record covering the operation of their license, including all invoices covering the purchase or transfer of ~~alcoholic beverages and/or tobacco~~ beverage alcohol, tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product, and all financial records including but not limited to daily receipts for the sale of ~~alcohol and/or tobacco~~ beverage alcohol, tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product. If any licensee has more than one licensed location, the licensee may keep all records in one centralized business location in the State of Vermont and the Department shall be notified in writing, in advance, of the name, street address, and telephone number of such designated location. Except as provided in Education Regulations, ~~However, the~~ licensees shall retain all training certificates and records, on the licensed premises where the individual in question works. Should any licensee employ a video surveillance system at the licensed establishment the Commissioner and/or any of their assistants or Investigators may at any time examine such system or resulting retained video recordings.

a. No licensee, licensee employee or any individual performing work or services for a licensee on a licensed premises shall interfere with, nor permit any other individual to interfere with, provide false written or verbal information to, or fail to cooperate with a Liquor Control Investigator or other Vermont Law Enforcement Officer in the performance of their duties.

b. A licensee, licensee employee, or any individual performing work or services for a licensee on a licensed premises, related to the liquor licenses held, shall provide a liquor investigator or a

law enforcement officer with such bona-fide identification as is acceptable under Vermont law when requested.

8. No licensee shall keep within or in connection with the licensed premises any illegal implement, machine or device of any kind or nature by the use or operation of which there is an element of chance for the winning or losing of money or other things of value, nor permit said premises to be used for illegal gambling purposes.

~~9. Gambling on licensed premises: Any licensee wishing to conduct game(s) of chance on licensed premises must first obtain a permit from the Vermont Department of Liquor Control using the prescribed form or format. Licensees applying for and/or receiving a permit shall be subject to financial disclosure to the Department for the purpose of verifying the disbursement of proceeds in accordance with applicable Vermont statutes and/or regulations.~~

~~10.~~ 9. No ~~first or third class liquor~~ license shall be issued to an individual or entity ~~who~~ that is not first licensed with the Vermont Department of Taxes to collect ~~the Vermont Rooms and Meals~~ tax as required by Title 32. Suspension of any ~~first or third class liquor~~ licenses issued by the Board may result by action of the ~~Liquor Control~~ Board, after notice and hearing, upon certification to the Board by the Vermont Department of Taxes that the licensee has failed to collect ~~the Vermont Rooms and Meals~~ tax, has failed to pay over to the Vermont Department of Taxes the ~~Vermont Rooms and Meals~~ tax collected, ~~or~~ is not licensed with the Vermont Department of Taxes to collect the ~~Vermont Rooms and Meals~~ tax, or is not in good standing with the Vermont Department of Taxes pursuant to Title 32. A licensee and licensee employees must allow the Commissioner of Taxes or any of ~~his/her~~ their assistants or investigators on the licensed premise at all times to examine records covering the operation of the licensee's business.

~~11.~~ 10. All licenses shall be ~~framed under a clear protective covering and be~~ displayed in a ~~public location~~ conspicuous location viewable to the general public on the licensed premises described therein.

~~12.~~ 11. Unless when allowable by state law, no licensee or licensee employee shall sell or furnish ~~alcoholic beverages~~ beverage alcohol, tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product to any individual who is less than twenty-one years of age, nor shall a licensee or the licensee employee permit or suffer ~~alcoholic beverages~~ beverage alcohol, tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco products to be consumed our used upon the licensed premises by any individual who is less than twenty-one years of age.

~~a. A student aged eighteen or older who is enrolled in a post-secondary education culinary arts program, accredited by a commission recognized by the U.S. Department of Education, shall be exempt from the provisions of this regulation while attending classes that require the possession or consumption of alcoholic beverages.~~

~~13.~~ 12. For individuals of questionable age, all ~~liquor and tobacco~~ licensees and their employees shall demand that such individual exhibit a valid operator's license, valid non-driver

identification card, or enhanced driver's license, which has been issued by this state or another state or foreign jurisdiction, a valid United States military identification card, a valid passport card or valid passport all of which bear the person's photograph ~~and signature~~, name, date of birth, and expiration date. No temporary identification documents shall satisfy the requirements of this regulation.

~~14.~~ 13. No licensee shall permit an individual under eighteen years of age to be involved in the preparation, sale or service of ~~alcoholic beverages~~ beverage alcohol for on-premise consumption~~, or to entertain on a paid or voluntary basis within or in connection with any licensed premises. No individual under the age of sixteen shall be allowed to sell tobacco on the premises of any licensee.~~

~~15.~~ 14. No ~~second class~~ licensee shall permit an individual under sixteen years of age to sell ~~alcoholic beverages or tobacco on a paid or voluntary basis within or in connection with the second class license.~~ beverage alcohol for off-premise consumption, any tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product to the public at their licensed establishment.

~~16.~~ 15. No licensee or licensee employee, or any individual involved in the sale, preparation or furnishing of ~~alcoholic beverages~~ beverage alcohol, or sale of tobacco products and/or the enforcement on the premises of the laws, rules and regulations of this State pertaining to the sale or furnishing of ~~alcoholic beverages~~ beverage alcohol, or sale of tobacco products, shall consume or display the effects of alcohol or any ~~illegal~~ impairing substance while in the performance of their duties.

~~17.~~ 16. No licensee shall sell or furnish ~~alcoholic beverages~~ beverage alcohol to any individual displaying signs of ~~intoxication~~ impairment from ~~alcoholic beverages~~ beverage alcohol or other drugs / substances. No licensee shall allow ~~alcoholic beverages~~ beverage alcohol to be consumed on the licensed premises by any individual displaying such signs of ~~intoxication~~ impairment. No licensee shall allow any individual displaying such signs of ~~intoxication~~ impairment to stay on the licensed premises, except under direct personal supervision by a licensee or licensee employee in a segregated nonpublic area when the patron's immediate departure could be expected to pose a risk of bodily injury to the patron or any other individual.

a. Licensees or licensees' employees shall not serve ~~alcoholic beverages~~ beverage alcohol to any individual whom it would be reasonable to expect would be under the influence as a result of the amount of alcohol served to that person. Under the influence, in this Regulation, shall mean that degree of ~~intoxication~~ impairment that would render it unsafe or illegal for the patron to undertake normal and expected activities upon leaving the licensed premises.

~~18.~~ 17. Licensees shall store all ~~alcoholic beverages~~ beverage alcohol, tobacco products, tobacco substitutes, tobacco paraphernalia, or other tobacco products on the licensed premises unless otherwise authorized in writing by the Board. First, Second and/or Third-Class Licensees, and Master Resort Licenses may transfer beverage alcohol without prior authorization among similarly licensed locations so long as the locations are controlled by the same licensed entity.

Tobacco Licensees may transfer tobacco products, tobacco substitutes, tobacco paraphernalia, or other tobacco products without prior authorization among locations so long as the locations are controlled by the same licensed entity.

~~19.~~ 18. No licensee that sells or distributes ~~malt or vinous beverages~~ beverage alcohol to the public may accept free malt or vinous beverages, services, monetary payments or other things of value from a manufacturer, holder of a certificate of approval, bottler, wholesale dealer, or holder of a solicitor's permit, nor purchase malt or vinous beverages below the uniform price charged by the bottler or wholesale dealer. The ~~Liquor Control~~ Board is empowered to define the terms "things of value" as contained ~~herein~~ within Liquor and Lottery Board Guidance Bulletin No. 1; "things of value" exclude brand-identified items that are primarily valuable for advertising purposes and are approved by the ~~Liquor Control~~ Board.

~~20.~~ 19. If a license is issued to a partnership and the partnership is dissolved, the remaining partner may continue to operate under the same license until its expiration. If a new partnership is formed, a new license must be issued and the former license surrendered.

~~21.~~ 20. Any individual having a direct or vested financial interest in the business of the licensee must be disclosed on the license application. Except for Clubs, ~~The~~ a licensee must notify the Department no less than 20 days before any intended changes in the ownership of and or financial interest of any person or entity in the licensed entity can occur. Any such changes not approved by the Department, may place the license in jeopardy and/or may result in administrative penalties after a Board hearing.

a. Licensees shall have prior approval from the ~~Liquor Control~~ Board of any change of directors, officers, members, managers, or affiliates, and of any change in shares that causes the holdings of any new or existing shareholder, including the holdings of that shareholders immediate family, to equal ten percent or more of a corporation's voting shares. Notices shall be given in writing to the ~~Liquor Control~~ Board not later than 20 days prior to any change. The Board will consider changes in the same way that new licenses are considered. If changes, other than changes caused by the death of a joint tenant, are concluded without obtaining prior Board approval, in writing, the license shall be subject to suspension or revocation.

~~22.~~ 21. First class licensees shall purchase on invoice, ~~malt and vinous~~ beverage~~s~~ alcohol from holders of a bottler's or Vermont wholesale dealer's license issued by the ~~Liquor Control~~ Board, or from holders of a direct-to-retailer shipping license for vinous beverages issued by the ~~Liquor Control~~ Board, for consumption only on the licensed premises, except as ~~allowed by 7 V.S.A. § 222(1) or other applicable provision of law.~~ permitted by General Regulation 4 herein.

~~23~~. 22. Second class licensees shall purchase on invoice, ~~malt and vinous~~ beverage~~s~~ alcohol only from holders of a bottler's or wholesale dealer's license issued by the ~~Liquor Control~~ Board, or from holders of a direct-to-retailer shipping license for vinous beverages issued by the ~~Liquor Control~~ Board, for consumption off the licensed premises. A second class licensee that sells kegs must keep copies of their keg logs for 90 days.

~~24.~~ 23. Except as permitted by applicable state law or General Regulation 4 herein, Third class licensees shall purchase on invoice, spirituous liquors only from the ~~Liquor Control~~ Board. Said liquor must be consumed on the licensed premises.

~~25. Each applicant for a first or second-class license shall submit an application on prescribed forms to the Commissioners of the town or city where the licensee is to operate. Upon being satisfied that the conditions precedent to the granting of the first or second class licenses as provided in 7 V.S.A. § 222, have been fully met by the applicant, the commissioners will endorse their recommendation on the back of the application and transmit such application to the Board for suitable action thereon, before any license may be granted. When an application is forwarded to the Liquor Control Board, it shall indicate it has the approval of the majority of the full membership of the Local Control Commissioners.~~

~~26.~~ 24. No first and/or third class license application ~~for a hotel, or restaurant~~ may be issued until the applicant has on the premises a ~~food~~ license issued by the Vermont State Board of Health. All licensed first and/or third-class establishments, except for clubs and holders of a manufacturer's or rectifiers license, must at all times when open for business have some form of food service available at the licensed establishment.

~~27.~~ 25. If a license is ~~the Local Control Commissioners~~ suspended or conditioned ~~a first class, first and third class or second class~~ the license~~, the municipality~~ shall immediately notify the ~~Liquor Control~~ Board and/or Local Control Commissioners giving the reason as well as the effective date and length of time of the suspension or condition. If a license is suspended, the licensee is required to post notice of that suspension to the public giving the effective date and length of the time of the suspension in every entry way. Licensees under suspension shall not sell, serve, allow the consumption of, make orders for, or receive deliveries of regulated products upon the licensed premises.

~~28.~~ 26. ~~First or second class~~ No licensees shall ~~not~~ sell ~~malt or vinous~~ beverage~~s~~ alcohol, tobacco products, tobacco substitutes, tobacco paraphernalia, or other tobacco products at a price lower than the price in effect at the time of purchase from the wholesale dealer, the Board, or holders of a direct-to-retail shipping license.

~~29~~. 27. All licensees shall have present on the licensed premises at all times when open for business a responsible employee, agent or principal. ~~Every licensee and licensee employee involved in the sale or service of alcoholic beverages or the sale of tobacco products, must be able to read, write, and speak the English language with sufficient facility to be able to understand and comply with Vermont's liquor and Tobacco Laws and Regulations.~~

~~30. Licensees moving from one location to another may move their entire stock of alcoholic beverages with prior approval from the Liquor Control Board.~~

~~31.~~ 28. Any licensee that closes ~~out or sells its business shall forthwith surrender its licenses to the office of the Department of liquor Control in Montpelier. Such licensee~~ may sell all unopened ~~alcoholic beverages~~ beverage alcohol remaining in stock only to another licensee of the same class, and an invoice covering same shall ~~accompany the sale and a copy shall be sent~~

~~to the liquor Control Board~~ be retained by the purchasing licensee. All sales under this regulation shall be made within ~~15~~ 30 days after such surrender or closing.

~~32.~~ 29. All licensees shall keep their licensed premises at all times in a safe and sanitary condition ~~and~~ or in compliance with State Board of Health statutes and regulations. Safe and Sanitary conditions for holders of first and/or third-class licenses include adequate restroom facilities.

~~33.~~ 30. Licensees must comply with the Vermont Department of Labor, and the Vermont Department of Public Safety, statutes and regulations.

~~34.~~ 31. A licensee shall not lock the doors of its licensed premises where ~~alcoholic beverages~~ beverage alcohol are stored, sold, furnished or consumed if any individual other than the on duty licensee or on duty licensee employees are on the licensed premises.

a. Notwithstanding the above, licensed clubs, ~~as defined by 7 V.S.A. § 2(7), ("Clubs")~~ may choose to have their doors locked or unlocked.

~~35.~~ 32. All licensees shall ensure that lighting in their licensed premises is of such degree that a Department Investigator, and the licensee and licensee employees, shall be able to read the identification cards of the patrons and observe all individuals wherever alcohol is served or consumed.

~~36.~~ 33. All licensees shall control the conduct of all individuals on their licensed premises. All licensees must ensure the safety of individuals entering, leaving, or remaining on the licensed premises. No licensee shall permit, ~~or~~ suffer, or enable any disturbances, brawls, fighting or illegal activity upon the licensed premises; nor shall a licensee permit or suffer such premises to be conducted in such a manner as to render such premises or the streets, sidewalks, parking lots or highways adjacent thereto a public nuisance.

a. The Board may find, that a licensee suffered a disturbance, brawl, fight or illegal activity upon the licensed premises or upon the streets, sidewalks, parking lots or highways adjacent thereto if any individual engaged in such conduct had been allowed to stay on the licensed premises while displaying signs of ~~intoxication~~ impairment from alcohol, drugs or other substances, and/or if it would be reasonable to expect that such individual would be intoxicated as a result of the amount of alcohol served to that individual. Under such facts, the Board may conclude that any such individual's conduct should have been anticipated.

~~37.~~ 34. Except as otherwise authorized by law or ~~liquor Control~~ Board regulation, no licensee may serve malt beverages otherwise than in glasses, mugs, pitchers, or other containers, of a maximum capacity of thirty two ounces, nor serve more than four fluid ounces of spirituous liquor to any individual at one time or in the making of a single mixed drink, nor serve more than two of the above containers to any individual at one time. Bucket service by licensee staff is permissible under this regulation so long as number of containers per patron does not exceed 2 containers per patron and all service is provided in respect to all other regulations and provisions of state law.

~~38.~~ 35. Licensees dispensing any ~~alcoholic beverage~~ beverage alcohol from a draft system, shall display tap signs, clearly visible to the patrons, disclosing the brand~~s~~ of each ~~alcoholic beverages~~ beverage alcohol that ~~are~~ is being dispensed. ~~Such signs shall be displayed on the tap of the dispensing apparatus.~~

~~39. In the event the Board shall suspend or revoke any license, a copy of the notice of such suspension or revocation shall be furnished to the Local Control Commissioners.~~

~~a. Liquor licensees under suspension shall not sell, serve, allow the consumption of, make orders for, or receive deliveries of alcoholic beverages upon the licensed premises.~~

~~b. Tobacco licensees under suspension shall not sell serve, allow the consumption of, make orders for, or receive deliveries of tobacco products upon the licensed premises~~

~~40.~~ 36. No licensee or licensee employees shall serve to any customer any brand of ~~malt beverages, vinous beverages or spirituous liquor other~~ beverage alcohol other than that actually ordered.

~~41.~~ 37. ~~No licensee~~ Licensees shall use a container under any ~~alcoholic beverage~~ beverage alcohol taps to catch drippings and dispose of drippings. ~~The drip pan shall be connected to a plumbed drain to discard the waste~~ in a sanitary manner.

~~42.~~ 38. No licensee shall allow consumption of ~~alcoholic beverages~~ beverage alcohol in any open area, on or in connection with licensed premises, without first obtaining an outside consumption permit from the local control commissioners and approval by the ~~Liquor Control~~ Board. Licensees shall control and define such area with a physical barrier, unless the area is segregated from the general public and used for a private group event open to invited attendees only such as a wedding or banquet. If an event is attended by 200 people or more, the Department may require a licensee to place a double barrier no less than six feet inside of the outer boundary of the defined area to prevent attendees from handing ~~alcoholic beverages~~ beverage alcohol to any individual outside of the licensed area.

~~43.~~ 39. Except as otherwise authorized by law or by the ~~Liquor Control~~ Board, licensees shall not reuse, refill or tamper with any bottle of ~~alcoholic beverages~~ beverage alcohol nor shall such licensee adulterate, dilute, fortify, or cause any substitution of any nature to be made in or to the contents of any bottle of ~~alcoholic beverages~~ beverage alcohol.

a. "Adulterate" does not include a licensee that colors, flavors, mixes, blends or infuses beverage alcohol in preparation for later service at the licensed premise. The mixture/infusion must be clearly labeled with the following information: the date of production, the name of the person who created the mixture/infusion, the ingredients in the mixture/infusion including the alcohol brand name(s) and quantity, and the estimated proof of the mixture/infusion. Any mixture/infusion created shall be produced in a safe and sanitary manner. Any vessel used for dispensing the mixture/infusion shall not have a beverage alcohol brand label, nor shall it be

dispensed from a vessel that is of a design that would signify a particular brand of beverage alcohol to a consumer.

~~44. A first class licensee or first and third class licensee must be able to show that they are at all times operating the food and liquor business connected with the licensed premises; the licensee shall not lease, sub-lease or let out the food or liquor business on a percentage basis or any other agreement, except as provided in 7 V.S.A. § 222 (4). With the prior approval of the Board, a Club may let out its food business on a percentage or concession basis, provided the Club retains general supervision and control of the conduct of such food business.~~

~~45.~~ 40. All licensee employees must be hired by the licensee and paid on a fixed salary or hourly basis except when allowable by state law. All employees must have the required withholdings deducted from their wages and the required reporting of such withholdings must be made to the Vermont Department of Labor. A first, second and/or third class licensee shall not contract out any work, labor or services directly or indirectly related to the preparation, sale or service of ~~alcoholic beverages~~ beverage alcohol. All such duties shall be performed by individuals who are employees in fact and by law.

~~46. A second-class licensee shall not lease, sub-lease, or let out the licensee's business on a percentage basis or any other type of agreement.~~

~~47.~~ 41. Second class licensees shall not sell or furnish malt or vinous beverages for consumption on the licensed premises nor allow any individual to consume ~~alcoholic beverages~~ beverage alcohol on the licensed premises except as authorized by ~~7 V.S.A. § 67~~ the Board or other applicable ~~provision~~ provisions of law. Second class licensees shall not sell or furnish any malt or vinous beverages in other than the original container unless otherwise authorized in writing by the ~~Liquor Control~~ Board. ~~For purposes of this regulation, a container shall be construed to mean a bottle, can, keg or other receptacle containing malt or vinous beverage, and shall not be construed to mean six pack rings, cardboard boxes, or other packaging material holding such containers.~~ Should second class licenses wish to fill containers for off-premise consumption, those licensees shall meet the following conditions:

* Containers shall be sealed and sanitary.

* Consumption is only for off-premise.

* Retailers will notify the ~~DLC~~ Department of their intent to participate in the container program.

* Manufacturers may elect to participate in the retailer container program by written authorization to their wholesale dealer with a copy sent to ~~DLC~~ the Department.

~~* Alcoholic beverages will be filled to go for immediate sale and no pre-filling.~~

* Clean containers will be provided by the retailer for each sale.

* Labels will contain the name of the retailer, ~~alcoholic beverage~~ beverage alcohol, alcohol by volume, name of manufacturer, date and time of fill, and best if consumed in 72 hours.

* Containers will be filled from a direct sealed draught system.

~~48~~. 42. No licensee, or licensee agent or employee shall carry a stock of ~~alcoholic beverages~~ beverage alcohol in a vehicle for the purpose of soliciting orders to be filled directly from such stock. The intent and purpose of the foregoing is that no licensee shall engage in the business of peddling ~~alcoholic beverages~~ beverage alcohol from vehicles. No first, second, third or fourth-class licensee, licensee agent or employee~~, or agent for the Vermont Department of Liquor Control~~ shall make deliveries of ~~alcoholic beverages~~ beverage alcohol, unless permitted by the Board or applicable provisions of law.

~~49.~~ 43. First ~~class or first and third class~~ and/or third class licensees shall not offer alcohol beverages at reduced prices for any period of time during daily legal hours. This Regulation shall not be construed to regulate prices charged for group events to its attendees only, such as banquets, nor to prohibit cover charges or price adjustments during times when live entertainment is presented on the licensed premises, nor to prohibit lower alcohol beverage prices for a full business day.

a. No licensee or licensee employee shall offer, permit or suffer on the licensed premises games, contests, or promotions, which encourage the rapid or excessive consumption of ~~alcoholic beverages~~ beverage alcohol. No licensee or licensee employee shall furnish ~~alcoholic beverages~~ beverage alcohol to any individual for no charge.

~~50.~~ 44. Each applicant for a license ~~other than a first or second class license~~ or permit shall file with the Board and/or Local Control Commissioners an application signed by the applicant on prescribed forms.

a. Misrepresentation of a material fact on any Department ~~of Liquor Control~~ form or in other written communication with the Department shall be grounds for non-issuance, suspension or revocation of the liquor license, after notice and hearing.

~~51.~~ 45. Any licensee that is serving ~~alcoholic beverages~~ beverage alcohol for on premise consumption shall post in a prominent place where ~~alcoholic beverages~~ beverage alcohol are served, a sign with the words, "Do You Have a Designated Driver?".

~~52.~~ 46. No licensee shall display, distribute, or furnish any materials, signs, or postings of any kind that advertise ~~alcoholic beverages~~ beverage alcohol free of charge, or anything that would lead any consumer to believe he or she can receive an ~~alcoholic beverage~~ beverage alcohol for free. For any licensee promoting food and ~~alcoholic beverage~~ beverage alcohol combination specials, the licensee shall, during the promotion period, enter the sale of the ~~alcoholic beverage~~ beverage alcohol as a separate full price sale and must add all applicable tax. All receipts must specifically outline the separate beverage alcohol purchase at full price.

~~53. Each manufacturer and distributor licensed by the Vermont Department of Taxes authorizing them to sell break open tickets shall maintain records and books relating to the sale and distribution of break - open tickets and to any other expenditure required by the Commissioner of Liquor Control. A licensee shall make its records and books available to the Commissioner of Taxes for auditing.~~

~~(a) On forms provided by the Vermont Department of Liquor Control, each licensed manufacturer and distributor shall file electronically with the Commissioner of Liquor Control on a quarterly basis and no later than 25 days after the end of the quarter, the following information on all break-open tickets sold or distributed during the quarter reporting period:~~
~~(1) The names of nonprofit organizations to which boxes of break-open tickets were sold.~~
~~(2) The number of boxes of break-open tickets sold to each nonprofit organization.~~
~~(3) The ticket denomination for each box sold.~~
~~(4) The serial number of each box sold.~~
~~(5) The manufacturer of each box sold~~
~~(6) The manufacturer's product 10 for each box sold.~~
~~(7) The game "name" or description for each box sold.~~
~~(8) The number of break-open tickets contained in each box sold.~~
~~(9) The ideal gross receipts of each box sold.~~
~~(10) The ideal net profit of each box sold.~~
~~(11) The "percentage payout" or the percentage of ideal gross receipts paid to the winners of each box sold.~~

~~(b) Records and reports filed under this will be shared with the Department of Taxes.~~

47. Prior to approval from Department to engage in break-open ticket sales, a licensee must provide an IRS 501(c) designation letter, or provide enough proof to the Department that the non-profit they are benefiting via sale of break-open ticket sales would qualify for 501(c) status pursuant to Title 31. That document or proof must accompany a non-profit disclosure form or be provided to the Department upon request.

(a) Except for clubs as defined by Title 7, No owners or employees of a licensed establishment may order or take delivery of break-open tickets from a wholesale distributor, pursuant to Title 31, unless the owners or employees are bona-fide members or certified agents of the nonprofit. Only nonprofit organizations may purchase break-open tickets from a license wholesale distributor.

(b) Except for clubs as defined by Title 7, No licensee may engage in games of chance that would benefit or support any non-profit of which they have direct or indirect control of, or have a direct or indirect financial interest in. No licensee, employee of a licensee, or their volunteers may engage in any game of chance play at their respective licensed establishment(s).

(c) Licensees who engage in break-open ticket sales at their establishment must account for proceeds generated for each game on forms prescribed by the Department. That accounting shall include: Serial number of the game, Number of tickets per game,

Number of tickets sold, Total dollar amount in payout for prizes awarded, Total dollar amount given to nonprofit organization, and Total dollar amount of any retained accounting fees. Licensees may retain a reasonable accounting fee pursuant to applicable sections of Title 13.

(d) Except for clubs as defined in Title 7, prior to the sale of any single implement of a game of chance (such as a break-open ticket) on behalf of an eligible non-profit defined in General Regulation 46 herein, the licensed establishment shall provide funds in the amount of the total expected net revenue as identified by the manufacturer of the game of chance, minus the reasonable accounting fees identified General Regulation 47 herein.

~~54.~~ 48. Retail Delivery- Second Class Licensees also holding a Retail Delivery Permit shall have and maintain all insurance coverages as required by Vermont law. Permit holders shall not deliver, to any one physical address in any twenty-four (24) hour period, malt and ready-to-drink spirits beverages in quantities equal to or more than an aggregate amount of 288 ounces and/or vinous beverages in quantities equal to or more than an aggregate amount of 3,000 milliliters. Deliveries shall only be made between the hours of 9:00am and 5:00pm by an employee of the permit holder who is at least eighteen (18) years of age and who has successfully completed the required Second Class training. Permit holders shall comply with all applicable requirements of Title 7. Permit holders shall maintain a log of all deliveries made, which shall be subject to inspection upon request pursuant to General Regulation No.7. Such log shall at a minimum include:

A. Name of recipient and physical address in Vermont to where the product was delivered;
B. How ID was verified in compliance with General Regulation No. ~~13~~11;
C. A signature of recipient at least twenty-one (21) years of age;
D. Complete description of the product and quantity delivered;
E. The price;
F. Time of delivery (delivery shall be permitted only between the hours of9:00 am-5:00pm); and
G. The name of the employee making the delivery.

~~55.~~ 49. Second class licensees also holding a Fortified Wine Permit allowing for the sale and export of Fortified Wines for consumption off the licensed premises will sell Fortified Wine products at prices no less than or equal to current prices set by the ~~Liquor Control~~ Board in Vermont Liquor Agencies. Second class licensees will be allowed to purchase Fortified Wines not currently listed by the ~~Liquor Control~~ Board in full case-load quantities only. The Permit Holder must pick up the case lot from the Agent within 7 days.

Section 4. Advertising.
1. Federal regulations relating to the advertising of distilled spirits, wine and malt beverages promulgated under the Federal Alcohol Administration Act (27 U.S.C. 201-211), as now existing or as amended in the future, are hereby adopted as a part of this regulation to the same extent as if set forth herein, and shall, to the extent so adopted, govern the advertising of ~~alcoholic liquors~~ beverage alcohol by manufacturers, certificate of approval holders, wholesalers, and retailers in Vermont.

~~2. All copy used in the advertising of alcoholic liquors, including malt and vinous beverages, and including inside and outside signs, shall comply with the current Federal Regulations regarding same, and shall additionally comply with those regulations hereinafter set forth. An advertisement shall not contain:~~

~~a. Any statement that is false or misleading in any material particular.~~

~~b. Any statement that is disparaging of a competitor's product.~~

~~c. Any statement, design, device or representation which is obscene or indecent.~~

~~d. Any statement, design, device or representation which includes violence in any form.~~

~~e. Any statement, design, device or representation which is so appealing to persons under the legal age as to encourage the purchase, possession or consumption of alcoholic beverages.~~

~~f. Any statement, design, device representing that the use of any malt or vinous beverage has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.~~

~~g. Advertisement of two or more different brands or lots of malt or vinous beverages in one advertisement, or in two or more advertisements in one issue of a periodical or a newspaper or in one piece of other written, printed or graphic matter, if the advertisement tends to create the impression that representations made as to one brand or lot apply to the other or others, and if as to such latter the representations are in any respect untrue.~~

~~h. Any statement, design, device or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American Flag or of any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, device, design or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest or insignia is associated.~~

~~3.~~ 2. No person, partnership, or corporation shall display a sign of a first class, second class, third class, wholesale dealer's or bottler's license unless the person is actually the holder of the type of license he advertises.

~~4.~~ 3. Certificate of Approval holders and wholesale dealers may distribute bottle openers, can openers, and cork screws to retail dealers. These openers may carry the name of the manufacturer and/or brand name of the product. Retail dealers may distribute the openers to their customers with the sale of malt or vinous beverages. These openers are for the convenience of the public and not for advertising purposes.

~~5.~~ 4. Consumer advertising specialties, such as ash trays, bottles or can openers, cork screws, shopping bags, matches, printed receipts, pamphlets, cards, leaflets, recipe booklets, blotters, post cards, and pencils, which bear advertising matter may be furnished, given or sold to a retailer for unconditional distribution by the retailer to the general public. The retailer may not be paid or credited in any manner, directly or indirectly, for this distribution service.

~~6.~~5. Any malt or vinous beverage point of sale advertising shall be submitted to the ~~Liquor Control~~ Board for approval prior to its use by manufacturers, holders of certificate of approval, wholesale dealers, or retailers in Vermont.

~~7.~~ 6. Definitions for advertising, display or distribution service as used in the advertising regulations are:

a. Manufacturers, holders of certificate of approval or wholesale dealers are prohibited from influencing or controlling the purchases of a retailer by paying or crediting the retailer for any advertising, display or distribution service, whether or not the advertising, display or distribution service received is commensurate with the amount paid by the retailer.

b. An arrangement where manufacturer, holder of a certificate of approval, or wholesale dealer participates with a retailer in paying for an advertisement placed by the retailer constitutes paying the retailer for advertising.

c. Manufacturer, certificate of approval holder or wholesale dealer payments to retailers as compensation for setting up product or other displays constitutes paying the retailer for rendering a display service.

d. A promotion whereby a manufacturer, holder of a certificate of approval, or wholesale dealer rents display space at a retail establishment constitutes paying the retailer for rendering a display service.

Section 5. Hours of Sale.
1. Holders of a first class license or first and third class licenses shall sell or serve any ~~malt or vinous beverages or spirituous liquors~~ beverage alcohol on ~~his / her~~ the licensed premises between the hours of 8:00 a.m. and 2:00 a.m. the following morning. Consumption on the premises of such beverages and liquors sold and served pursuant to this regulation shall be prohibited after 2:30 a.m. Except as otherwise prohibited by law or regulation, the hours provided in this regulation shall be extended one hour for New Year's Day.

2. No licensee holding a second-class license shall sell, furnish, or deliver, or allow to be removed from the licensed premises, any ~~alcoholic beverages~~ beverage alcohol except between the hours of six o'clock in the forenoon and twelve o'clock midnight. The time of day mentioned herein shall be construed to mean U.S. Standard Eastern Time, except that during the period of each year from the last Sunday in April to the last Sunday in September, inclusive unless the Governor shortens or lengthens the period specified, by proclamation, or as provided in ~~Vermont Statutes Annotated, Title 1, Section 431,~~ state law and such time of day shall be construed to mean U.S. Daylight Saving Time.

~~Permitted sale of liquor on Sundays. 1993. No. 210 (Adj. Sess.), § 283, eff. June 17, 1994, provided: "Notwithstanding 7 V.S.A. § 62 or any other provision of law, the liquor control board shall issue regulations permitting the retail sale of spirituous liquor on Sundays by any licensed agency or state liquor store. Malt and vinous beverages may be sold on Sundays by second class licensees during the same hours as allowed during other days of the week."~~

3. Notwithstanding the provisions in these Regulations, the Control Commissioners shall have the right to prescribe shorter periods of sale within the hours specified above. ~~(See Attorney General's ruling July 19, 1947).~~

Section 6. Credit.
1. No ~~malt or vinous beverage or spirituous liquor~~ beverage alcohol shall be purchased on credit by any licensee Upon termination of a distributorship, or unsalability of a product or for cooperage or other containers, the payment for merchandise returned by a wholesale dealer to a certificate of approval holder must be paid within ten business days after receipt of the merchandise by the certificate of approval holder. Payment rendered via debit/credit card is not credit as prohibited by this regulation.

~~Section 7. Clubs.~~
~~1. A club holding a license issued by the Liquor Control Board may hold bingo games on its licensed premises exclusively for members, with the bar open. However, upon written request from a club, the Board may grant permission, for a maximum period of one year, to have public bingo games on the licensed premises on specified nights, with the understanding that the bar is closed during bingo unless the bingo area is found by the Department to be separate from the bar area on the night of the bingo game. This permission may be renewed upon written request by the club addressed to the Board.~~

Section ~~8.~~7. Wholesale Dealers and Certificate of Approval Holders and Vermont Manufacturers.
1. A liquor representative, employee of a wholesale dealer, holder of a certificate of approval or manufacturer's license shall not be employed directly or indirectly on a paid or voluntary basis by a first class and/or third-class licensee. This shall not apply to employees of a manufacturer's license who also hold a first- or third-class license, so long as the license holder of both the manufacturer's license and first and/or third class license are the same legal entity. Holders of a certificate of approval, manufacturer's license, wholesale dealer's license, solicitor permit, or any full-time employee of such licensees may, at a retail establishment, stock, rotate, build and move displays and price products which they sell, provided products purchased from other wholesalers are not altered or disturbed.

a. An employee of a wholesale dealer or manufacturer of ~~beer and wine~~ beverage alcohol may also work for a second class licensee in a store that sells ~~beer and wine~~ beverage alcohol for off premise consumption, provided the employee has no management role and does not exercise any control over the business or any business decisions of the second class licensee, and that neither of these employment relationships has the effect of excluding another wholesale dealer or any brand of beverage handled by another wholesale dealer.

2. Employees of wholesale dealers are not to be employed as representatives of distilleries distributing fortified wines or ~~liquors~~ spirits in Vermont or by a holder of a manufacturer's license.

3. All ~~alcoholic liquor~~ beverage alcohol sold under a bottler's license or a wholesale dealer's license shall be purchased only from holders of certificates of approval or manufacturer's licenses issued by the ~~Liquor Control~~ Board.

~~4. Each licensee holding a bottler's license or a wholesale dealer's license shall, on or before the tenth day of each calendar month, transmit to the Commissioner of Taxes of the State of Vermont the report and pay the tax as provided in Vermont Statutes Annotated, Title 7, Section 421, upon forms furnished by such Commissioner, a statement or return under oath or affirmation showing the quantity of malt and vinous beverages sold by such licensee during the preceding calendar month, and licensees shall file such bonds and/or other security for the fulfillment of the provisions of this section as the Board may require. Bottlers and wholesale dealers shall file a surety bond with their applications for such amount as is deemed adequate by the Liquor Control Board. The purpose of this bond is to assure the State that tax due on the sale of malt and vinous beverages for an average two-month period. (Forms to be furnished by the Board.)~~

~~5. Failure to submit the reports required in Regulation No. 4, together with the amount of tax due on same, under the preceding paragraph, within the time required will make the licensee subject to suspension or revocation of his/her license.~~

~~6.~~ 4. No ~~malt or vinous~~ beverage~~s~~ alcohol shall be returned by a retail dealer to a wholesale dealer unless the beverages are of substandard packaging or quality, are misordered, out of code or if the licensee is going out of business or closing for the season and then only when ~~authorized to do so by~~ duly reported to the ~~Liquor Control~~ Board. ~~Authorization from~~ Reporting to the ~~Liquor Control~~ Board is not required when a wholesale dealer wishes to exchange product for another with the same SKU and move product going out of code to another licensed premises where it will sell. No such authorization shall be required for the return of draft beer in barrels.

~~7. Each holder of a certificate of approval or a manufacturer's license shall, on or before the twentieth day of each calendar month, file with the Commissioner of Taxes of the State of Vermont upon forms furnished by such Commissioner, a statement or return under oath or affirmation showing the quantity of malt or vinous beverages sold or shipped by him to each Vermont bottler or wholesale dealer during the preceding calendar month, with the names and addresses of each dealer, together with such further information from time to time as such Commissioner of Taxes or the Board may prescribe or require.~~

~~8.~~5. All invoices furnished by the wholesale dealer to the retail dealer must carry serial numbers and can be either manually or electronically generated and transmitted. One invoice is to be left on the premises of the wholesale dealer and a copy is to be left with the retail dealer upon delivery. All invoices must show the name or the initials of the person taking the order. Invoices are to be made out in the name of the licensee as it appears on the trade name of the establishment.

~~9.~~6. Tapping accessories, such as standards, faucets, rods, vents, taps, hoses, washers, couplings, vent tongues, shanks, pressure gauges, and check valves may be sold to a retailer, if the tapping accessories are sold at a price not less than the cost to the certificate of approval holder,

manufacturer, or wholesale dealer who initially purchased those items. Invoices on all such sales must be maintained on the licensed premises for a period of two years. However, in an existing system, servicing and cleaning of all draught equipment from the barrel to the glass, and replacing of rods, taps, hoses and washers is approved.

~~10.~~7. Holders of a certificate of approval or manufacturer's license shall not ship any ~~malt or vinous~~ beverage~~s~~ alcohol to a wholesale dealer in Vermont unless same is covered by an invoice.

~~11.~~8. No wholesale dealer or bottler may solicit or accept orders for ~~malt and vinous~~ beverage~~s~~ alcohol except from the holder of a first or second class license and all such beverages must be delivered by the wholesale dealer or bottler to the licensed premises of the licensee giving the order. Deliveries may be made at the wholesale dealer's licensed premises to a first or second-class licensee or ~~his~~ their employee at the posted delivered price.

~~12.~~ 9. All wholesale dealers shall post their malt beverage prices to first and second-class licensees with the ~~Liquor Control Board~~ Department. Prices will be posted as to each brand and size container. In the event of any proposed price change, the wholesale dealer will post same with the ~~Liquor Control~~ Board. Said price change or changes will not become effective until the seventh day after receipt of the proposed price change or changes at the office of the ~~Liquor Control~~ Board ~~in Montpelier~~. Said price change or changes must remain in effect for a minimum period of fourteen days, and will remain in effect thereafter until notice of price change is posted as above provided. Each first and second-class licensee in the wholesale dealer's territory must receive at least one opportunity to buy at the changed price. When a wholesale dealer runs out of product, they shall be allowed to offer rain checks to all licensees who were not able to purchase the product at the posted price for a period not to exceed fourteen days. No price posting involving quantity discounts will be made. Any sale made by a wholesale dealer lower than ~~his~~ their posted prices shall be construed as a violation of Regulation ~~No. 15~~ under this heading, in addition to a violation of this regulation.

~~13.~~10. In case of a change of distributors, holders of certificate of approval or holders of manufacturer's licenses or the new distributor shall make provision for taking over stock on hand, including empties and cooperage, supplied by said holders to distributors; and said holder of a certificate of approval or manufacturer's license or new distributor shall, within fifteen days from effective date of said change, pick up said stock on hand, including empties and cooperage, from the distributor who is surrendering its stock. Distributors who so surrender said stock, including empties and cooperage, shall be reimbursed by said holder of certificates of approval or manufacturer's licenses or new distributor on the date the stock is received by the holder of certificate of approval, holder of manufacturer's license or the new distributor at cost price plus handling expenses not to exceed fifteen ~~per cent~~ percent of the cost price and an invoice shall accompany the sale. After effective date of said change, said distributors shall not sell the products of said holders of certificates of approval or manufacturer's licenses.

~~14.~~ 11. A person, partnership or corporation holding a wholesale dealer's license issued by the ~~Vermont Liquor Control~~ Board, or any agent representing the wholesale dealer is prohibited from taking orders, selling or delivering any ~~malt and/or vinous~~ beverage~~s~~ alcohol in an aggregate quantity of less than seven and one half gallons or, if the quantity is less than seven

and one half gallons, the cost is less than $ 75.00; nor shall a person, partnership, association or corporation holding a first or second class license order, purchase, or accept delivery of any ~~malt and/or vinous~~ beverage~~s~~ alcohol in an aggregate quantity of less than seven and one half gallons or if the quantity is less than seven and one half gallons, the cost is less than $ 75.00.

~~15~~. 12. No manufacturer, certificate of approval holder, or wholesale dealer shall directly or indirectly or through any affiliate induce any licensee to purchase any ~~alcoholic beverage~~ beverage alcohol by giving or offering to such purchaser anything of value except brand-identified items which are primarily valuable to the retailer for advertising purposes only or explicitly allowed under Board Guidance Bulletin No. 1~~. Such advertising items require prior Liquor Control Board approval.~~

~~16.~~ 13. A person to be eligible to hold a solicitor's permit must have reached ~~his~~ their eighteenth birthday and be an ~~full-time~~ employee of the licensee ~~he~~ they represent~~s~~.

~~17. Wholesalers and their employees shall adhere to all regulations duly adopted by the Board.~~

Section ~~9.~~ 8. ~~Alcohol Regulations~~. Manufacturing, Mechanical, Medicinal or Scientific Alcohol Regulations.

1. Completely denatured alcohol may be lawfully possessed, furnished, purchased, sold, bartered, transported, imported, or delivered into, from and within the State of Vermont in accordance with the rules, laws and regulations of the Federal Government pertaining thereto.

2. Pure ethyl or grain alcohol, including special denatured alcohol, for manufacturing, mechanical, medicinal, and scientific purposes must not be transported or delivered into or within the State of Vermont by other than a common carrier and only when consigned to the ~~Vermont Liquor Control~~ Board or to persons designated as ~~permittees, such as~~ ~~manufacturers~~, industrial users, hospitals, druggists, institutions of learning, etc., and only in wholesale quantities in containers of five gallons or more when accompanied by permit issued by the ~~Vermont Liquor Control~~ Board. This regulation shall not pertain to holders of manufacturer's licenses issued by the Board.

~~3. Upon application, a permit may be issued to registered manufacturers of alcohol or to manufacturer's agents desiring to sell alcohol to permittees in the State of Vermont.~~

~~4.~~ 3. Upon application made on forms provided for this purpose by the ~~Liquor Control Board~~ Department, the Commissioner may issue a permit to persons designated in Regulation No. 2, requiring alcohol in quantities of five gallons or more for hospitals, manufacturing, mechanical and scientific purposes to purchase such alcohol direct from duly registered manufacturers of alcohol or manufacturers' agents. ~~This permit must accompany each shipment of alcohol from duly registered vendor to permittee. Upon delivery of the alcohol at destination, such permit is to be properly endorsed by the consignee and returned to the Commissioner of Liquor Control at Montpelier by the consignee. All such shipments must be delivered to the consignee and not to the person placing the order~~.

~~5. Purchases of pure ethyl or grain alcohol may be made from Vermont State Liquor Stores or Vermont State Liquor Agencies upon the completion of an alcohol purchase form provided at the retail location. The purchase of pure ethyl or grain alcohol at the retail outlet must be made for the purposes of manufacturing, mechanical, medicinal or scientific purposes.~~

Section ~~10.~~ 9. Education Regulations.

1. It shall be the duty of all licensees to know and to ensure that their employees know the laws and regulations of the State of Vermont relative to the sale of ~~intoxicating beverages and tobacco products~~ beverage alcohol and tobacco products, paraphernalia, and substitutes as well as the rules and regulations of the Board applying to their particular licenses. In case of an infraction of the laws, rules or regulation by any licensee, such infractions shall be deemed prima facie evidence of the licensee's unfitness to hold a license.

~~2. No new first, second or third class liquor license, Manufacturing license, or tobacco license shall be granted until the applicant has met with the liquor control investigator for the purpose of being informed of the Vermont liquor laws, rules and regulations pertaining to the purchase, storage, and sale of alcoholic beverages and tobacco products.~~

~~a. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this regulation.~~

2. All licensees shall complete the Department of Liquor and Lottery licensee training associated with their license as designated by the Board and pass the associated test prior to licensure and at least once every two years thereafter.

a. A licensee shall designate an owner, director, partner, or manager who shall comply with the terms of this regulation

b. The Department shall not consider a renewal application of any license or permit complete until satisfactory proof can be accessed or provided to the Department showing that the licensee has complied with the terms of this regulation.

c. Wine Storage Facility, Wholesale Dealer, Certificate of Approval, and Bottler's licenses do not require training.

~~3. Any one holding a first, second or third class license, shall complete the Department of Liquor Control Licensee Enforcement Education Seminar at least once every two years.~~

~~a. A corporation, partnership, or association shall designate a director, partner, manager, or member who shall comply with the terms of this regulation.~~

~~b. Each licensee shall ensure that every employee who is involved in the preparation, sale, service or solicitation of alcoholic beverages or the sale of tobacco products, or enforcing of alcohol and/or tobacco laws and regulations must complete a training program offered or approved by the Department of Liquor Control before the employee begins working in that capacity and at least once every two years thereafter. each licensee shall maintain written~~

~~documentation, signed by each employee trained of each training program conducted. A licensee may comply with this requirement by conducting its own training program on its premises, using all information and materials furnished by the Department of Liquor Control, or from a program approved by the department. A licensee who fails to comply with the requirements of this subsection shall be subject to a suspension of no less than one day of the license issued under this title.~~

~~c. No license or permit will be renewed unless the records of the Department of Liquor Control show that the licensee has complied with the terms of this regulation.~~

~~d. All records, and certificates on pre-approved Department forms, indicating that an employee has been trained must be kept on all licensed establishments at all times. Those training records shall be available at all times and must be presented immediately to a Liquor Control Investigator or a Vermont Law Enforcement Officer if it is requested.~~

3. Each licensee shall ensure that every employee who is involved in the sale, service, or solicitation of beverage alcohol, or the sale of tobacco products, paraphernalia, and substitutes, or the enforcement of beverage or tobacco laws and regulations must complete the training program associated with the licenses at that location offered or approved by the Department. Completion of this training includes passing the associated test before the employee beings working in that capacity and at least once every two years.

a. A licensee may comply with this requirement by delivering training to their own employees using an employee who meets all trainer requirements as defined by the Department. The Board may revoke trainer status due to failure to comply with requirements as established by the Department.

b. A licensee may comply with this requirement using a Department approved 3rd party training that meets all 3rd party training requirements as defined by the Department. The Board may revoke 3rd party training approval due to failure to comply with requirements as established by the Department.

c. A licensee who fails to comply with the requirements as established by the Department shall be subject to a fine or suspension of their license of no less than one day after appropriate notice to appear for a hearing pursuant to Section 1 provisions of this Administrative Rule.

d. Licensees shall maintain physical or have access to electronic records at the licensed location. These records must be made available within a reasonable amount of time to a Department's Investigator or a Vermont Law Enforcement Officer for verification if requested.

~~4. Solicitors, manufacturers, and fourth class liquor licensees must be properly trained upon licensure and retrained within the following two years. This training requirement may be satisfied by completion of materials provided for this purpose by the Department of Liquor~~

~~Control Education Division. Proof of this training will be documented on forms provided by the Department and retained by the license holder.~~

~~5. The Liquor Control Board, as a condition of licensure, may require any retail licensee found guilty by the Liquor Control Board of a violation of a liquor law or regulation to attend an additional Department of Liquor Control Licensee Enforcement Seminar.~~

~~6. To assist the licensee in carrying out educational responsibilities, the Department of Liquor Control will offer the Department of Liquor Control Licensee Enforcement Seminar and will furnish materials to be used by licensees in their employee training program.~~

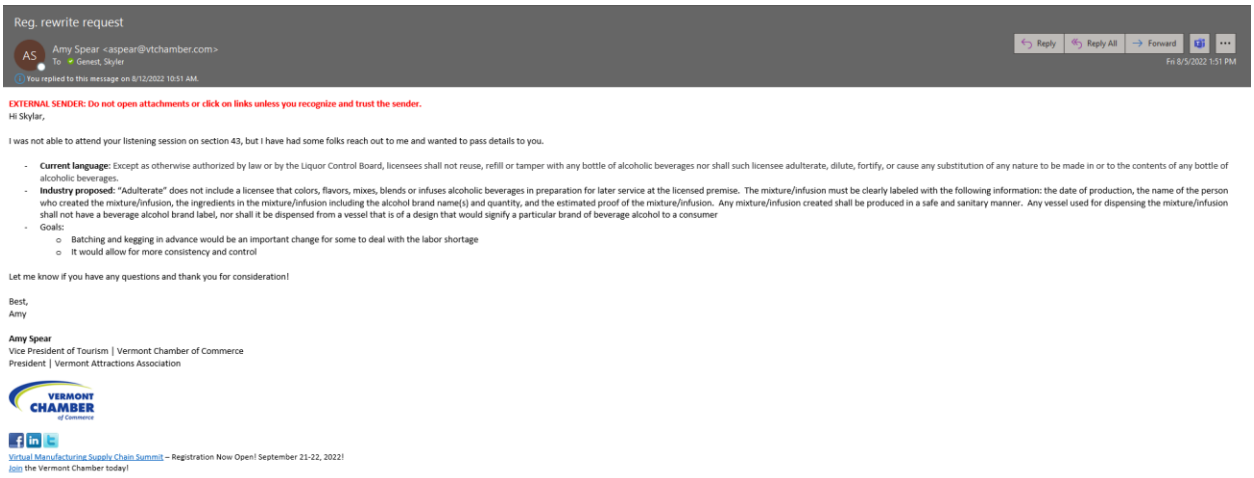
~~7.~~ 4. Failure to comply with these Education Regulation provisions may result in suspension or revocation of a license after notice and an opportunity for a hearing.

Statutory Authority

STATUTORY AUTHORITY:

~~3 V.S.A. § 212; 7 V.S.A. §§ 101 to 108; 32 V.S.A. § 10209~~
3 V.S.A. § 212(14); 7 V.S.A. §§ 101 to 108; 31 V.S.A. § 1208

APPENDIX



Reg. rewrite request

AS Amy Spear <aspear@vtchamber.com>
To Genest, Skyler
You replied to this message on 8/12/2022 10:51 AM.

Reply | Reply All | Forward
Fri 8/5/2022 1:51 PM

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Hi Skylar,

I was not able to attend your listening session on section 43, but I have had some folks reach out to me and wanted to pass details to you.

- **Current language:** Except as otherwise authorized by law or by the Liquor Control Board, licensees shall not reuse, refill or tamper with any bottle of alcoholic beverages nor shall such licensee adulterate, dilute, fortify, or cause any substitution of any nature to be made in or to the contents of any bottle of alcoholic beverages.
- **Industry proposed:** "Adulterate" does not include a licensee that colors, flavors, mixes, blends or infuses alcoholic beverages in preparation for later service at the licensed premise. The mixture/infusion must be clearly labeled with the following information: the date of production, the name of the person who created the mixture/infusion, the ingredients in the mixture/infusion including the alcohol brand name(s) and quantity, and the estimated proof of the mixture/infusion. Any mixture/infusion created shall be produced in a safe and sanitary manner. Any vessel used for dispensing the mixture/infusion shall not have a beverage alcohol brand label, nor shall it be dispensed from a vessel that is of a design that would signify a particular brand of beverage alcohol to a consumer
- Goals:
  - Batching and kegging in advance would be an important change for some to deal with the labor shortage
  - It would allow for more consistency and control

Let me know if you have any questions and thank you for consideration!

Best,
Amy

Amy Spear
Vice President of Tourism | Vermont Chamber of Commerce
President | Vermont Attractions Association

VERMONT CHAMBER of Commerce

Virtual Manufacturing Supply Chain Summit – Registration Now Open! September 21-22, 2022!
Join the Vermont Chamber today!

Skyler Genest **August 18, 2022**

Vermont Department of Liquor and Lottery

Via email (skyler.genest@vermont.gov)

Re: American Heart Association comment on DLL rulemaking section 10, tobacco regulations

Dear Skyler,

On behalf of the American Heart Association, I would like to submit the following as written comment on the Department of Liquor and Lottery's current rulemaking, specifically on Section 10 of the proposed regulation rewrite.

1) We urge the department to decouple the alcohol and tobacco license fees. A tobacco license should have its own fee with revenue raised from the fee going to tobacco enforcement. Enforcement funds are effective and needed.
    a. Via an MOU with the Vermont Department of Health, and a $30,000 investment, DLL, working with the AGO, enforced the online delivery sales ban and secured $834,000 in penalties.
    b. DLL will also feel increased pressure on staff in the coming year, having to enforce 60 new cannabis licenses with no extra funding.

2) We urge DLL to require as a condition of a tobacco license that tobacco retailers may not sell flavored tobacco products including menthol tobacco products.

3) We urge DLL to disallow a wholesaler from also being licenses as a tobacco retailer. As VDH notes in its report, "Assessing Vermont's 2019 tobacco Control Policies," its common for wholesalers to also be licensed as tobacco retailers which allows wholesalers and retailers to lessen the e-cigarette tax by selling the products to themselves at lower rates. This means the tax could have a lower than intended impact on Vermont youths' access and use of the products. Alcohol retailers are currently prohibited from doing this for the same reason.

4) As well, the American Heart Association considers the following as the most effective tobacco retail licensure in terms of its impact on public health, reducing smoking and preventing youth from starting. We'd urge DLL to adopt the items it has authority over and work with our organization regarding items that would need legislative action.

a. Fee -- An annual retail license fee, paid by all tobacco retailers, which goes towards the enforcement of licensure requirements. Must be high enough to cover the cost of enforcement and operations.
b. Enforcement -- A minimum of one compliance check for violations of minimum legal sales age laws per year, and there should be a recheck for violations within a specified time period, such as three months.
c. Penalty structure -- Specific for violations of the minimum legal sales age, penalties should include an escalating monetary penalty paid by the store or business owner. Suspensions and license revocation must also be part of the structure – minimum of 15-day suspension by the third violation, and revocation of license by the fourth violation in a period of at least two years. Suspension only penalties must be high enough to offset the need for monetary penalties with revocation of the license by the fourth violation at the latest within two years.
d. Paying fines -- Penalties for sale must be levied on the owner/operator of the retail establishment, not just the employee or person who made the sale. It is preferred that penalties levied on the owner/operator are significantly higher than penalties on the person/employee. Any violation count must be applied to the store, and not the employee, so that firing an employee does not reset the count on compliance violations for a store. Penalties on employees must not include potential jail time and monetary penalties must be lower than the owner/operator.
e. NO "PUP" provisions – We'd like to eliminate any fines/penalties against youth for purchase, use or possession as penalizing kids is not an effective strategy to reduce youth tobacco use. PUP laws unfairly punish and stigmatize kids, many of whom become addicted because of the tobacco industry's aggressive marketing to kids. Removing PUP penalties would also include Driver's license revocation for an individual as a penalty for PUP as it creates a hardship and equity concerns. We began a conversation about removing PUP provisions with Commissioner Knight last session and would be interested in continuing the conversation.

Thank you for the opportunity to comment and the good work of the department.

Sincerely,

Tina Zuk

Government Relations Director, VT

American Heart Association

Tina.zuk@heart.org

802-578-3466

Testimony of Michael Rollo, Government Relations Director,
American Cancer Society Cancer Action Network

In Support of Changes to VT Tobacco Regulations by the Board of Liquor and Lottery

August 16, 2022

Good afternoon, Chief Genest, and members of the Board of Liquor and Lottery. My name is Michael Rollo, and I am the Government Relations Director for the American Cancer Society Cancer Action Network (ACS CAN). ACS CAN, the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society, supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. As the nation's leading advocate for public policies that are helping to defeat cancer, ACS CAN ensures that cancer patients, survivors, and their families have a voice in public policy matters at all levels of government.

On behalf of ACS CAN, thank you for the opportunity to provide testimony in support of revising regulations under Title 7, to ensure "***public safety by preventing the misuse of alcohol and tobacco through controlled distribution, providing for applicable enforcement, and establishing robust education requirements.***"

As such, ACS CAN would encourage the department to consider including the following in its proposed rule changes:

1. Requiring minimum price standards and package size for all tobacco products sold in the state.
2. Prohibit retailers from honoring or redeeming coupons to purchase a tobacco product for less than the full retail price.
3. Limiting the number of tobacco licenses based on local equity and or zoning plans.

One in 2 men and 1 in 3 women are expected to be diagnosed with cancer in their lifetime.[i] This year alone, it is estimated that more than 4,200 Vermonters will be diagnosed with cancer.[ii] An estimated 1,000 deaths are caused by smoking each year in Vermont including 27% of cancer deaths.[iii] Smoking is estimated to cost Vermont $348 million in direct health care costs, including $87 million in Medicaid costs annually.[iv]

Due to sharp increases in youth tobacco use in recent years, largely due to skyrocketing rates of e-cigarette use, the decades of progress that has been made in reducing tobacco use rates in youth is now in jeopardy. Here in Vermont, 28.2% of high school students use tobacco products, with higher rates among dual users.[v] Is it any surprise that youth rates are so high when the tobacco industry skirts tobacco excise taxes by offering coupons to entice young people? By guaranteeing a minimum price, minimum pack size and prohibiting coupons, DLL can help ensure that these products are not priced in a way to make them attractive to young Vermonters.

Michael Rollo
Government Relations Director NH & VT

American Cancer Society Cancer Action Network, Inc.
2 Commerce Dr, Bedford, NH 03110
603.518.6469/ 1.800.227.2345 Email: mike.rollo@cancer.org
fightcancer.org

While overall smoking rates have declined in recent years among adults, smoking rates remain higher among specific subpopulations, including the LGBTQ+ community and BIPOC communities.[vi] These differences are in large part due to the tobacco industry's targeted marketing through advertising, price discounting and other strategies.

These additional strategies include greater tobacco retailer density nationwide in census tracts with a higher proportion of African American residents.[vii] The more tobacco retailers, the more exposure to tobacco marketing individuals face. In fact, retail marketing, including in-store advertising, product displays, and discounts accounts for a large portion of the tobacco industry's marketing budget. In 2020 Big Tobacco spent 97% of their total cigarette and smokeless tobacco advertising and promotion budgets on strategies that facilitated retail sales, such as price discounts, point-of-sale advertising, coupons, and payments to ensure prime retail space.[viii] Local municipalities should be empowered through rules to restrict tobacco licenses in their communities based on their local equity and zoning plans.

For these reasons, we urge the Board to include these changes to your proposed rules to ensure a healthier Vermont.

---

[i] https://www.cancer.org/cancer/cancer-basics/lifetime-probability-of-developing-or-dying-from-cancer.html

[ii] American Cancer Society, "Cancer Facts & Figures, 2022." Atlanta: American Cancer Society, 2022. https://www.cancer.org/content/dam/cancer-org/research/cancer-facts-and-statistics/annual-cancer-facts-and-figures/2022/2022-cancer-facts-and-figures.pdf

[iii] Campaign for Tobacco-Free Kids. The Toll of Tobacco in Vermont. Updated April 16, 2021, https://www.tobaccofreekids.org/problem/toll-us/vermont

[iv] Campaign for Tobacco-Free Kids. The Toll of Tobacco in Vermont. Updated April 16, 2021, https://www.tobaccofreekids.org/problem/toll-us/vermont

[v] United States Centers for Disease Control and Prevention, 2019 Youth Risk Behavior Surveillance System, https://nccd.cdc.gov/Youthonline/App/Results.aspx?LID=VT

[vi] The Truth Initiative, Campaign for Tobacco-Free Kids, American Heart Association and American Stroke Association, American Cancer Society Cancer Action Network, American Lung Association, Americans for Nonsmokers' Rights, and Robert Wood Johnson Foundation. A report entitled Broken Promises to Our Children: A State-By-State Look at the 1998 State Tobacco Settlement 19 Years Later. December, 2017.Available on-line at: https://www.tobaccofreekids.org/whatwe-do/us/statereport.

[vii] Campaign for Tobacco-Free Kids. Tobacco Company Marketing to African Americans https://www.tobaccofreekids.org/assets/factsheets/0208.pdf

[viii] U.S. Federal Trade Commission (FTC), Cigarette Report for 2020, 2021 https://www.ftc.gov/system/files/documents/reports/federal-trade-commissioncigarette-report-2020-smokeless-tobacco-report2020/p114508fy20cigarettereport.pdf [data for top 5 manufacturers only].; FTC, Smokeless Tobacco Report for 2020, 2021, https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2020-smokeless-tobaccoreport2020/p114508fy20smokelesstobacco.pdf [Data for top 5 manufacturers only].

Michael Rollo
Government Relations Director NH & VT

American Cancer Society Cancer Action Network, Inc.
2 Commerce Dr, Bedford, NH 03110
603.518.6469/ 1.800.227.2345 Email: mike.rollo@cancer.org
fightcancer.org

Document submitted via email from Rolf Parker on 8/26/2022

Below is an example of a coupon for menthol flavored Newport Boost cigarettes that was mailed to a woman in Vermont. She is not a smoker, and she was mailed this coupon on two occasions. She turned the coupons over to BAPC staff.

According to Dr Kelvin Choi, a Senior Investigator at the National Institute of Health, tobacco company documents show that they benefit from coupons because they help retain smokers that might quit, and replace smokers who die or quit, with new customers, including non-smokers.

Mailed coupons have been shown in research by Dr. Choi to have these effects; a percentage of non-smokers who receive these types of coupons in the mail, take up smoking and a percentage of recipients change from occasional users to daily ones. Two relevant examples of his research papers are available here.

Receipt of Tobacco Direct Mail Coupons and Changes in Smoking Status in a Nationally Representative Sample of US Adults

https://pubmed.ncbi.nlm.nih.gov/30124987/

"Distributing direct mail coupons is a strategy employed by tobacco companies to promote their products. We found, in a US national study, that many adults received tobacco coupons, and receiving these coupons was associated with subsequent progression of smoking among nonsmokers, and continuation of smoking and daily smoking among smokers. Scrutiny over the use of direct mail coupons and its effects on population health is warranted."

Frequency and Characteristics Associated with Exposure to Tobacco Direct Mail Marketing and Its Prospective Effect on Smoking Behaviors Among Young Adults from the US Midwest

https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4192087/

Among baseline nonsmokers and ex-smokers, receiving coupons was associated with becoming current smokers at follow-up ($P < .05$). Among baseline current smokers, receiving coupons was associated with lower likelihood of smoking cessation at follow-up ($P < .05$)."

"Conclusions. **Tobacco direct mail marketing promoted and sustained smoking behaviors among US Midwest young adults. Regulating this marketing strategy might reduce the prevalence of smoking in this population."**

Coupons are known in general to fuel purchase attempts by the people who receive them or obtain them, which is why tobacco companies and other businesses make

use of them. Adolescents who receive or obtain coupons are also at increased risk of harm.

SEE THIS PAPER ON ADOLESCENT ACQUISITION OF COUPONS, AND THE IMPACT THAT IT HAS ON THEM. DESPITE IT BEING ILLEGAL FOR THEM TO PURCHASE CIGARETTES, YOUTH WHO RECEIVE OR OBTAIN COUPONS ARE MORE LIKELY TO OBTAIN AND USE CIGARETTES.

ADOLESCENT TOBACCO COUPON RECEIPT, VULNERABILITY CHARACTERISTICS AND SUBSEQUENT TOBACCO USE: ANALYSIS OF PATH STUDY, WAVES 1 AND 2

"Vulnerable youth had the greatest odds of coupon receipt. Coupon recipients had greater odds of tobacco use among never users, trying a new tobacco product and current use."

https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6371970/

In **2012**, a federal district judge upheld a municipal ban on the **acceptance and redemption** of tobacco coupons, and ruled that it did not impact the first amendment rights of manufacturers or retailers.

States that ban Tobacco coupon redemption by retailers.

New York: 2020

New Jersey: 2020

Rhode Island: 2021

Document submitted via email from Rolf Parker on 8/26/2022

8/26/22

Dear Chief Genest,

As a private citizen of Vermont with a 20-year career in tobacco control in 3 different states, I would like to submit comment to the Department of Liquor and Lottery's current rulemaking, specifically on Section 10 of the proposed regulation rewrite.

As I have been advocating for years, everything we can do to denormalize tobacco, vape, and alcohol use, to decrease access specifically for underage Vermonters, and to apply the strongest youth prevention policies we can identify for alcohol or tobacco and to both substances are important steps to protecting Vermonters.

Specifically, I am requesting that DLL consider the following:

1. Alcohol and tobacco licenses should be decoupled, and an equivalent fee should be applied to tobacco licenses.
2. Annual license fees and enforcement fines/penalties should be applied the same across substances using whichever substance has the strictest fees/fines/penalties (i.e., license suspension). Likewise, they should be applied on the owner/operator, not just the employee or person making the sale. No violation should be "reset" when an employee is terminated.
3. Close the loophole that allows tobacco wholesalers to also be licensed as tobacco retailers (Alcohol retailers are prohibited from doing this.)
4. Eliminate "PUP" (purchase, use and possession) laws or rules that punish vulnerable youth. Laws and rules should protect youth from the harms of the tobacco/alcohol industries' marketing and block the industries and retail establishments from profiting from the sales to those under 21.

Addiction to nicotine and harms that come from underage alcohol and cannabis remain important health and economic concerns in Vermont. I am thrilled that DLL has undertaken the task of reviewing and updating its regulations and I do hope that we continue to be a leader in protecting youth from substance misuse using all the tools we have available to us.

In good health,

Amy M. Brewer, MPH

amymara@hotmail.com
802-922-2587
Williston, VT

1400 EYE STREET, N.W. • SUITE 1200 • WASHINGTON, DC 20005
PHONE (202) 296-5469 • FAX (202) 296-5427

Dear Mr. Genest,

On behalf of the Campaign for Tobacco-Free Kids, I submit the following as written comment on the Department of Liquor and Lottery's current rulemaking, specifically on Section 10 of the proposed regulation rewrite. The Campaign for Tobacco-Free Kids is the nation's largest non-profit, non-governmental advocacy organization solely devoted to reducing tobacco use and its deadly toll by advocating for public policies that prevent kids from using tobacco, and help smokers quit.

While Vermont has made great strides in reducing tobacco use, tobacco use continues to take the lives of 1,000 Vermont residents each year. In addition, e-cigarettes are addicting a new generation and threaten to undermine the progress Vermont has made in reducing youth tobacco use, with over a quarter of Vermont high schoolers reporting current e-cigarette use. [1] As you rewrite Section 10 of the Department of Liquor and Lottery's current rulemaking, I strongly urge you to require as a condition of a tobacco license that tobacco retailers may not sell flavored tobacco products and encourage you to eliminate fines and penalties against youth for purchase, use or possession (PUP) of tobacco products.

Prohibiting the sale of all flavored tobacco products in all tobacco retailers is a critical step that will help protect Vermont residents from the unrelenting efforts by the tobacco industry to hook them to a deadly addiction. Flavored tobacco products are designed to alter the taste and reduce the harshness of tobacco products so that they are more appealing and easier for beginners, who are almost always kids. These products are pervasive and are marketed and sold in a variety of kid-friendly flavors. With their colorful packaging and sweet flavors, flavored tobacco products are often hard to distinguish from the candy displays near which they are frequently placed in retail outlets.

The wide variety of e-cigarette flavors—from mango and mint to cotton candy and bubble gum—indisputably drove a youth e-cigarette epidemic. Nationally, 85% of youth e-cigarette users report using flavored e-cigarettes.[2] Youth are clearly not just experimenting with e-cigarettes, but using them on a frequent basis, an indicator of serious addiction. According to the FDA, "Teens who vape may end up addicted to nicotine faster than teens who smoke cigarettes. This is because vapes may expose users to more nicotine and may be used more frequently. Plus, e-cigarettes may come in flavors that appeal to youth. Appealing flavors may cause teens to vape longer and more often, putting them at risk for nicotine addiction."[3] Youth who use e-cigarette are also at an increased risk of trying regular cigarettes.[4] FDA action to restrict certain flavored e-cigarettes has had little impact, and the overall e-cigarette market has continued to grow, driven by the popularity of kid-friendly flavored disposable e-cigarettes.[5]

In addition to e-cigarettes, tobacco companies continue to target kids with other flavored products, including menthol cigarettes and flavored cigars. Flavored cigars—available in hundreds of flavors, like Cherry Dynamite and Chocolate—now make up more than half of cigar sales in convenience stores.[6] Cheap, sweet cigars can serve as an entry product for kids to a lifetime of smoking. In Vermont, 8.1% of high school boys are current cigar smokers.[7]

No flavored tobacco product contributes more to death and disease than menthol cigarettes. Researchers estimate that between 1990 and 2018, menthol cigarettes were responsible for 10.1 million additional new smokers, 378,000 premature deaths and nearly 3 million life years lost.[8] According to the FDA, menthol

cigarettes lead to increased smoking initiation among youth and young adults, greater addiction and decreased success in quitting smoking.[9] Menthol cools and numbs the throat, reduces the harshness of tobacco smoke, and makes menthol cigarettes more appealing to youth who are starting to smoke. Indeed, half of youth who have ever smoked initiated with menthol cigarettes.[10]

Menthol cigarettes also contribute to tobacco-related disparities, due to the industry's targeted marketing in communities of color. Prevalence of menthol cigarette use is highest among Black Americans – 85% of all Black smokers smoke menthol cigarettes, compared to 29% of Whites.[11] Black smokers generally have higher levels of nicotine dependence and lower cessation success because of their preference for mentholated cigarettes.[12] Each year, approximately 45,000 Black Americans die from a smoking-caused illness.[13] In addition to youth and Black smokers, preference for menthol among is also disproportionately high among lesbian, gay, and bisexual smokers, smokers with mental health problems, socioeconomically disadvantaged populations, and pregnant women.[14]

Earlier this year, the FDA issued proposed rulemaking earlier this year to prohibit menthol cigarettes and flavored cigars—action supported by Acting Attorney General Susanne Young.[15] However, this is just the first step of a lengthy rulemaking process. It will take time for the FDA to finalize and implement the necessary regulations, and tobacco industry efforts to block or postpone FDA actions could cause further delays. Revising Section 10 to prohibit licensed tobacco retailers from selling flavored tobacco products would protect Vermont residents much more expeditiously.

As you revise Section 10, we also encourage you to eliminate fines and penalties against youth for purchase, use or possession (PUP) of tobacco products as there is little evidence that PUP laws reduce youth tobacco use. [16] Further, PUP laws divert attention from more effective tobacco control strategies, minimize the responsibility of retailers, and shift the blame from the industry's irresponsible marketing to its victims. Finally, some communities are concerned that these provisions may be enforced inconsistently with respect to youth from certain racial and ethnic groups, resulting in their introduction into the criminal justice system

Prohibiting the sale of all flavored tobacco products is one of the most important things you can do to protect the health of Vermont's kids, reverse health disparities, and prevent the 1,000 deaths in Vermont each year that are due to tobacco use.

Sincerely,

Kevin O'Flaherty
Director, U.S. Northeast Region
Campaign for Tobacco-Free Kids

---

[1] CDC, 2019 Youth Risk Behavior Survey, Available at http://nccd.cdc.gov/youthonline/.
[2] Park-Lee, E, et al., "E-Cigarette Use Among Middle and High School Students—National Youth Tobacco Survey, 2021," *MMWR*, 70(39): 1387-1389, October 1, 2021, https://www.cdc.gov/mmwr/volumes/70/wr/pdfs/mm7039a4-H.pdf.
[3] FDA Center for Tobacco Products, *Resources for Professionals About Vaping & E-Cigarettes: A Toolkit for Working with Youth*, https://digitalmedia.hhs.gov/tobacco/hosted/Vaping-ECigarettes-Youth-Toolkit.pdf.
[4] National Academies of Sciences, Engineering, and Medicine. 2018. *Public health consequences of e-cigarettes*. Washington, DC: The National Academies Press. http://nationalacademies.org/hmd/Reports/2018/public-health-consequences-of-e-cigarettes.aspx.
[5] CDC Foundation & Information Resources, Inc., "Monitoring U.S. E-Cigarette Sales: National Trends," https://www.cdcfoundation.org/programs/monitoring-e-cigarette-use-among-youth. Data from Information Resources, Inc. (IRI), which includes e-cigarette sales data from convenience stores, gas stations and other retail store chains. Sales from the internet and tobacco-specialty stores, including vape shops, are not included.

[6] Delnevo, CD, et al. "Cigar Sales in Convenience Stores in the US, 2009-2020," *JAMA* 326(23):2429-2432.
[7] CDC, 2019 Youth Risk Behavior Survey, Available at http://nccd.cdc.gov/youthonline/.
[8] Le, TT, "An estimation of the harm of menthol cigarettes in the United States from 1980 to 2018," *Tobacco Control*, published online February 25, 2021.
[9] FDA. *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes* (2013) http://www.fda.gov/downloads/ScienceResearch/SpecialTopics/PeerReviewofScientificInformationandAssessments/UCM361598.pdf
[10] Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," *Journal of the American Medical Association*, published online October 26, 2015.
[11] Delnevo, CD, et al., "Banning Menthol Cigarettes: A Social Justice Issue Long Overdue," *Nicotine & Tobacco Research*, 22(10): 1673-1675, 2020.
[12] FDA, "Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol Versus Nonmenthol Cigarettes," 2013; Tobacco Products Scientific Advisory Committee, FDA, "Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations, 2011,.; Alexander, LA, et al., "Why we must continue to investigate menthol's role in the African American smoking paradox," *Nicotine & Tobacco Research, 18(S1):* S91-S101, 2016.
[13] HHS, "Tobacco Use Among US Racial/Ethnic Minority Groups—African Americans, American Indians and Alaskan Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General," 1998, http://www.cdc.gov/tobacco/data_statistics/sgr/1998/complete_report/pdfs/complete_report.pdf.
[14] Delnevo, CD, et al., "Banning Menthol Cigarettes: A Social Justice Issue Long Overdue," *Nicotine & Tobacco Research*, 22(10): 1673-1675, 2020.
[15] State Attorneys General Comments on Proposed Regulations to Establish Tobacco Product Standards for Menthol in Cigarettes, Docket Nos. FDA-2021-N-1349 and FDA-2021-N-1309https://oag.ca.gov/system/files/attachments/press-docs/23%20State%20AGs%20Comments%20on%20FDA%20Proposed%20Product%20Standards%20-%20FDA-2021-N-1349%20and%20FDA-2021-N-1309.docx.
[16] Wakefield, M, and Giovino, G, "Teen penalties for tobacco possession, use, and purchase: evidence and issues," *Tobacco Control,* 12(Suppl I):i6-i13, 2003.

Comments on VT DLL Rules

CB Clare Buckley <cbuckley@leoninepublicaffairs.com>
To Genest, Skyler

Reply | Reply All | Forward
Tue 9/6/2022 4:54 PM

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.
Hi Chief Genest:

The members of the DLL rule working group over the past few meetings asked a few questions for broader feedback from the wholesaler community. I convened a group of Vermont Wholesale Beverage Association (VWBA) members and offer the following responses to the questions the working group posed:

Credit Regulation No. 1 – VWBA members strongly support the current prohibition on credit for malt and vinous beverages, including a prohibition on the use of credit cards, and urge DLL to keep the rule in place.. VWBA members support adding ready-to-drink spirits beverages to the ban on credit in Credit Regulation No. 1. Our understanding is that "cider" is considered a "vinous beverage" under Act 177 so wherever wine or vinous beverage appears in the regulation, it includes cider, so the ban on credit also applies to "cider."

Wholesale Dealer Reg. No. 8 - VWBA members support giving wholesalers the option of utilizing electronic copies of invoices with no hard copies so long as the wholesaler can produce an electronic version at any time for DLL..

Wholesale Dealer Reg. No 12 - VWBA supports adding ready-to-drink spirits beverages to this regulation so that it applies to malt beverages and RTDs.

Wholesale Dealer Reg. No. 14 – VWBA supports adding ready-to-drink spirits beverages to this regulation regarding minimum delivery amounts. VWBA supports the $75 minimum delivery amount and retaining the "aggregate quantity" concept so the aggregate quantity would consist of malt beverages, vinous beverages and ready-to-drink spirits beverages.

If you have questions about the above comments or have additional questions you'd like me to run by VWBA members, please let me know, Thanks for giving us the opportunity to participate in the working group.

Clare

Clare Buckley, Partner
Leonine Public Affairs, LLP
1 Blanchard Court, Suite 101. Montpelier, VT 05602
Cell: 802-777-2064
cbuckley@leoninepublicaffairs.com

Genest, Skyler

From: Amy Spear <aspear@vtchamber.com>
Sent: Friday, September 16, 2022 3:51 PM
To: Genest, Skyler
Cc: Posley, Jacqueline; Knight, Wendy
Subject: RE: Break Open Tickets / Gaming Proposed Regulation

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.
Hi Skylar,

Thank you for the information. From what I have heard from our members there would not be any issue with the changes to break open tickets.

I will keep you posted if I heard otherwise!

Best,
Amy

Amy Spear
Vice President of Tourism | Vermont Chamber of Commerce
President | Vermont Attractions Association

Join the Vermont Chamber today!

From: Genest, Skyler <Skyler.Genest@vermont.gov>
Sent: Wednesday, September 14, 2022 11:01 AM
To: Amy Spear <aspear@vtchamber.com>
Cc: Posley, Jacqueline <Jacqueline.Posley@vermont.gov>; Knight, Wendy <Wendy.Knight@vermont.gov>
Subject: External: Break Open Tickets / Gaming Proposed Regulation

Hi Amy,

As I believe you are aware, but the Department has engaged in a lengthy and exhaustive review of our regulations looking at gaps in regulation, conflicts with statute, and relevancy of existing regulations.

In the realm of break open tickets, we did land on some proposed regulatory language that our Office of Compliance and Enforcement believes would create a paradigm which would protect the non-profit organizations who can be vulnerable victims of fraud when they partner with on-premise locations to sell these gaming products on their behalf (as permitted by law). You might be aware that the Department has identified examples of criminal activity where licensees have not provided all of the proceeds generated by the sale of break open tickets to the non-profit organization contrary to state law. OCE believes that this occurrence is more frequent than we are made aware of because the non-profits are reluctant to report this as they don't wish to jeopardize any possible income, even if it isn't the full amount they are entitled to via law.

We would really value some feedback from the industry on the following proposed regulatory language. Most of this mirrors requirements in state law. In particular, #6 below would be a significant change in how the arrangement to engage in these sales occur now. Current state, licensees will sell the tickets and after the fact provide the proceeds. Proposed Gaming Regulation #6 would require the licensee to provide the expected net proceed to the non-profit before they engage in sales to their patrons, and then recoup the funds via the sales.

Could we rely on your network to garner any possible feedback on this issue?

OCE recommends the following regulatory language related to break open tickets:

Gaming Regulations

1. Prior to approval from Department to engage in Break-Open Ticket sales, a licensee must provide an IRS 501(c) designation letter, or provide enough proof to the Department that the non-profit they are benefiting via sale of Break-Open Ticket sales would qualify for 501(c) status pursuant to applicable provisions in state law.

2. Except for clubs as defined by Title 7, No owners or employees of a licensed establishment may order or take delivery of break open tickets from a wholesale distributor, pursuant to applicable provisions in state law, unless the owners or employees are bona-fide members or certified agents of the nonprofit. Only nonprofit organizations may purchase break-open tickets from a license wholesale distributor.

3. Except for clubs as defined by Title 7, No licensee may engage in games of chance that would benefit or support any non-profit of which they have direct or indirect control of, or have a direct or indirect financial interest in.

4. No licensee or employee of a licensee, or their volunteers shall engage in any game of chance play at their respective licensed establishment(s).

5. Licensees who engage in break-open ticket sales at their establishment must account for proceeds generated for each game on forms prescribed by the Department. That accounting shall include: Serial number of the game, Number of tickets per game, Number of tickets sold, Total dollar amount in payout for prizes awarded, Total dollar amount given to nonprofit organization, and Total dollar amount of any retained accounting fees. Licensees may retain a reasonable accounting fee. Pursuant to applicable provisions in state law this fee shall not exceed $2,000 in any calendar year.

6. Except for clubs as defined by Title 7, prior to the sale of any single implement of a game of chance such as a break open ticket on behalf of an eligible non-profit, the licensed establishment shall provide funds in the amount of the total expected net revenue as identified by the manufacturer of the game of change, minus the reasonable accounting fees identified in applicable provisions in state law.

I appreciate in advance any work you can do with this!

Best

Chief Skyler Genest
Senior Director, Licensee Operations
Vermont Department of Liquor and Lottery
802.477.2429 | skyler.genest@vermont.gov