

2020

# Regulation Rewrite Workgroup Proposal



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Vermont Department of Liquor and Lottery

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# 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 2019 to modernize and deconflict our currently regulatory model. This process involved an extensive study of issues, over 11 hours of working group discussion, and 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.

# HIGHLIGHTS

- [Section 1](#), titled “Administrative Organization and Procedures, and Agency Rules of Practice” was amended to reflect the current types of licenses and permits issued by the Board.
- [Section 3](#), titled “General Regulations” underwent a litany of adjustments. In addition, many General Regulations were re-numbered. Adjustments of note:
  - [General Regulation 4](#) provided an exemption for holders of a Manufacturers license who also have a 1st and/or 3rd class license located on their manufacturing premises to “self-source” their own alcohol, mirroring the statutorily provided “brewpub/distillery pub” exemption.
  - [General Regulation 7](#) includes video surveillance and video surveillance systems as a business record.
  - [General Regulations 8 & 9](#) were removed (added to a set of “Gaming Regulations)
  - [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 V.S.A 3113(f).
  - [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 scientifically supported terminology.
  - [General Regulation 18](#) was renumbered and allows licensees the ability to transfer alcoholic beverages 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 rectifiers license, when open for business have food service available at the licensed establishment. It further defines food service as prepared food utilizing kitchen appliances and locations permitted by regulations and licenses issued by the Department of Health and defined by Vermont statutes under Title 18 V.S.A. § 4301(8).
  - [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 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 alcoholic beverages 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 53](#) was removed (added to a set of “Gaming Regulations”)
- [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 third-class licensees to purchase spirits on credit from State Agency Stores.
- [Section 7](#) titled “Clubs” was removed. This reflected the non-enforcement of the one rule it included.
- [Section 8](#) was renumbered and Regulation 1 under this section was amended to exempt employees of a manufacturers 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. This reflected industry trends of manufacturers also operating at a limited basis in the retail tier.
- [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 3 of this section was amended to remove the responsibility of licensees to maintain training records of those employees who had attended and received a training certificate from in-person or online seminars provided by the Department.
- [A new section](#) was added titled “Tobacco Regulations” and contains 6 regulations pertaining to the responsible sale of Tobacco, Other Tobacco Products, Substitutes, and Paraphernalia at licensed establishments.
- [A new section](#) was added titled “Gaming Regulations” and contains 5 regulations intended to address the abuse and misuse to the ability of licenses to engage in gaming activities at licensed establishments, including reflecting best practices for the sale of break-open tickets.

*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, all general information relative to general administration, stores and agencies, warehouse, and personnel may be obtained at the central office of the ~~Board of Liquor Control and Lottery Board 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 and Lottery 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~~ **on-premise consumption.**

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

\* **Third class license (spiritous alcohol containing more than one percent alcohol obtained by distillation, by chemical synthesis, or through concentration by freezing; vinous beverages containing more than 23 percent alcohol; and malt beverages containing more than 16 percent alcohol by volume and fortified wines) for on-premise consumption**

\***Outside Consumption Permit (first-class, first- and third-class, or fourth-class licenses allowed for consumption of alcoholic beverages in a delineated outside area)**

\***Request-to-cater permit (permit authorizing a licensed caterer or commercial caterer to cater individual events)**

\*Special Event Permit (permit authorizing a licensed manufacturer or rectifier to sell, by the glass or by the unopened bottle, alcoholic beverages manufactured or rectified by the license holder at an event open to the public)

\*Special venue serving permit (a permit authorizing an art gallery, bookstore, public library, or museum to conduct an event at which malt or vinous beverages, or both, are served by the glass to the public)

\*Festival permit (a permit authorizing a person to conduct an event at which malt or vinous beverages, or both, are sold by the glass to the public)

\*Educational Sampling Permit (a permit authorizing a person to conduct an event that is open to the public at which malt beverages, vinous beverages, fortified wines, spirits, or all four are served only for the purposes of marketing and educational sampling)

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~~ License

\* Tobacco License

\* Tobacco Substitute Endorsement

\*Retail Delivery Permit

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

\*Wine Storage Facility License

\* Certificate of Approval, Malt

\* Certificate of Approval, Vinous

\* Direct Ship Vinous and Malt to Consumer License

\* Direct Ship Vinous to Retailer License

\* 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

\* Malt Tasting Permit

\* Wine Tasting Permit

\* Railroad Tasting Permit

\* Break-Open Ticket Distributor or Manufacturer License

\* Master Resort 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. Definitions. The definitions set forth in 3 VSA, Sec. 801 are hereby adopted and made applicable to these regulations.

4. 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. 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 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~~ **Office of Compliance and Enforcement**. 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~~ **Office of Compliance and Enforcement**, 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 appearance for a party in a formal proceeding, he shall remain counsel for such party until he has 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 associated with a resident and admitted attorney who has entered his appearance for the same party.

6. 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~~ **Office of Compliance and Enforcement** 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 ~~Board of Liquor Control and Lottery 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~~ **Office of Compliance and Enforcement** of the ~~Board of Liquor Control and Lottery 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. 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 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~~ **Office of Compliance and Enforcement** shall cause written notice of the hearing in the form as provided by 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 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. 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~~ **Office of Compliance and Enforcement** pursuant to Regulation No. 6 hereof. Such petitions will be considered and disposed of pursuant to the procedure specified in 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~~ **Office of Compliance and Enforcement** 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. 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(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 3 VSA Sec. 836 and Regulation No. 7(b) hereof.

#### 10. 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.

**Alcoholic Liquor and/or Beverage Alcohol:** All malt and vinous beverages and spirituous liquors as defined by law.

**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 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 beverages for transportation into and delivery within the state to an individual only when such malt or vinous beverages are sold and shipped pursuant to ~~7 V.S.A. §§ 66, 68 or other~~ applicable provision of law.
3. A licensee shall not permit or suffer the possession or consumption of any alcoholic beverages on its licensed premise of a higher alcoholic content than that allowed by the license granted for said premises.
4. ~~Except for holders of a Manufacturers 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 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.
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 local control commissioners.

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%. 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, and all financial records including but not limited to daily receipts for the sale of alcohol and/or tobacco. 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 Regulation 3b and 3d, 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.**

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.~~ **8.** No first or third class liquor license shall be issued to an individual or entity who is not first licensed with the Vermont Department of Taxes to collect the Vermont Rooms and Meals tax. 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 V.S.A. § 3113(f)**. A licensee and licensee employees must allow the Commissioner of Taxes or any of his/her assistants or investigators on the licensed premise at all times to examine records covering the operation of the licensee's business.

~~11.~~ **9.** 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.~~ **10.** No licensee or licensee employee shall sell or furnish alcoholic beverages 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 to be consumed 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.~~ **11.** For individuals of questionable age, all ~~liquor and tobacco~~ licenses 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.~~ **12.** No licensee shall permit an individual under eighteen years of age to be involved in the preparation, sale or service of alcoholic beverages 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.~~ **13.** 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.~~ **off-premise sale of alcohol.**

~~16.~~ **14.** No licensee or licensee employee, or any individual involved in the sale, preparation or furnishing of alcoholic beverages, 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, 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-~~ **15.** No licensee shall sell or furnish alcoholic beverages to any individual displaying signs of ~~intoxication~~ **impairment** from alcoholic beverages or other drugs / substances. No licensee shall allow alcoholic beverages 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 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-~~ **16.** Licensees shall store all alcoholic beverages 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 alcoholic beverages without prior authorization among similarly licensed locations so long as the locations are controlled by the same licensed entity.**

~~19-~~ **17.** No licensee that sells or distributes ~~malt or vinous~~ **alcoholic** beverages 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-~~ **18.** 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-~~ **19.-** 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.~~ **20.** First class licensees shall purchase on invoice, malt and vinous beverages 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.~~ **21.** Second class licensees shall purchase on invoice, malt and vinous beverages 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.~~ **22.** **Except as permitted by 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.~~ **23.** 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 food service available at the licensed establishment. Food service is defined as prepared food utilizing kitchen appliances and locations permitted by regulations and licenses issued by the Department of Health and defined by Vermont statutes under Title 18 V.S.A. § 4301(8). Clubs and holders of a manufacturer's or rectifier's license must offer some form of prepackaged foodstuff or the ability to offer food service by some other means.**

~~27.~~ **24.** If the Local Control Commissioners suspend **or condition** a ~~first class, first and third class or second class~~ **any** license, the municipality **licensee** shall immediately notify the ~~Liquor Control~~ Board, giving the reason as well as the effective date and length of time of the suspension **or condition**.



~~28.~~ **25.** ~~First or second class~~ No licensees shall ~~not~~ sell malt or vinous beverages 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.~~ **26.** 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, **tobacco substitutes, and tobacco paraphernalia** 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.~~ **27.** 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 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 days after such surrender or closing.

~~32.~~ **28.** 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 on-site.**

~~33.~~ **29.** Licensees must comply with the Vermont Department of Labor, and the Vermont Department of Public Safety, statutes and regulations.

~~34.~~ **30.** A licensee shall not lock the doors of its licensed premises where alcoholic beverages 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.~~ **31.** 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.

~~36.~~ **32.** 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 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.~~ **33.** 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.

~~38.~~ **34.** Licensees dispensing any alcoholic beverage from a draft system, shall display tap signs, clearly visible to the patrons, disclosing the brands of alcoholic beverages that are being dispensed. ~~Such signs shall be displayed on the tap of the dispensing apparatus.~~

~~39.~~ **35.** ~~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 than that actually ordered.

~~41.~~ **37.** ~~No licensee~~ **Licensees** shall use a container under any alcoholic beverage 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 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 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 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.

a. “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

~~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. 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. 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 on the licensed premises except as authorized by 7 V.S.A. § 67 the Board or other applicable provision 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, 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 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 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, **unless permitted by the Board or applicable provision 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. No licensee or licensee employee shall furnish alcoholic beverages 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 for on premise consumption shall post in a prominent place where alcoholic beverages 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 free of charge, or anything that would lead any consumer to believe he or she can receive an alcoholic beverage for free. For any licensee promoting food and alcoholic beverage combination specials, the licensee shall, during the promotion period, enter the sale of the alcoholic beverage as a separate full price sale and must add all applicable tax. All receipts must specifically outline the separate 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 ID 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.~~

54. 47. 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 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. 4311;

- 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 of 9:00 am-5:00pm); and
- G. The name of the employee making the delivery.

~~55.~~ 48. 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 on his / her 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 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, as provided in Vermont Statutes Annotated, Title 1, Section 431, 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~~ 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.

#### ~~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 manufacturers 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 of beer and wine may also work for a second class licensee in a store that sells beer and wine 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. No malt or vinous beverages 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, and authorization is granted by the Board.** Authorization from 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. 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. 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. Holders of a certificate of approval or manufacturer's license shall not ship any malt or vinous beverages to a wholesale dealer in Vermont unless same is covered by an invoice.
11. No wholesale dealer or bottler may solicit or accept orders for malt and vinous beverages 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 employee at the posted delivered price.
12. All wholesale dealers shall post their malt beverage prices to first and second-class licensees with the ~~Liquor Control~~ Board. 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 posted prices shall be construed as a violation of Regulation No. 15 under this heading, in addition to a violation of this regulation.

13. 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 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. 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 beverages 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 beverages 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. 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 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. ~~Such advertising items require prior Liquor Control Board approval.~~

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

~~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 manufacturers 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, 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~~ **and Lottery** 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 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~~ **staff of the Department** 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.

3. Any one holding a first, second or third class license, **solicitors license, manufacturers and fourth class liquor licenses** shall complete the Department of Liquor ~~Control~~ **and Lottery** 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. **Except for those employees who have taken a Department provided in-person or online seminar for which the Department provided a training certificate for, 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. **Each licensee shall maintain written documentation, signed by each employee trained of each training program conducted by the licensee as part of their own training program.**

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. **Except for Department provided in-person seminar or online certificates,** 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.

~~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.

## **Section 10. Tobacco Regulations**

**1. No Tobacco licensee shall permit an individual under sixteen years of age to sell any tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product to the public at their licensed establishment.**

2. No licensee shall possess, sell, or offer for sale any tobacco product, tobacco substitute, tobacco paraphernalia, or other tobacco product other than what is allowed by the license or permit granted for the licensed premises.

3. A licensee shall not possess or allow the consumption 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 License issued by the Vermont Department of Tax.

4. No licensee or licensee employee shall sell or furnish any 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 any tobacco product, tobacco substitute, or other tobacco product to be consumed upon the licensed premises by any individual, unless allowed by provisions within state law.

5. Licensees shall store all tobacco products, tobacco substitutes, tobacco paraphernalia, or other tobacco products on the licensed premises unless otherwise authorized in writing by the Board. 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.

6. Tobacco licenses under suspension shall not sell, serve, allow the consumption of, make orders for, or receive deliveries of tobacco products, tobacco substitutes, tobacco paraphernalia, or other tobacco products upon the licensed premises.

#### Section 11. 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 31 V.S.A § 1201 (5). That document or proof must accompany a non-profit disclosure form.

2. Except for clubs as defined by 7 V.S.A. §2(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 V.S.A § 1203, 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 7 V.S.A. §2(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 Title 13 V.S.A. § 2143(e)(2), this fee shall not exceed \$2,000 in any calendar year.

## **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