

1 H.219

2 Introduced by Representatives Grad of Moretown, Clarkson of Woodstock,
3 Kitzmiller of Montpelier, Scheuermann of Stowe, Carr of
4 Brandon, Conquest of Newbury, Deen of Westminster, Greshin
5 of Warren, Hooper of Montpelier, Jewett of Ripton, Juskiewicz
6 of Cambridge, Konline of Dorset, Lenes of Shelburne, Nuovo
7 of Middlebury, Partridge of Windham, Sheldon of Middlebury,
8 and Viens of Newport City

9 Referred to Committee on

10 Date:

11 Subject: Alcoholic beverages; general provisions; fortified wine

12 Statement of purpose of bill as introduced: This bill proposes to define
13 fortified wine and permit the holder of a second-class license to sell fortified
14 wine to the public.

15 An act relating to the sale of fortified wine

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 Sec. 1. 7 V.S.A. § 2 is amended as follows:

18 § 2. DEFINITIONS

19 The following words as used in this title, unless a contrary meaning is
20 required by the context, shall have the following meaning:

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(15) “Manufacturer’s or rectifier’s license”: a license granted by the
Liquor Control Board that permits the holder to manufacture or rectify
~~spirituous liquors~~ spirits or fortified wines for export and sale to the Liquor
Control Board, or malt beverages and vinous beverages, except fortified wines,
for export and sale to bottlers or wholesale dealers. This license permits a
manufacturer of vinous beverages to receive from another manufacturer
licensed in or outside this ~~state~~ State bulk shipments of vinous beverages to
rectify with the licensee’s own product, provided that the vinous beverages
produced by a Vermont manufacturer may contain no more than 25 percent
imported vinous beverage. The Liquor Control Board may grant to a licensed
manufacturer or rectifier a first-class restaurant or cabaret license or first- and
third-class restaurant or cabaret license permitting the licensee to sell alcoholic
beverages to the public only at the manufacturer’s premises, which, for the
purposes of a manufacturer of malt beverages, includes up to two licensed
establishments that are located on the contiguous real estate of the holder of the
manufacturer’s license, provided the manufacturer owns or has direct control
over those establishments. A manufacturer of malt beverages who also holds a
first-class restaurant or cabaret license may serve to a customer malt beverage
by the glass, not to exceed eight glasses at one time and not to exceed four
ounces in each glass. The Liquor Control Board may grant to a licensed

1 manufacturer or a rectifier of malt beverages a second-class license permitting
2 the licensee to sell alcoholic beverages to the public anywhere on the
3 manufacturer's or rectifier's premises. A licensed manufacturer or rectifier of
4 vinous beverages may serve, with or without charge, at an event held on
5 premises of the licensee or the vineyard property, spirits and vinous and malt
6 beverages, provided the licensee gives the Department written notice of the
7 event, including details required by the Department, at least five days before
8 the event. Any beverages not manufactured by the licensee and served at the
9 event shall be purchased on invoice from a licensed manufacturer or wholesale
10 dealer or the Liquor Control Board.

11 * * *

12 (19) "Second-class license": a license granted by the control
13 commissioners permitting the licensee to export malt or vinous beverages,
14 including fortified wines, and to sell malt or vinous beverages, including
15 fortified wines, to the public for consumption off the premises for which the
16 license is granted.

17 (20) "Spirits" or "spirituous liquors": beverages that contain more than
18 one percent of alcohol obtained by distillation, by chemical synthesis, or
19 through concentration by freezing; and ~~vinous beverages containing more than~~
20 ~~16 percent of alcohol; and all vermouths of any alcohol content;~~ malt
21 beverages containing more than 16 percent of alcohol or more than six percent

1 of alcohol if the terminal specific gravity thereof is less than 1.009; in each
2 case measured by volume at 60 degrees Fahrenheit.

3 * * *

4 (22) "Third-class license": a license granted by the Liquor Control
5 Board permitting the licensee to sell ~~spirituous liquors~~ spirits and fortified
6 wines for consumption only on the premises for which the license is granted.

7 (23) "Vinous beverages": all fermented beverages of any name or
8 description manufactured or obtained for sale from the natural sugar content of
9 fruits; or other agricultural product, containing sugar, the alcoholic content of
10 which is ~~not less than one percent nor more than 16 percent~~ at least one percent
11 by volume at 60 degrees Fahrenheit, ~~except that all vermouths shall be~~
12 ~~purchased and retailed by and through the Liquor Control Board as authorized~~
13 ~~in chapters 5 and 7 of this title~~ including all fortified wines.

14 * * *

15 (28) "Fourth-class license" or "farmers' market license": the license
16 granted by the Liquor Control Board permitting a manufacturer or rectifier of
17 malt or vinous beverages or spirits to sell by the unopened container and
18 distribute, by the glass, with or without charge, beverages manufactured by the
19 licensee. No more than a combined total of ten fourth-class and farmers'
20 market licenses may be granted to a licensed manufacturer or rectifier. At only
21 one fourth-class license location, a manufacturer or rectifier of vinous

1 beverages, malt beverages, or spirits may sell by the unopened container and
2 distribute by the glass, with or without charge, vinous beverages, malt
3 beverages, or spirits produced by no more than five additional manufacturers
4 or rectifiers, provided these beverages are purchased on invoice from the
5 manufacturer or rectifier. A manufacturer or rectifier of vinous beverages,
6 malt beverages, or spirits may sell its product to no more than five additional
7 manufacturers or rectifiers. A fourth-class licensee may distribute by the glass
8 no more than two ounces of malt or vinous beverage, except fortified wine,
9 with a total of eight ounces to each retail customer and no more than
10 one-quarter ounce of spirits or fortified wine with a total of one ounce to each
11 retail customer for consumption on the manufacturer's premises or at a
12 farmers' market. A farmers' market license is valid for all dates of operation
13 for a specific farmers' market location.

14 * * *

15 (38) "Fortified wines": vinous beverages, including those to which
16 spirits have been added during manufacture, containing at least 16 percent
17 alcohol but no more than 23 percent alcohol by volume at 60 degrees
18 Fahrenheit, and all vermouths of any alcohol content. All fortified wines shall
19 be purchased and retailed by and through the Liquor Control Board as
20 authorized by chapters 5 and 7 of this title, and may only be sold and

1 distributed by a local agency, the holder of a second-, third-, or fourth-class
2 license, or a manufacturer's or rectifier's license.

3 Sec. 2. 7 V.S.A. § 63 is amended as follows:

4 § 63. IMPORTATION OR TRANSPORTATION OF ~~LIQUORS~~ SPIRITS
5 AND FORTIFIED WINES; PROHIBITIONS; PERSONAL IMPORT
6 LIMIT; PENALTY

7 (a) All ~~spirituous liquors~~ spirits and fortified wines imported or transported
8 into this State shall be imported or transported by and through the Liquor
9 Control Board. A person importing or transporting or causing to be imported
10 or transported into this State any ~~spirituous liquors~~ spirits or fortified wines
11 shall be imprisoned not more than one year or fined not more than \$1,000.00,
12 or both. However, a person may import or transport not more than eight quarts
13 of ~~spirituous liquors~~ spirits or fortified wines into this State in his or her own
14 private vehicle or in his or her actual possession at the time of importation
15 without license or permit.

16 (b) Except as provided in sections 66 and 68 of this title, all malt ~~or~~
17 beverages, vinous beverages except fortified wines, or both, imported or
18 transported into this State shall be imported or transported by and through a
19 wholesale dealer holding a wholesale dealer's license issued by the Liquor
20 Control Board. A person importing or transporting or causing to be imported
21 or transported into this State any malt ~~or~~ beverages, vinous beverages except

1 fortified wines, or both, shall be imprisoned not more than one year or fined
2 not more than \$1,000.00, or both. Provided, however, a person may import or
3 transport not more than six gallons of malt ~~or beverages~~, vinous beverages
4 except fortified wines, or both, into this State in his or her own private vehicle
5 or in his or her actual possession at the time of importation without license or
6 permit, providing it is not for resale.

7 Sec. 3. 7 V.S.A. § 66 is amended as follows:

8 § 66. MALT AND VINOUS BEVERAGE SHIPPING LICENSE; ~~IN-STATE~~
9 IN-STATE; OUT-OF-STATE; PROHIBITIONS; PENALTIES

10 (a) A manufacturer or rectifier of vinous beverages or malt beverages
11 licensed in Vermont may be granted an in-state consumer shipping license by
12 filing with the Department of Liquor Control an application in a form required
13 by the Department accompanied by a copy of the applicant's current Vermont
14 manufacturer's license and the fee as required by subdivision 231(a)(7)(A) of
15 this title. This consumer shipping license may be renewed annually by filing
16 the renewal fee as required by subdivision 231(a)(7)(A) of this title
17 accompanied by a copy of the licensee's current Vermont manufacturer's
18 license.

19 (b) A manufacturer or rectifier of vinous beverages ~~licensed~~ or malt
20 beverages licensed in another state that operates a winery or brewery in the
21 United States and holds valid state and federal permits and licenses may be

1 granted an out-of-state consumer shipping license by filing with the
2 Department of Liquor Control an application in a form required by the
3 Department accompanied by copies of the applicant's current out-of-state
4 manufacturer's license and the fee as required by subdivision 231(a)(7)(B) of
5 this title. This consumer shipping license may be renewed annually by filing
6 the renewal fee as required by subdivision 231(a)(7)(B) of this title
7 accompanied by the licensee's current out-of-state manufacturer's license. ~~For~~
8 ~~the purposes of~~ As used in this subsection and subsection (c) of this section,
9 "out-of-state" means any state other than Vermont, any territory or possession
10 of the United States, and does not include a foreign country.

11 (c) A manufacturer or rectifier of vinous beverages that is licensed in-state
12 or out-of-state and holds valid State and federal permits and operates a winery
13 in the United States, may apply for a retail shipping license by filing with the
14 Department of Liquor Control an application in a form required by the
15 Department accompanied by a copy of its in-state or out-of-state license and
16 the fee as required by subdivision 231(a)(7)(C) of this title. The retail shipping
17 license may be renewed annually by filing the renewal fee as required by
18 subdivision 231(a)(7)(C) of this title accompanied by the licensee's current
19 in-state or out-of-state manufacturer's license. This license permits the holder,
20 which includes the holder's affiliates, franchises, and subsidiaries, to sell up to
21 5,000 gallons of vinous beverages, except fortified wines, a year directly to

1 first- or second-class licensees and deliver the beverages by common carrier,
2 the manufacturer's or rectifier's own vehicle, or the vehicle of an employee of
3 a manufacturer or rectifier, provided that the beverages are sold on invoice,
4 and no more than 100 gallons per month are sold to any single first- or
5 second-class licensee. The retail shipping license holder shall report to the
6 Department documentation of the annual and monthly number of gallons sold.
7 Vinous beverages sold under this section may be delivered by the vehicle of a
8 second-class license holder if the second-class licensee cannot obtain the
9 vinous beverages from a wholesale dealer.

10 (d) Pursuant to a consumer shipping license granted under subsection (a) or
11 (b) of this section, the licensee may ship vinous beverages, except fortified
12 wines, or malt beverages produced by the licensee:

13 (1) Only to private residents for personal use and not for resale.

14 (2) No more than 12 cases containing no more than 29 gallons of vinous
15 beverages or no more than 12 cases of malt beverages containing no more than
16 36 gallons of malt beverages to any one Vermont resident in any calendar year.

17 (3) Only by common carrier certified by the Department. The common
18 carrier shall comply with all the following:

19 (A) deliver beverages pursuant to an invoice that includes the name
20 of the licensee and the name and address of the purchaser;

1 (B) on delivery, require a valid form of photographic identification
2 from a recipient who appears to be under ~~age~~ 30 years of age;

3 (C) require the recipient to sign an electronic or paper form or other
4 acknowledgement of receipt.

5 (e) A holder of any shipping license granted pursuant to this section shall:

6 * * *

7 (8) not have any direct or indirect financial interest in a Vermont
8 wholesale dealer or retail dealer, including a first-, second-, or third-class
9 ~~license~~ licensee;

10 * * *

11 Sec. 4. 7 V.S.A. § 104 is amended as follows:

12 § 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

13 The Board shall have supervision and management of the sale of ~~spirituous~~
14 ~~liquors~~ spirits and fortified wines within the State in accordance with the
15 provisions of this title, and through the Commissioner of Liquor Control shall:

16 * * *

17 Sec. 5. 7 V.S.A. § 107 is amended as follows:

18 § 107. DUTIES OF COMMISSIONER OF LIQUOR CONTROL

19 The ~~commissioner of liquor control~~ Commissioner of Liquor Control shall:

20 (1) In towns ~~which~~ that vote to permit the sale of spirituous liquors,
21 establish such number of local agencies therein as the ~~board~~ Board shall

1 determine, enter into agreements for the rental of necessary and adequate
2 quarters, and employ suitable assistants for the operation thereof. However, it
3 shall not be obligatory upon the ~~liquor control board~~ Liquor Control Board to
4 establish an agency in every town ~~which~~ that votes to permit the sale of
5 spirituous liquors.

6 (2) Make regulations subject to the approval of the ~~board~~ Board
7 governing the hours during which such agencies shall be open for the sale of
8 ~~spirituous liquors, spirits and fortified wines and~~ governing the qualifications
9 ~~and, department, and salaries of the agencies' employees therein and the~~
10 ~~salaries thereof.~~

11 (3) Make regulations subject to the approval of the ~~board~~ Board
12 governing:

13 (A) the prices at which ~~spirituous liquors~~ spirits shall be sold ~~in such~~
14 by local agencies, and the method of for their delivery thereof, and the
15 quantities of ~~spirituous liquors to~~ spirits that may be sold to any one person at
16 any one time; and

17 (B) the prices at which fortified wines shall be sold by local agencies
18 and second-class licensees, the method for their delivery, and the quantities of
19 fortified wines that may be sold to any one person at any one time.

20 (4) Supervise the quantities and qualities of ~~spirituous liquor~~ spirits and
21 fortified wines to be kept as stock in ~~such local agency~~ agencies and make

1 regulations subject to the approval of the ~~board~~ Board regarding the filling of
2 requisitions therefor on the ~~commissioner of liquor control~~ Commissioner of
3 Liquor Control.

4 (5) Purchase through the ~~commissioner of buildings and general services~~
5 ~~spirituous liquors~~ Commissioner of Buildings and General Services spirits and
6 fortified wines for and in behalf of the ~~liquor control board~~ Liquor Control
7 Board, supervise the storage thereof and the distribution to local agencies,
8 druggists, and licensees of the ~~third class~~ second- and third-class and make
9 regulations subject to the approval of the ~~board~~ Board regarding the sale and
10 delivery from such central storage plant.

11 (6) Check and audit the income and disbursements of all local agencies,
12 and the central storage plant.

13 (7) [Repealed.]

14 (8) Devise methods and plans for eradicating intemperance and
15 promoting the general good of the ~~state~~ State and make effective such methods
16 and plans as part of the administration of this title.

17 Sec. 6. 7 V.S.A. § 110 is amended as follows:

18 § 110. SPECIAL BRANDS; PURCHASE BY COMMISSIONER OF
19 LIQUOR CONTROL

20 If any person shall desire to purchase any class, variety, or brand of
21 ~~spirituous liquor~~ spirits or fortified wine which any local agency or

1 ~~second-class licensee~~ does not have in stock, the ~~commissioner of liquor~~
2 ~~control~~ Commissioner of Liquor Control shall order the same through the
3 ~~commissioner of buildings and general services~~ Commissioner of Buildings
4 ~~and General Services~~ upon the payment of a reasonable deposit by the
5 purchaser in such proportion of the approximate cost of the order as shall be
6 prescribed by the regulations of the ~~liquor control board~~ Liquor Control Board.

7 Sec. 7. 7 V.S.A. § 112 is amended as follows:

8 § 112. LIQUOR CONTROL FUND

9 The ~~liquor control fund~~ Liquor Control Fund is hereby established. It shall
10 consist of all receipts from the sale of spirits, fortified wines, and other items
11 by the ~~department of liquor control~~ Department of Liquor Control; fees paid to
12 the ~~department of liquor control~~ Department of Liquor Control for the benefit
13 of the ~~department~~ Department; all other amounts received by the ~~department of~~
14 ~~liquor control~~ Department of Liquor Control for its benefit; and all amounts
15 ~~which~~ that are from time to time appropriated to the ~~department of liquor~~
16 ~~control~~ Department of Liquor Control.

1 Sec. 8. 7 V.S.A. § 222 is amended as follows:

2 § 222. FIRST- AND SECOND-CLASS LICENSES, GRANTING OF; SALE
3 TO MINORS; CONTRACTING FOR FOOD SERVICE

4 With the approval of the Liquor Control Board, the control commissioners
5 may grant the following licenses to a retail dealer for the premises where the
6 dealer carries on business ~~the following~~:

7 * * *

8 (2) Upon making application ~~and~~, paying the license fee provided in
9 section 231 of this title, and upon satisfying the Board that such premises are
10 leased, rented, or owned by the retail dealer and are a safe, sanitary, and proper
11 place from which to sell malt and vinous beverages, a second-class license for
12 the premises ~~where such dealer shall carry on the business~~, which shall
13 authorize such dealer to export malt and vinous beverages, including fortified
14 wines, and to sell malt and vinous beverages, including fortified wines, to the
15 public from such premises for consumption off the premises ~~and upon~~
16 ~~satisfying the Board that such premises are leased, rented, or owned by such~~
17 ~~retail dealers and are safe, sanitary, and a proper place from which to sell malt~~
18 ~~and vinous beverages~~. A retail dealer carrying on business in more than one
19 place shall be required to acquire a second-class license for each place where
20 ~~he or she shall so sell~~ the retailer dealer sells malt and vinous beverages. No
21 malt or vinous beverages shall be sold by a second-class licensee to a minor.

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(5)(A) The holder of a first-class license may serve a sampler flight of up to 32 ounces in the aggregate of malt beverages to a single customer at one time.

(B) The holder of a first-class license may serve a sampler flight of up to 12 ounces in the aggregate of vinous beverages, except fortified wines, to a single customer at one time.

(C) The holder of a third-class license may serve a sampler flight of up to four ounces in the aggregate of ~~spirituous liquors~~ spirits or fortified wines to a single customer at one time.

Sec. 9. 7 V.S.A. § 224 is amended as follows:

§ 224. ~~THIRD-CLASS~~ THIRD-CLASS LICENSES; OPEN CONTAINERS

(a) The ~~liquor control board~~ Liquor Control Board may grant to a person who operates a hotel, restaurant, cabaret, or club a license of the third class if the person files an application accompanied by the license fee as provided in section 231 of this title for the premises in which the business of the hotel, restaurant, cabaret, or club is carried on. The holder of a ~~third-class~~ third-class license may sell ~~spirituous liquors~~ spirits and fortified wines for consumption only on the premises covered by the license. The applicant for a ~~third-class~~ third-class license shall satisfy the ~~liquor control board~~ Liquor Control Board

1 that the applicant is the bona fide owner or lessee of the premises and that the
2 premises are operated for the purpose covered by the license.

3 * * *

4 (c) A person who holds a ~~third-class~~ third-class license shall purchase from
5 the ~~liquor control board~~ Liquor Control Board all ~~spirituous liquors~~ spirits and
6 fortified wines dispensed in accordance with the provisions of the ~~third-class~~
7 third-class license and this title.

8 Sec. 10. 7 V.S.A. § 225 is amended as follows:

9 § 225. EDUCATIONAL SAMPLING EVENT PERMIT

10 (a) The ~~liquor control board~~ Liquor Control Board may grant an
11 educational sampling event permit to a person to conduct an event that is open
12 to the public and at which malt beverages, vinous beverages, including
13 fortified wines, ~~or spirituous liquors~~, spirits, or all three are served only for the
14 purposes of marketing and educational sampling, provided the event is also
15 approved by the local licensing authority. At least 15 days prior to the event,
16 an applicant shall submit an application to the ~~department~~ Department in a
17 form required by the ~~department~~ Department. The application shall include a
18 list of the alcoholic beverages to be acquired for sampling at the event, and the
19 application shall be accompanied by a fee in the amount required pursuant to
20 section 231 of this title. No more than four educational sampling event permits
21 shall be issued annually to the same person. An educational sampling event

1 permit shall be valid for no more than four consecutive days. The permit
2 holder shall assure all the following:

3 (1) Attendees at the educational sampling event shall be required to pay
4 an entry fee of no less than \$5.00.

5 (2) Beverages for sampling shall be offered in glasses that contain no
6 more than two ounces of beverage.

7 (3) The event shall be conducted in compliance with all the
8 requirements of this title.

9 (b) An educational sampling event permit holder:

10 (1) May receive shipments directly from a manufacturer, bottler,
11 certificate of approval holder, wholesale dealer, or importer licensed in
12 Vermont or that provides evidence of licensure in another state or foreign
13 country satisfactory to the ~~board~~ Board.

14 (2) May transport malt beverages, vinous beverages, including fortified
15 wines, and ~~spirituous liquors~~ spirits to the event site, and those beverages may
16 be served at the event by the permit holder or the holder's employees,
17 volunteers, or representatives of a manufacturer, bottler, or importer
18 participating in the event, provided they meet the server age and training
19 requirements under this chapter.

20 (3) ~~[Deleted.]~~ [Repealed.]

1 (c) All the cases and bottles of alcoholic beverages to be served at the event
2 shall be marked by the permit holder "For sampling only. Not for resale."

3 (d) Taxes for the alcoholic beverages served at the event shall be paid as
4 follows:

5 (1) Malt beverages: \$0.265 per gallon served.

6 (2) Vinous beverages, except fortified wines: \$0.55 per gallon served.

7 (3) ~~Spirituous liquors~~ Spirits: \$19.80 per gallon served.

8 (4) Fortified wines: \$19.80 per gallon served.

9 Sec. 11. 7 V.S.A. § 421 is amended as follows:

10 § 421. TAX ON MALT AND VINOUS BEVERAGES

11 (a) Every bottler and wholesaler shall pay to the Commissioner of Taxes
12 the sum of 26 and one-half cents per gallon for every gallon or its equivalent of
13 malt beverage containing not more than six percent of alcohol by volume at
14 60 degrees Fahrenheit sold by them to retailers in the State and the sum of
15 55 cents per gallon for each gallon of malt beverage containing more than six
16 percent of alcohol by volume at 60 degrees Fahrenheit and each gallon of
17 vinous beverages, except fortified wines, sold by them to retailers in the ~~state~~
18 State and shall also pay to the Liquor Control Board all fees for bottler's and
19 wholesaler's licenses. A manufacturer or rectifier of malt or vinous beverages
20 shall pay the taxes required by this subsection to the Commissioner of Taxes

1 for all malt and vinous beverages, except fortified wines, manufactured or
2 rectified by them and sold at retail.

3 * * *

4 Sec. 12. 7 V.S.A. § 422 is amended as follows:

5 § 422. TAX ON ~~SPIRITUOUS LIQUOR~~ SPIRITS AND FORTIFIED
6 WINES

7 (a) A tax is assessed on the gross revenue ~~on~~ from the retail sale of
8 ~~spirituous liquor spirits and fortified wines~~ by the Liquor Control Board in the
9 State of Vermont, ~~including fortified wine, sold by the Liquor Control Board,~~
10 or ~~sold by~~ a manufacturer or rectifier of ~~spirituous liquor~~ spirits or fortified
11 wines in the State of Vermont, in accordance with the provisions of this title.

12 The tax shall be at the following rates based on the gross revenue of the retail
13 sales by the seller in the current year:

14 (1) if the gross revenue of the seller is \$500,000.00 or lower, the rate of
15 tax is five percent;

16 (2) if the gross revenue of the seller is between \$500,000.00 and
17 \$750,000.00, the rate of tax is \$25,000.00 plus 10 percent of the gross revenues
18 over \$500,000.00;

19 (3) if the gross revenue of the seller is ~~over~~ \$750,000.00 or more, the
20 rate of tax is 25 percent.

1 (b) The retail sales of ~~spiruous liquor~~ spirits or fortified wines made by a
2 manufacturer or rectifier at a fourth-class or farmers' market license location
3 shall be included in the gross revenue of a seller under this section, but only to
4 the extent that the sales are of the manufacturer's or rectifier's own products,
5 and not products purchased from other manufacturers and rectifiers.

6 Sec. 13. EFFECTIVE DATE

7 This act shall take effect on July 1, 2015.