

1 S.168

2 Introduced by Senator Illuzzi

3 Referred to Committee on

4 Date:

5 Subject: Alcoholic beverages; licensing; interstate wine shipments

6 Statement of purpose: This bill proposes to allow retail wine merchants to ship
7 wine in and out of state.

8 An act relating to sales of vinous beverages

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

10 Sec. 1. FINDINGS

11 The general assembly finds that:

12 (1) Vinous beverages are currently being shipped into Vermont from
13 locations across America. Although this action is contrary to existing Vermont
14 law, the law is effectively unenforceable.

15 (2) A growing section of the Vermont economy is the establishment and
16 growth of small businesses that cater to the sale of unique and special wines to
17 consumers in Vermont. Many of these potential customers are tourists and
18 other visitors, including virtual visitors, who wish to purchase products sold by
19 Vermont businesses and shipped to locations outside the state.

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

11 * * *

12 Sec. 3. 7 V.S.A. § 66 is amended to read:

13 § 66. VINOUS BEVERAGE SHIPPING LICENSE; IN STATE; OUT OF
14 STATE; PROHIBITIONS; PENALTIES

15 (a)(1) A manufacturer or rectifier of vinous beverages licensed in Vermont
16 may be granted an in-state consumer shipping license by filing with the
17 department of liquor control an application in a form required by the
18 department accompanied by a copy of the applicant's current Vermont
19 manufacturer's license and the fee as required by subdivision 231(7)(A) of this
20 title. This consumer shipping license may be renewed annually by filing the

1 renewal fee as required by subdivision 231(7)(A) of this title accompanied by a
2 copy of the licensee's current Vermont manufacturer's license.

3 ~~(b)(2)~~ A manufacturer or rectifier of vinous beverages licensed in another
4 state that operates a winery in the United States and holds valid state and
5 federal permits and licenses may be granted an out-of-state consumer shipping
6 license by filing with the department of liquor control an application in a form
7 required by the department accompanied by copies of the applicant's current
8 out-of-state manufacturer's license and the fee as required by subdivision
9 231(7)(B) of this title. This consumer shipping license may be renewed
10 annually by filing the renewal fee as required by subdivision 231(7)(B) of this
11 title accompanied by the licensee's current out-of-state manufacturer's license.
12 For the purposes of this subsection and subsection (c) of this section,
13 "out-of-state" means any state other than Vermont, any territory or possession
14 of the United States, and does not include a foreign country.

15 (b) A retail dealer of vinous beverages that derives no less than 75 percent
16 of its gross revenues from sales of vinous beverages and that is licensed in
17 Vermont, or licensed in any other state by a governmental entity that regulates
18 the sale of vinous beverages, may be granted an interstate consumer shipping
19 license allowing the dealer to sell and ship vinous beverages by the bottle or
20 case to consumers in and outside the state. A dealer may do so by filing with
21 the department of liquor control an application in a form required by the

1 department accompanied by a copy of the applicant's current second class
2 license or equivalent authorization issued by another state, and the fee as
3 required by subdivision 231(7)(D) of this title. This consumer shipping license
4 may be renewed annually by filing the renewal fee as required by subdivision
5 231(7)(D) accompanied by the licensee's current second class license or
6 equivalent authorization issued by another state. To be eligible for an
7 interstate consumer shipping license, the retail dealer must have a physical
8 retail presence in Vermont or another state that is open to the public for retail
9 sales of vinous beverages. For the year beginning May 1, 2012, there shall be
10 no more than six licenses issued to Vermont licensed retail dealers to ship
11 products out of state, and no more than six licenses issued to licensed retail
12 dealers from other states to ship into the state.

13 (c) A manufacturer or rectifier of vinous beverages that is licensed in-state
14 or out-of-state and holds valid state and federal permits and operates a winery
15 in the United States may apply for a retail shipping license by filing with the
16 department of liquor control an application in a form required by the
17 department accompanied by a copy of their in-state or ~~out-of-state~~ out-of-state
18 license and the fee as required by subdivision 231(7)(C) of this title. The retail
19 shipping license may be renewed annually by filing the renewal fee as required
20 by subdivision 231(7)(C) of this title accompanied by the licensee's current
21 in-state or out-of-state manufacturer's license. This license permits the holder,

1 which includes the holder's affiliates, franchises, ~~and~~ subsidiaries, and their
2 employees to sell up to ~~2,000~~ 3,000 gallons of vinous beverages a year directly
3 to first or second class licensees and deliver the beverages by common carrier
4 or the manufacturer's or rectifier's own vehicles, provided that the beverages
5 are sold on invoice, and no more than 40 gallons per month are sold to any
6 single first or second class licensee. The retail shipping license holder shall
7 provide to the department documentation of the annual and monthly number of
8 gallons sold.

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

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

13 (2) No more than ~~12~~ 20 cases containing no more than ~~29~~ 48 gallons of
14 vinous beverages to any one Vermont resident in any calendar year.

15 (3) Only by common carrier certified by the department. The common
16 carrier shall comply with all the following:

17 (A) Deliver vinous beverages pursuant to an invoice that includes the
18 name of the licensee and the name and address of the purchaser.

19 (B) On delivery, require a valid form of photographic identification
20 from a recipient who appears to be under the age of 30.

1 (C) Require the recipient to sign an electronic or paper form or other
2 acknowledgement of receipt.

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

4 (1) Ensure that all containers of alcoholic beverages shipped under this
5 section are clearly labeled: “contains alcohol; signature of individual age 21 or
6 older required for delivery.”

7 (2) Not ship to any address in a municipality that the department
8 identified as having voted to be “dry.”

9 (3) Retain a copy of each record of sale for a minimum of five years
10 from the date of shipping.

11 (4) Report at least twice a year to the department of liquor control in a
12 manner and form required by the department all the following information:

13 (A) The total amount of vinous beverages shipped into ~~or~~, within, or
14 outside the state for the preceding six months.

15 (B) The names and addresses of the purchasers to whom the vinous
16 beverages were shipped.

17 (C) The date purchased, if appropriate, the name of the common
18 carrier used to make each delivery, and the quantity and value of each
19 shipment.

20 (5) Pay directly to the commissioner of taxes the amount of tax on the
21 vinous beverages shipped under this section pursuant to subsection 421(a) of

1 this title, and comply with the provisions of 32 V.S.A. chapter 233 ~~of Title 32,~~
2 24 V.S.A. § 138, and any other legally authorized local sales taxes. Delivery
3 in this state shall be deemed to constitute a sale in this state at the place of
4 delivery and shall be subject to all appropriate taxes levied by the state of
5 Vermont.

6 (6) Permit the state treasurer, the department of liquor control, and the
7 department of taxes, separately or jointly, upon request, to perform an audit of
8 its records.

9 (7) If an out-of-state license holder, be deemed to have consented to the
10 jurisdiction of the department of liquor control or any other state agency and
11 the Vermont state courts concerning enforcement of this or other applicable
12 laws and regulations.

13 (8) ~~Not~~ If the licensee is a manufacturer or rectifier of vinous beverages,
14 the licensee shall not have any direct or indirect financial interest in a Vermont
15 wholesale dealer or retail dealer, including a first, second, or third class
16 license.

17 (9) Comply with all liquor control board laws and regulations.

18 (f) A common carrier shall not deliver vinous beverages until it has
19 complied with the training provisions in subsections 239(a) and (b) of this title
20 and been certified by the department of liquor control. No employee of a
21 certified common carrier may deliver vinous beverages until that employee

1 completes the training provisions in subsection 239(c) of this title. A common
2 carrier shall deliver only vinous beverages that have been shipped by the
3 holder of a license issued under this section or a vinous beverage storage
4 license issued under section 68 of this title.

5 (g) The department of liquor control and the department of taxes may adopt
6 rules and forms necessary to implement this section.

7 (h) Direct shipments of vinous beverages are prohibited if the shipment is
8 not specifically authorized and in compliance with this section. Any person
9 who knowingly makes, participates in, imports, or receives a direct shipment
10 of vinous beverages from a person who is not licensed or certified as required
11 by this section may be fined not more than \$1,000.00 or imprisoned not more
12 than one year, or both.

13 (i) A licensee under this section or a common carrier that ships vinous
14 beverages to an individual under 21 years of age shall be fined not less than
15 \$1,000.00 or more than \$3,000.00 or imprisoned not more than two years, or
16 both.

17 (j) For any violation of this section, the liquor control board may suspend
18 or revoke a license issued under this section, among all other remedies
19 available to the board.

1 Sec. 4. 7 V.S.A. § 231 is amended to read:

2 § 231. FEES FOR LICENSES; DISPOSITION OF FEES

3 (a) The following fees shall be paid:

4 * * *

5 (7) For a shipping license for vinous beverages:

6 (A) In-state consumer shipping license, initial and renewal, \$300.00.

7 (B) Out-of-state consumer shipping license, initial and renewal,
8 \$300.00.

9 (C) Retail shipping license, initial and renewal, \$200.00.

10 (D) Retail dealer interstate consumer shipping license, initial and
11 renewal, \$300.00.

12 * * *

13 Sec. 5. DEPARTMENT OF LIQUOR CONTROL INFORMATION
14 TECHNOLOGY

15 The department of liquor control shall incorporate into any planned
16 replacement of its information technology system an upgrade to the licensing
17 and enforcement aspects of its information technology system.

18 Sec. 6. REPORT

19 The department of liquor control shall make a report on the question of
20 whether licensees should be relicensed every two or three years on a staggered
21 basis, including whether there should exist a renewal option on the part of the

1 licensee for a period of greater than one year, and whether renewal for more
2 than one year should result in a reduced license fee. The report shall also
3 address any costs or savings associated with a two- or three-year license. The
4 department shall report its findings to the senate committee on economic
5 development, housing and general affairs and the house committee on general,
6 housing and military affairs by January 15, 2013.