

The Vermont Statutes Online

Title 7: Alcoholic Beverages

Chapter 1: General Provisions

2. Definitions

§ 2. Definitions

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

- (1) "Alcohol": the product of distillation of any fermented liquor, rectified either once or oftener whatever may be the origin thereof, and includes ethyl alcohol and alcohol which is considered nonpotable.
- (2) "Boat": a vessel suitably equipped and operated for the transportation of passengers in interstate commerce.
- (3) "Bottler": any person other than a brewer who shall bottle malt, or vinous beverages for sale or for distribution in this state.
- (4) "Bottler's license": the license granted by the liquor control board permitting a bottler to bottle for sale and to distribute and sell at wholesale malt or vinous beverages.
- (5) "Cabaret license": a first class license or first and third class licenses where the business is devoted primarily to providing entertainment, dancing, and the sale of alcoholic beverages to the public and not the service of food. The holder of a "cabaret license" shall serve food at all times when open for business and shall have adequate and sanitary space and equipment for preparing and serving food. However, the gross receipts from the sale of food shall be less than the combined receipts from the sales of alcoholic beverages, entertainment, and dancing in the prior reporting year. All laws and regulations pertaining to a first class license or first and third class licenses shall apply to the first class or first and third class cabaret licenses.
- (6) "Caterer's permit": a permit issued by the liquor control board authorizing the holder of first and third class licenses for a cabaret, restaurant or hotel premises to serve malt or vinous beverages or spirituous liquors at a function located on premises other than those occupied by a first, first and third, or second class licensee to sell alcoholic beverages.
- (7) "Club": an unincorporated association or a corporation authorized to do business in this state, that has been in existence for at least two consecutive years prior to the date of application for license under this title and owns, hires or leases a building or space in a building that is suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and contains suitable and adequate kitchen and dining room space and equipment implements and facilities. A club may be used or leased by a nonmember as a location for a social event as if it were any other licensed commercial establishment. Such club shall file with

the liquor control board, before May 1 of each year, a list of the names and residences of its members and a list of its officers. Its affairs and management shall be conducted by a board of directors, executive committee or similar body chosen by the members at its annual meeting, and no member or any officer, agent o

r employee of the club shall be paid, or directly or indirectly receive, in the form of salary or other compensation, any profits from the disposition or sale of alcoholic liquors to the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at annual meetings by the members or by its directors or other governing body, and as reported by the club to the liquor control board. An auxiliary member of a club may invite one guest at any one time. An officer or director of a club may perform the duties of a bartender without receiving any payment for that service, provided the officer or director is in compliance with the requirements of this title that relate to service of alcoholic beverages. A bona fide unincorporated association or corporation whose officers and members consist solely of veterans of the armed forces of the United States, or a subordinate lodge or local chapter of any national fraternal order, and which fulfills

all requirements of this subdivision, except that it has not been in existence for two years, shall come within the terms of this definition six months after the completion of its organization. A club located on and integrally associated with at least a regulation nine-hole golf course need only be in existence for six months prior to the date of application for license under this title.

(8) "Control commissioners": the commissioners appointed under section 166 of this title.

(9) "Dining car": a railroad car on which meals are prepared and served.

(10) "First class license": a license granted by the control commissioners permitting the licensee or seller of malt or vinous beverages to sell to the public for consumption only on the premises for which the license is granted.

(11) "Specialty beer": a malt beverage that contains more than eight percent alcohol and not more than 16 percent alcohol by volume at 60 degrees Fahrenheit.

(12) "Commissioner of liquor control": the executive officer of the liquor control board appointed under the provisions of this title.

(13) "Liquor control board": the board of control appointed under the provisions of this title.

(14) "Malt beverages": all fermented beverages of any name or description manufactured for sale from malt, wholly or in part, or from any substitute therefor, known as beer, porter, ale, and stout, containing not less than one percent nor more than 16 percent of alcohol by volume at 60 degrees Fahrenheit. However, if such a beverage has an alcohol content of more than six percent and has a terminal specific gravity of less than 1.009, it shall be deemed to be a spirit and not a malt beverage. The holder of the certificate of approval or the manufacturer shall certify to the liquor control board the terminal specific gravity of the beverage when the alcohol content is more than six percent.

(15) "Manufacturer's or rectifier's license": a license granted by the liquor control board that permits the holder to manufacture or rectify, as the case may be, malt beverages and vinous beverages for export and for sale to bottlers or wholesale dealers, or spirituous liquors for export and for sale to the liquor control board, upon application of a manufacturer or rectifier and the payment to the liquor control board of the license fee as required by subdivision 231(1) of this

title for either license. 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. A manufacturer of malt beverages who also holds a first class restaurant or cabaret license may serve to a customer malt beverages 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 manufacturer or a rectifier of malt beverages a second class license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer's or rectifier's premises. Upon application and payment of the license fee as required by subdivision 231(11) of this title, the liquor control board may grant to a licensed manufacturer or rectifier of vinous beverages fourth class or farmers' market licenses permitting the licensee to sell these beverages by the bottle to the public at the licensed premises or at a farmers' market, provided that the beverages were produced by the manufacturer or rectifier. No more than a combined total of ten fourth class and farmers' market licenses may be granted to any licensed manufacturer or rectifier. An application for a farmers' market license shall include copies of the farmers' market regulations, the agreement between the farmers' market and the applicant, a

nd the location and dates of operation of the farmers' market. A farmers' market license shall be valid for all dates of operation for a specific farmers' market location. However, in no case may a person with an interest in more than one manufacturer's or rectifier's license have an interest in more than four fourth class licenses. The manufacturer or rectifier shall pay directly to the commissioner of taxes the sum of \$0.265 cents per gallon for every gallon of malt beverage and the sum of \$0.55 cents per gallon for each gallon of vinous beverage manufactured by the manufacturer or rectifier and provided for sale pursuant to the first class license or the second class license or the fourth class license or combination thereof held by the manufacturer or rectifier. Holders of a manufacturer's or rectifier's second class license for malt beverages may distribute, with or without charge, malt beverages by the glass, not to exceed two ounces per product and eight ounces in total, to all

persons of legal drinking age. The malt beverages must be consumed upon the premises of the holder of the license. At the request of a person holding a first class or second class license, a holder of a manufacturer's or rectifier's license for malt beverages may distribute without charge to the management and staff of the license holder, provided they are of legal drinking age, no more than four ounces per person of a malt beverage for the purpose of promoting the beverage. Written notice shall be provided to the department of liquor control at least 10 days prior to the date of the tasting.

(16) "Person," as applied to licensees: individuals who are both citizens and residents of the state, partnerships composed solely of individuals a majority of whom are both citizens and residents of the state, and to corporations organized under the laws of this state whereof a majority of the directors are both citizens of the United States and residents of this state, or to corporations subject to the jurisdiction of the public service board, and to limited liability companies organized under the laws of this state in which a majority of the members are both citizens of the United States and residents of this state.

(17) "Restaurant": a space in a suitable building, approved by the liquor control board, occupied, used, maintained, advertised, or held out to the public to be a place where food is served at all times when open for business and there are no sleeping accommodations. The space shall have adequate and sanitary kitchen and dining room capacity and the number and kinds of employees for preparing, cooking, and serving suitable food for guests and patrons as required by the liquor

control board.

(18) "Retail dealer": any person who sells or distributes malt or vinous beverages to the public.

(19) "Second class license": a license granted by the control commissioners permitting the licensee or seller to sell malt or vinous beverages to the public for consumption off the premises for which the license is granted. The words permit and license shall have the same meaning in this title.

(20) "Spirits": beverages for sale containing more than one percent of alcohol obtained by distillation, by chemical synthesis, or through concentration by freezing; and vinous beverages containing more than 16 percent of alcohol; and all vermouths of any alcohol content; malt beverages containing more than 16 percent of alcohol or more than six percent of alcohol if the terminal specific gravity thereof is less than 1.009; in each case measured by volume at 60 degrees Fahrenheit.

(21) "Spirituous liquors": all spirits as defined in subdivision (20) of this section.

(22) "Third class license": a license granted by the liquor control board permitting a person as defined in subdivision (16) of this section to sell spirituous liquors in a hotel, restaurant, cabaret, club, boat or dining car as herein defined.

(23) "Vinous beverages": all fermented beverages of any name or description manufactured or obtained for sale from the natural sugar content of fruits, or other agricultural product, containing sugar, the alcoholic content of which is not less than one percent nor more than 16 percent by volume at 60 degrees Fahrenheit: except that all vermouths shall be purchased and retailed by and through the liquor control board as authorized in chapter 5 and chapter 7 of this title.

(24) "Wholesale dealer": any person other than a bottler who buys malt, or vinous beverages for distribution to or resale to retail dealers or to agencies of the United States.

(25) "Wholesale dealer's license": the license granted by the liquor control board permitting the wholesale dealer to sell or distribute malt or vinous beverages as a wholesale dealer.

(26) "Minor": a person who has not attained the age of 21.

(27) "Special events permit": a permit granted by the liquor control board permitting a person holding a manufacturer's or rectifier's license to attend an event open to the public, which has been approved by the local licensing authority, to sell by the glass or by unopened bottle the malt or vinous beverage manufactured or rectified by the license holder. No more than 12 special events' permits shall be issued to a holder of a manufacturer's or rectifier's license during a year. The fee for the permit is as required by subdivision 231(13) of this title, and shall be paid to the department of liquor control. Requests for a special events' permit shall be submitted to the department of liquor control and received by the department at least 15 days prior to the date of the event. Each manufacturer or rectifier planning to attend a single special event under this permit may be listed on a single permit. However, each attendance at a special event shall count toward the manufactu

rer's or rectifier's 12 special-event-permit limitation.

(28) "Fourth class license": the license granted by the liquor control board permitting a manufacturer or rectifier of vinous beverages to sell vinous beverages by the bottle and distribute vinous beverages by the glass as hereinbefore defined.

(29) "Festival permit": a permit granted by the liquor control board permitting a person to conduct an event at which malt or vinous beverages, or both, are sold by the glass to the public, provided the event is approved by the local licensing authority. A festival permit holder may purchase invoiced volumes of malt or vinous beverages directly from a manufacturer or bottler, provided the manufacturer or bottler either holds a Federal Basic Permit or a Brewers Notice or evidence of licensure in a foreign country, satisfactory to the board, whichever applies. The invoiced volumes of malt or vinous beverages may be transported to the site and sold by the glass to the public by the permit holder or its employees and volunteers only during the event. A festival permit holder shall be subject to the provisions of this chapter, including section 240 of this title, and the rules of the board regarding the sale of the alcoholic beverages and shall pay the tax on the malt or vinous bev

erages as required by section 421 of this title. A person shall not be granted a festival permit more than four times in one year, and each permit shall be valid for no more than four consecutive days. A request for a festival permit shall be submitted to the department in a form required by the department at least 15 days prior to the festival and shall be accompanied by a permit fee as required by subdivision 231(14) of this title to be paid to the department.

(30) "Home-fermented beverages": malt or vinous beverages produced at home and not for sale.

(31) "Legal age": 21 years of age or older.

(32) [Repealed.] (Amended 1959, No. 329 (Adj. Sess.), §§ 33, 39(b), eff. March 1, 1961; 1961, No. 76; 1964, No. 1 (Sp. Sess.); 1971, No. 64, § 1; 1973, No. 34, § 3; 1975, No. 44, § 1, eff. April 15, 1975; 1979, No. 103 (Adj. Sess.), § 1, eff. April 2, 1980; No. 115 (Adj. Sess.), § 2; 1981, No. 137 (Adj. Sess.) § 1, eff. April 6, 1982; No. 139 (Adj. Sess.), § 1; 1985, No. 99 (Adj. Sess.), § 1; No. 159 (Adj. Sess.), § 1; 1987, No. 188 (Adj. Sess.), §§ 1, 2, eff. May 11, 1988; 1989, No. 138 (Adj. Sess.); 1991, No. 250 (Adj. Sess.); 1993, No. 46, § 3; 1993, No. 112 (Adj. Sess.), §§ 1, 2, eff. Feb. 18, 1994; No. 168 (Adj. Sess.), §§ 1, 2; 1995, No. 26, § 1; 1995, No. 69 (Adj. Sess.), § 1, eff. Feb. 15, 1996; No. 121 (Adj. Sess.), § 1; 1997, No. 50, § 46, eff. June 26, 1997; No. 61, § 210a, eff. June 26, 1997; 1997, No. 158 (Adj. Sess.), §§ 1, 4, 6; 1999, No. 111 (Adj. Sess.), § 1; 2001, No. 9, § 1,2; No. 25, § 1; 2001, No. 74 (Adj. Sess.), § 1; No. 143 (Adj. Sess.), § 7, eff. June 21, 2002; 2003, No. 70 (Adj. Sess.), § 62, eff. March 1, 2004; No. 102 (Adj. Sess.), § 1; 2005, No. 140 (Adj. Sess.), §§ 2, 5, 8, eff. May 10, 2006; 2007, No. 21, § 1, eff. May 10, 2007; 2007, No. 167 (Adj. Sess.), § 1; 2007, No. 210 (Adj. Sess.), § 1.)

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Chapter 1: General Provisions

3. Culinary arts students; exemptions from provisions of title

§ 3. Culinary arts students; exemptions from provisions of title

A student aged 18 or older who is enrolled in a postsecondary education culinary arts program, accredited by a commission recognized by the U.S. Department of Education, shall be exempt from the provisions of this title while attending classes that require the possession or consumption of alcoholic beverages. (Added 1985, No. 99 (Adj. Sess.) § 2.)

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Title 7: Alcoholic Beverages

Chapter 21: Penalties

656. Minors misrepresenting age, procuring, possessing, or consuming liquors; first offense; civil violation

§ 656. Minors misrepresenting age, procuring, possessing, or consuming liquors; first offense; civil violation

(a) A minor 16 years of age or older shall not:

(1) falsely represent his or her age for the purpose of procuring or attempting to procure malt or vinous beverages or spirituous liquor from any licensee, state liquor agency, or other person or persons;

(2) possess malt or vinous beverages or spirituous liquor for the purpose of consumption by himself or herself or other minors, except in the regular performance of duties as an employee of a licensee licensed to sell alcoholic liquor; or

(3) consume malt or vinous beverages or spirituous liquors. A violation of this subdivision may be prosecuted in a jurisdiction where the minor has consumed malt or vinous beverages or spirituous liquors, or in a jurisdiction where the indicators of consumption are observed.

(b)(1) A law enforcement officer shall issue a notice of violation, in a form approved by the court administrator, to a person who violates this section if the person has not previously been adjudicated in violation of this section or convicted of violating section 657 of this title. The notice of violation shall require the person to provide his or her name and address, and shall explain procedure under this section, including that:

(A) the person must contact the diversion board in the county where the offense occurred within 15 days;

(B) failure to contact the diversion board within 15 days will result in the case being referred to the judicial bureau, where the person, if found liable for the violation, will be subject to a penalty of \$300.00 and a 90-day suspension of the person's operator's license, and may face substantially increased insurance rates;

(C) no money should be submitted to pay any penalty until after adjudication; and

(D) the person shall notify the diversion board if the person's address changes.

(2) When a person is issued a notice of violation under subdivision (1) of this subsection, the law enforcement officer shall complete a summons and complaint for the offense and send it to the diversion board in the county where the offense occurred. The summons and complaint shall not

be filed with the judicial bureau at that time.

(3) Within 15 days after receiving a notice of violation issued under subdivision (1) of this subsection, the person shall contact the diversion board in the county where the offense occurred and register for the teen alcohol safety program. If the person fails to do so, the diversion board shall file the summons and complaint with the judicial bureau for adjudication under chapter 29 of Title 4. The diversion board shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation, and shall provide two copies to the person charged with the violation.

(c) A person who violates this section commits a civil violation and shall be subject to a civil penalty of \$300.00, and the person's operator's license and privilege to operate a motor vehicle shall be suspended for a period of 90 days. The state may obtain a violation under this section or a conviction under section 657 of this title, but not both.

(d) If a person fails to pay a penalty imposed under this section by the time ordered, the judicial bureau shall notify the commissioner of motor vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made.

(e) Upon adjudicating a person in violation of this section, the judicial bureau shall notify the commissioner of motor vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the department for motor vehicle driving records. The identities of persons in the registry shall only be revealed to a law enforcement officer determining whether the person has previously violated this section.

(f)(1) Upon receipt from a law enforcement officer of a summons and complaint completed under subdivision (b)(2) of this section, the diversion board shall send the person a notice to report to the diversion board. The notice to report shall provide that:

(A) The person is required to complete all conditions related to the offense imposed by the diversion board, including substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both.

(B) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse counseling, or any other conditions related to the offense imposed by the diversion board, the case will be referred to the judicial bureau, where the person, if found liable for the violation, shall be assessed a penalty of \$300.00, the person's driver's license will be suspended for 90 days, and the person's automobile insurance rates may increase substantially.

(C) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other conditions related to the offense imposed by the diversion board, no penalty shall be imposed and the person's operator's license will not be suspended.

(2)(A) Upon being contacted by a person who has been issued a notice of violation under subdivision (b)(1) of this section, the diversion board shall register the person in the teen alcohol safety program. Pursuant to the teen alcohol safety program, the diversion board shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense, and in every case shall include a condition requiring satisfactory completion of substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse

counseling, the person shall choose a state-certified or state-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(B) Substance abuse screening required under this subsection shall be completed within 60 days after the diversion board receives a summons and complaint completed under subdivision (b)(2) of this section. The person shall complete all conditions at his or her own expense.

(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other conditions related to the offense which the diversion board has imposed, the diversion board shall:

(A) void the summons and complaint with no penalty due; and

(B) send copies of the voided summons and complaint to the judicial bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the judicial bureau under this subdivision, the diversion board shall redact all language containing the person's name, address, social security number or any other information which identifies the person.

(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other conditions related to the offense imposed by the diversion board, or if the person fails to pay the diversion board any required program fees, the diversion board shall file the summons and complaint with the judicial bureau for adjudication under chapter 29 of Title 4. The diversion board shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation, and shall provide two copies to the person charged with the violation.

(5) A person aggrieved by a decision of the diversion board or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(g) The state's attorney may dismiss without prejudice a violation brought under this section. (Added 1999, No. 160 (Adj. Sess.), § 8; amended 2003, No. 52, § 2, eff. Oct. 1, 2003.)
