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H.572

Introduced by Representatives Scheuermann of Stowe, Beck of St. Johnsbury,
Brennan of Colchester, Connor of Fairfield, Conquest of
Newbury, Cupoli of Rutland City, Eastman of Orwell, Greshin
of Warren, Juskiewicz of Cambridge, Komline of Dorset, Olsen
of Londonderry, Parent of St. Albans Town, Shaw of Pittsford,
Sibilia of Dover, Tate of Mendon, Till of Jericho, Trieber of
Rockingham, Woodward of Johnson, Young of Glover, and
Zagar of Barnard

Referred to Committee on

Date:

Subject: Alcoholic beverages; Department of Liquor Control; Department of
Public Safety; liquor control investigators; transfer

Statement of purpose of bill as introduced: This bill proposes to:

- (1) provide that the Commissioner of Liquor Control be appointed by
the Governor with the advice and consent of the Senate;
- (2) eliminate the law enforcement authority of the Commissioner; and
- (3) transfer liquor control investigators from the Department of Liquor
Control to the Department of Public Safety.

1 An act relating to the Commissioner of Liquor Control and liquor control
2 investigators

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

4 * * * Department of Liquor Control * * *

5 Sec. 1. 7 V.S.A. § 101 is amended to read:

6 § 101. COMPOSITION OF DEPARTMENT; COMMISSIONER OF
7 LIQUOR CONTROL; LIQUOR CONTROL BOARD

8 (a) The Department of Liquor Control, created by 3 V.S.A. § 212, shall
9 include the Commissioner of Liquor Control and the Liquor Control Board.

10 (b) The Governor shall appoint the Commissioner of Liquor Control with
11 the advice and consent of the Senate.

12 (c) The Liquor Control Board shall consist of five persons, not more than
13 three members of which shall belong to the same political party. Biennially,
14 with the advice and consent of the Senate, the Governor shall appoint a person
15 as a member of such Board for a staggered five-year term, whose term of
16 office shall commence on February 1 of the year in which such appointment is
17 made. The Governor shall biennially designate a member of such Board to be
18 its Chair.

19 Sec. 2. 7 V.S.A. § 102 is amended to read:

20 § 102. ~~REMOVAL~~

21 ~~After notice and hearing the governor may remove a member of the liquor~~
22 ~~control board for incompetency, failure to discharge his or her duties,~~

1 ~~malfeasance, immorality or other cause inimical to the general good of the~~
2 ~~state. In case of such removal, the governor shall appoint a person to fill the~~
3 ~~unexpired term. [Repealed.]~~

4 Sec. 3. 7 V.S.A. § 104 is amended to read:

5 § 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

6 The Board shall have supervision and management of the sale of spirits and
7 fortified wines within the State in accordance with the provisions of this title,
8 and through the Commissioner of Liquor Control shall:

9 (1)(A) ~~See that~~ Administer the laws relating to intoxicating liquor and to
10 the manufacture, sale, transportation, barter, furnishing, importation,
11 exportation, delivery, prescription, and possession of malt ~~and~~ beverages or
12 vinous beverages, spirits, fortified wines, and alcohol by licensees and others
13 ~~are enforced~~, using for that purpose ~~such of~~ the monies annually available to
14 the Liquor Control Board as may be necessary. ~~However, the~~ The Liquor
15 Control Board and its agents and inspectors shall act in this respect in
16 collaboration with ~~sheriffs, deputy sheriffs, constables, officers, and members~~
17 ~~of village and city police forces~~ law enforcement officers, control
18 commissioners, the Attorney General, State's Attorneys, and town and city
19 grand jurors. ~~When the Board acts to enforce any section of this title or any~~
20 ~~administrative rule or regulation relating to sale to minors, its investigation on~~
21 ~~the alleged violation shall be forwarded to the Attorney General or the~~

1 appropriate State's Attorney whether or not there is an administrative finding
2 of wrongdoing. Nothing in this section shall be deemed to affect the
3 responsibility or duties of such enforcement officers or agencies with respect to
4 the enforcement of such laws. The Commissioner or his or her designee is
5 authorized to prosecute administrative matters under this section and shall have
6 the authority to enter into direct negotiations with a licensee to reach a
7 proposed resolution or settlement of an alleged violation, subject to Board
8 approval, or dismissal with or without prejudice.

9 (B) When a prosecution relates to the sale of alcohol to minors, the
10 Board shall forward the alleged violation to the Attorney General or the
11 appropriate State's Attorney, regardless of whether there is an administrative
12 finding of wrongdoing.

13 * * *

14 (6) Employ such assistants, ~~inspectors~~, and other officers as it deems
15 necessary, subject to the approval of the Governor.

16 * * *

17 (8) ~~Make~~ Adopt rules and regulations concerning, and issue permits
18 under such terms and conditions as it may impose, for the furnishing,
19 purchasing, selling, bartering, transporting, importing, exporting, delivering,
20 and possessing of alcohol, including denatured alcohol, for manufacturing,
21 mechanical, medicinal, and scientific purposes.

1 (a) ~~The Director of the Enforcement Division of the Department of Liquor~~
2 ~~Control and~~ Department of Public Safety liquor control investigators employed
3 by the ~~Liquor Control Board~~ or by the Department of Liquor Control shall be
4 certified as Level III law enforcement officers by the Vermont Criminal Justice
5 Training Council and shall have the same powers and immunities as those
6 conferred on the State Police by 20 V.S.A. § 1914.

7 (b) ~~The Commissioner of Liquor Control, the Director of the Enforcement~~
8 ~~Division of the Department of Liquor Control or an~~ A Department of Public
9 Safety liquor control investigator employed by the ~~Liquor Control Board~~ or by
10 the Department of Liquor Control and any other law enforcement officer may
11 arrest or take into custody pursuant to the Vermont Rules of Criminal
12 Procedure a person whom he or she finds in the act of manufacturing alcohol
13 or possessing a still, or other apparatus for the manufacture of alcohol, or
14 unlawfully selling, bartering, possessing, furnishing, or transporting alcohol, or
15 unlawfully selling, furnishing, or transporting spirits, fortified wines, ~~or~~ malt
16 and beverages, or vinous beverages, and shall seize the liquors, alcohol,
17 vessels, and implements of sale and the stills or other apparatus for the
18 manufacture of alcohol in the possession of the person. He or she may also
19 seize and take into custody any property described in this section.

1 Sec. 9. 20 V.S.A. § 1817 is amended to read:

2 § 1817. ~~REPORTS OF LAW ENFORCEMENT OFFICER; ACCIDENTS~~
3 ~~INVOLVING LIQUOR~~

4 ~~Any law enforcement officer who, upon investigation of a motor vehicle~~
5 ~~accident or other incident involving the use of intoxicating liquor, shall inquire~~
6 ~~whether the person involved in the accident or incident was served or furnished~~
7 ~~intoxicating liquor at a licensed establishment and, if the officer determines~~
8 ~~that a person was served or furnished intoxicating liquor at a licensed~~
9 ~~establishment, the officer shall so inform in writing the appropriate licensee or~~
10 ~~licensees. A law enforcement officer shall not be subject to civil liability for~~
11 ~~an omission or failure to comply with a provision of this section. [Repealed.]~~

12 Sec. 10. 7 V.S.A. § 562 is added to read:

13 § 562. REPORTS OF LAW ENFORCEMENT OFFICER; ACCIDENTS
14 INVOLVING LIQUOR

15 (a) Any law enforcement officer, upon investigation of a motor vehicle
16 accident or other incident involving the use of intoxicating liquor, shall inquire
17 whether the person involved in the accident or incident was served or furnished
18 intoxicating liquor at a licensed establishment. If the officer determines that a
19 person was served or furnished intoxicating liquor at a licensed establishment,
20 the officer shall so inform in writing the appropriate licensee or licensees.

1 (b) A law enforcement officer shall not be subject to civil liability for an
2 omission or failure to comply with a provision of this section.

3 Sec. 11. RECODIFICATION

4 (a) 20 V.S.A. § 1817 is recodified as 7 V.S.A. § 562. During statutory
5 revision, the Office of Legislative Council shall revise accordingly any
6 references to 20 V.S.A. § 1817 in the Vermont Statutes Annotated.

7 (b) Any references in session law and adopted rules to 20 V.S.A. § 1817 as
8 previously codified shall be deemed to refer to 7 V.S.A. § 562.

9 Sec. 12. 7 V.S.A. § 563 is amended to read:

10 § 563. SEARCH WARRANTS

11 (a) If a state's attorney State's Attorney, the commissioner of liquor control
12 Commissioner of Liquor Control, or an a Department of Public Safety liquor
13 control inspector duly acting for the liquor control board, or a control
14 commissioner, or a town grand juror, or two reputable citizens of the county,
15 make complaint under oath or affirmation, before a judge of a eriminal division
16 of the superior court Criminal Division of the Superior Court, that he or she or
17 they have reason to believe that malt or vinous beverages or spirituous liquor,
18 fortified wines, spirits, or alcohol are kept or deposited for sale or distribution
19 contrary to law, or that alcohol is manufactured or possessed contrary to law,
20 in a dwelling house, store, shop, steamboat, or water craft of any kind, depot,
21 railway car, motor vehicle or land or air carriage of any kind, warehouse, or

1 other building or place in the county, the judge shall issue a warrant to search
2 the premises described in the complaint.

3 (b) If the liquor is found therein under circumstances warranting the belief
4 that it is intended for sale or distribution contrary to law, or if the alcohol is
5 found therein under circumstances warranting the belief that it is unlawfully
6 manufactured or possessed, or if any still, or any other apparatus for the
7 manufacture of alcohol is found therein, the officer shall seize and convey the
8 same to some place of security, and keep it until final action is had thereon.

9 Sec. 13. 7 V.S.A. § 571 is amended to read:

10 § 571. SEARCH OF VEHICLE OR CRAFT WITHOUT WARRANT

11 (a) If a sheriff, deputy sheriff, constable, police officer, ~~Commissioner of~~
12 ~~Liquor Control or inspector duly acting for the Liquor Control Board~~
13 Department of Public Safety liquor control investigator, or State ~~police~~ Police
14 officer has reason to believe and does believe; that a person is engaged in the
15 act of smuggling, delivering, or transporting; in violation of law; malt or
16 vinous beverages, spirits, fortified wines, or alcohol in any wagon, buggy,
17 automobile, motor vehicle, air or water craft, or other vehicle, he or she shall
18 search for and seize without warrant, malt or vinous beverages, spirits, fortified
19 wines, or alcohol found therein being smuggled, delivered, or transported
20 contrary to law.

1 **(b)** Whenever malt or vinous beverages, spirits, fortified wines, or alcohol,
2 transported unlawfully or alcohol possessed illegally shall be seized by such
3 officer, he or she shall take possession of the vehicle, team, automobile, boat,
4 air or water craft, or other conveyance and shall arrest the person in charge
5 thereof.

6 Sec. 14. 7 V.S.A. § 659 is amended to read:

7 § 659. REFUSAL OR NEGLECT OF OFFICERS TO PERFORM DUTIES

8 **(a)(1)** The sheriffs of the several counties and their deputies, constables,
9 officers or members of the village, town, or city police, ~~state police~~ State
10 Police, and ~~inspectors of the liquor control board~~ Department of Public Safety
11 liquor control investigators are hereby empowered, and it is hereby made their
12 duty, to see that the provisions of this title and the rules ~~and regulations~~ made
13 as authorized by the ~~liquor control board~~ Liquor Control Board herein provided
14 for are enforced within their respective jurisdictions.

15 **(2)** Any such officer who ~~wilfully~~ willfully refuses or neglects to
16 perform the duties imposed upon him or her by this section shall be fined not
17 more than \$500.00 or imprisoned not more than 90 days, or both.

18 **(b)** A control commissioner, ~~state's attorney~~ State's Attorney, or town
19 grand juror who ~~wilfully~~ willfully refuses or neglects to investigate a complaint
20 for a violation of this chapter, when accompanied by evidence in support
21 thereof, shall be fined \$300.00.

1 Sec. 15. 7 V.S.A. § 1002a is amended to read:

2 § 1002a. LICENSEE EDUCATION

3 (a) An applicant for a tobacco license that does not hold a liquor license
4 issued under this title shall be granted a tobacco license pursuant to section
5 1002 of this title only after the applicant has met with a Department of Public
6 Safety liquor control investigator or a Department of Liquor Control training
7 specialist for the purpose of being informed about the Vermont tobacco laws
8 pertaining to the purchase, storage, and sale of tobacco products. A
9 corporation, partnership, or association shall designate a director, partner, or
10 manager to comply with the requirements of this subsection.

11 (b) The holder of a tobacco license that does not also hold a liquor license
12 issued pursuant to this title for the same premises shall:

13 (1) Complete the ~~department's enforcement~~ Department of Liquor
14 Control's training seminar at least once every three years. A corporation,
15 partnership, or association shall designate a director, partner, or manager to
16 comply with this subdivision.

17 (2) Ensure that every employee involved in the sale of tobacco products
18 completes a training program approved by the ~~department of liquor control~~
19 Department of Liquor Control before the employee begins selling or providing
20 tobacco products, and at least once every 24 months thereafter. A licensee
21 may comply with this subdivision by conducting its own training program on

1 its premises using information and materials furnished by the ~~department of~~
2 ~~liquor control~~ Department of Liquor Control. A licensee who fails to comply
3 with the requirements of this subsection shall be subject to suspension of the
4 tobacco license for no less than one day.

5 * * * Department of Public Safety * * *

6 Sec. 16. 20 V.S.A. chapter 113 (Commissioner and members), subchapter 2 is
7 amended to read:

8 Subchapter 2. Public Safety Officers and State Police

9 § 1901. DIVISION OF PUBLIC SAFETY OFFICERS; CREATION AND

10 PURPOSE

11 The Division of Public Safety Officers is created under the Department of
12 Public Safety to provide specialized law enforcement services within the State.
13 The Division includes liquor control investigators, who shall have the powers
14 and duties regarding the enforcement of liquor laws as set forth in Title 7 of the
15 Vermont Statutes Annotated.

16 §§ 1902–1910. Reserved.

1 Sec. 17. TRANSFER OF POSITIONS AND ASSOCIATED
2 APPROPRIATIONS FROM THE DEPARTMENT OF LIQUOR
3 CONTROL TO THE DEPARTMENT OF PUBLIC SAFETY

4 On the effective date of this act, the following positions and the
5 appropriations associated with those positions are transferred from the
6 Department of Liquor Control to the Department of Public Safety:

7 (1) liquor control investigators;

8 (2) investigator supervisors; and

9 (3) Director of Enforcement.

10 * * * Miscellaneous Amendments in Accordance with this Act * * *

11 Sec. 18. 20 V.S.A. § 1883 is amended to read:

12 § 1883. STATE LAW ENFORCEMENT; MEMORANDUM OF
13 UNDERSTANDING

14 (a) The Commissioner of Public Safety shall develop and execute a
15 memorandum of understanding with the Commissioners of Fish and Wildlife,
16 and of Motor Vehicles and their directors of law enforcement, and the
17 Commissioner of Liquor Control and their respective directors of law
18 enforcement. The memorandum of understanding shall be reviewed at least
19 every two years and shall at a minimum address:

20 (1) Maximizing collective resources by reducing or eliminating
21 redundancies and implementing a methodology that will enhance overall

1 coordination and communication while supporting the mission of individual
2 enforcement agencies.

3 (2) Providing for an overall statewide law enforcement strategic plan
4 supported by quarterly planning and implementation strategy sessions to
5 improve efficiencies and coordination on an operational level and ensure
6 interagency cooperation and collaboration of programs funded through grants.
7 The strategic plan should identify clear goals and performance measures that
8 demonstrate results, as well as specific strategic plans for individual
9 enforcement agencies.

10 (3) Creating a task force concept that will provide for the sharing and
11 disseminating of information and recommendations involving various levels of
12 statewide law enforcement throughout Vermont that will benefit all law
13 enforcement agencies as well as citizens.

14 (4) Developing an integrated and coordinated approach to multi-agency
15 special teams with the goal of creating a force multiplier, where feasible.
16 These teams will be coordinated by the Vermont State Police during training
17 and deployments.

18 (5) Providing for the Commissioner of Public Safety, with the approval
19 of the Governor and in consultation with the Commissioners of Motor
20 Vehicles, of Fish and Wildlife, and of Liquor Control, to assume the role of
21 lead coordinator of statewide law enforcement units in the event of elevated

1 alerts, critical incidents, and all hazard events. The lead coordinator shall
2 maintain control until in his or her judgment the event no longer requires
3 coordinated action to ensure the public safety.

4 (b) [Repealed.]

5 Sec. 19. 20 V.S.A. § 2358 is amended to read:

6 § 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

7 * * *

8 (d) As used in this section:

9 (1) “Law enforcement officer” means a member of the Department of
10 Public Safety who exercises law enforcement powers, a member of the State
11 Police, a Capitol Police officer, a municipal police officer, a constable who
12 exercises law enforcement powers, a motor vehicle inspector, ~~an employee of~~
13 ~~the Department of Liquor Control who exercises law enforcement powers a~~
14 liquor control investigator, an investigator employed by the Secretary of State,
15 ~~Board of Medical Practice investigators employed by the Department of~~
16 ~~Health~~, Attorney General, or a State’s Attorney, Board of Medical Practice
17 investigators employed by the Department of Health, a fish and game warden,
18 a sheriff, ~~or~~ a deputy sheriff who exercises law enforcement powers, a railroad
19 police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8, or
20 a police officer appointed to the University of Vermont’s Department of Police
21 Services.

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Sec. 20. 20 V.S.A. § 2367 is amended to read:

§ 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;
REPORTING

(a) As used in this section:

* * *

(2) “Law enforcement officer” means a sheriff, deputy sheriff, police officer, Capitol Police officer, State game warden, State Police officer, constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is ~~trained in compliance with section 2358~~ certified in accordance with chapter 151 of this title, and a certified law enforcement officer employed by a State branch, agency, or department, including the Department of Public Safety, Department of Motor Vehicles, the Agency of Natural Resources, the Office of the Attorney General, the Department of State’s ~~Attorney~~ Attorneys and Sheriffs, and the Secretary of State, ~~and the Department of Liquor Control~~.

* * *

1 Sec. 21. 21 V.S.A. § 494b is amended to read:

2 § 494b. EMPLOYERS PERMITTED TO REQUIRE POLYGRAPH
3 EXAMINATIONS

4 The following employers may require that an applicant for employment
5 take or submit to a polygraph examination, or administer or cause to be
6 administered, a polygraph examination to an applicant for employment:

7 (1) ~~the department of public safety~~ Department of Public Safety; the
8 ~~department of motor vehicles~~ Department of Motor Vehicles, for applicants for
9 law enforcement positions; the ~~department of fish and wildlife~~ Department of
10 Fish and Wildlife, for applicants for law enforcement positions; ~~the department~~
11 ~~of liquor control and the liquor control board~~, for applicants for investigator
12 ~~positions~~; and municipal police departments and county sheriffs, as to sworn
13 police officers and deputy sheriffs;

14 * * *

15 * * * Effective Date * * *

16 Sec. 22. EFFECTIVE DATE

17 This act shall take effect on July 1, 2016.