

CONFIDENTIAL
Legislative Bill Review Form: 2016

Bill Number: S.250

Name of Bill: An act relating to alcoholic beverages

Agency/Dept: Tax

Author(s) of Bill Review: Candace Morgan

Date of Bill Review: 05/12/16

Related Bills & Key Players: DLC, Vermont Brewers Association

Status of Bill: As passed by both

Recommended Position: Support

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

This bill is the annual bill on miscellaneous alcoholic beverage provisions. It includes language from the DLC Modernization Study Committee from the summer, including making the Commissioner of DLC appointed by the governor. However, this bill review from Tax will largely focus only on the portions that relate to alcoholic beverages and taxes.

Sec. 8 establishes a quarterly option for payment of the malt and vinous beverages tax. Previously, this tax was due monthly on the 10th regardless of a company's size. This language allows for those who are remitting less than \$2,000 per year to pay on a quarterly basis. For anyone with over than \$2,000 in a year, they must still pay monthly. The due date is also moved from the 10th of the month to the 25th of the month. This brings it in line with the other taxes businesses are paying. The goal with this provision was to be more friendly so smaller-scale brewers and wineries.

Secs. 11-12 deal with the definition of taxable meals and alcoholic beverages in our meals and rooms tax statute. This was a proposal by the Tax Department to solve the issue of whether a manufacturer of alcoholic beverages should remit the use tax on any alcohol that was given away as part of a free tasting. Due to the way the meals and rooms tax statute is constructed under 32 V.S.A. § 9202, there was an argument that the alcohol given away was subject to sales and use tax, not meals and room tax. This language clarifies that all alcohol sold or given away for immediate consumption is subject to the meals and rooms tax, and not sales and use tax. Therefore, there is no tax due on alcohol given away for free.

Secs. 13 and 13a deal with the transfer of alcohol between one manufacturer to another in the same company. It clarifies that the malt and vinous beverage tax is not due at the transfer, but is eventually due when they sell to a wholesaler or bottler to a retailer in Vermont, or when sold at retail by the manufacturer that transferred the malt beverages. This language was taken out of the House-passed version, but added back in on the Senate floor. It is effective for only one year. Tax must also complete a study recommending how to handle the bulk transfer of alcohol from one manufacturer to another. The idea would be to establish a more permanent solution with the report when the provision in Sec. 13a sunsets after July 1, 2017.

2. Is there a need for this bill? *Please explain why or why not.*

Yes. This bill accomplishes many technical corrections in Title 7. It also clarifies an area of tax-related law that has been confusing to brewers and other manufacturers of alcoholic beverages (free samples).

3. What are likely to be the fiscal and programmatic implications of this bill for this department?

There will be some cost to changing the filing frequency for malt and vinous beverages. Additionally, we will need to perform outreach to the industry about that change, and about the other provisions in the bill.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

This bill requires some reports back from DLC. There are also a variety of changes that would impact their business processes.

5. What might be the fiscal and programmatic implications of this bill for others and what is likely to be their perspective on it? (e.g., public, municipalities, organizations, business, regulated entities)

There is a small positive impact to manufacturers of alcoholic beverages if they have currently been remitting any use tax on free samples.

6. Other Stakeholders

6.1 Who else is likely to support the proposal and why?

Vermont Breweries Association and other manufacturers of alcoholic beverages because it does some helpful work in clarifying outdated laws.

6.2 Who else is likely to oppose the proposal and why?

7. Rationale for recommendation: *Justify recommendation stated above.*

The changes to Tax processes are small, but the clarity that is added around the free samples is most welcomed.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

9. Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many? *This is simply expanded language to indicate whether the bill would also add or remove appointees to existing board or commission, under the administration's control.*

N/A

Secretary/Commissioner has reviewed this document. Name: Mary Peterson

Date: 05/18/16