
OLR Bill Analysis

sSB 647

AN ACT STREAMLINING THE LIQUOR CONTROL ACT.

SUMMARY

This bill makes several unrelated changes to the Liquor Control Act as described in the section-by-section analysis below. Among other things, the bill does the following:

1. consolidates nine manufacturer permits into three, including (a) limiting manufacturer permittees to producing spirits; (b) consolidating four beer permits into one; and (c) creating a new wine, cider, and mead permit with requirements and abilities substantially similar to a farm winery permittee (§§ 2 & 3);
2. requires a manufacturer permittee for beer to pay excise tax for beer sold for on-premises consumption for amounts over 15 barrels (§ 1);
3. allows wholesalers to sell non-uniform cases of alcoholic liquor (e.g., spirits, wine, and beer) with prior approval from the manufacturer or out-of-state shipper (§§ 2, 6 & 7);
4. allows gift basket retailer permittees to sell Connecticut beer in their gift baskets (§§ 4 & 5); and
5. eliminates the farmers' market beer permit (§ 16).

The bill also makes conforming and technical changes in consolidating the permits (§§ 8-15).

EFFECTIVE DATE: January 1, 2020

§ 1 — ALCOHOLIC BEVERAGES TAX

The bill requires manufacturer permittees for beer (see below) to pay the state alcoholic beverages tax (i.e., excise tax) on malt beverages

(e.g., beer) they produce and sell for on-premises consumption for amounts over 15 barrels. (The bill does not specify if this is an annual or lifetime limit.) By law, a “barrel” is at least 28 but not more than 31 gallons and beer is taxed at \$7.20 per barrel (CGS §§ 12-433 & 435(a)).

By law, the alcoholic beverages tax is generally levied on distributors (i.e., wholesaler or manufacturer permittees) before they sell their product to retailers (e.g., package store or grocery store) or consumers. The distributors must report to Department of Revenue Services (DRS) each month on the total number of gallons of each alcoholic beverage sold during the month, their opening and closing inventories, and the amount of tax due (CGS § 12-437).

§§ 2, 3 & 15 — CONSOLIDATION OF MANUFACTURER PERMITS

The bill consolidates nine manufacturer permits into three, one each for spirits; beer; and wine, cider, mead (including apple wine and brandy and eau-de-vie).

Spirits

The bill limits the current manufacturer permit to just manufacturing and selling spirits rather than alcoholic liquor (e.g., spirits, wine, or beer). It also eliminates the manufacturer permit for a farm distillery, which, among other things, allows Connecticut farms to manufacture, store, bottle, wholesale distribute, and sell spirits they produce on their property.

By law, spirits means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including brandy, rum, whiskey, and gin.

The bill applies to a manufacturers permit for spirits, all requirements that currently apply to a manufacturer permit with two exceptions.

Off-premises Sales. The bill allows a manufacturer permittee for spirits who produces less than 25,000 gallons a year to sell up to three liters of spirits per day. Current law allows a manufacturer permittee under that gallonage to sell up to 1.5 liters of alcoholic liquor per day.

Free Samples. The bill allows a spirits manufacturer to offer free samples of spirits distilled on the premises in combination with a nonalcoholic beverage as part of the free samples. As under current law, a permittee may provide tastings of up to two ounces per patron per day between 11:00 a.m. and 8:00 p.m. on Sundays and 10:00 a.m. and 8:00 p.m. Monday to Saturday.

Beer

The bill consolidates the manufacturer permits for beer, brew pub, beer and brew pub, and farm brewery into one permit. As under current law for all the manufacturer permits that produce beer, the consolidated beer permit allows for the manufacture, storage, and bottling of beer with the Department of Consumer Protection's (DCP) approval.

Self-Distribution. The consolidated beer permit allows the permittee to wholesale distribute to other alcoholic liquor permittees, which except for the brew pub permittee, the other three beer permittees can do under current law. Under the bill, if the consolidated beer permittee does wholesale distribute, he or she must make the beer available to all package store and grocery store permittees in the geographical region where they distribute, subject to reasonable limitations, as DCP determines.

On-premises Sales. Under the bill, the consolidated beer permit allows retail beer sales for on-premises consumption, with or without selling food. Under current law, the manufacturer permit for beer can not sell beer for on-premises consumption, while the manufacturer permits for brew pub and beer and brew pub can sell all alcoholic liquor for on-premises consumption, with or without the sale of food.

Off-premises Sales. Under the bill, the consolidated beer permit allows retail beer sales for off-premises consumption of up to six gallons per person per day. Current law limits all such manufacturer beer sales to nine liters per person per day.

Production Limits and Requirements. The bill also requires

permittees to annually produce at least 5,000 gallons of beer before they can sell beer through a wholesaler. Current law only imposes this minimum gallonage requirement on brew pubs and beer and brew pub permittees.

Under current law, a farm brewery permittee may only annually produce up to 75,000 gallons of beer and must, among other things, use a certain minimum percentage of materials grown or malted in the state for the beer to be advertised and sold as “Connecticut Craft Beer.” The consolidated beer permit does not have either requirement.

Hours. As under current law for permittees that manufacturer beer, consolidated permittees may sell beer for off-premises consumption between 10:00 a.m. and 6:00 p.m. on Sunday and 8:00 a.m. and 10:00 p.m. Monday through Saturday. The bill does not specify what hours the permittee may sell beer for on-premises consumption.

Permit Fees. Under the bill, the annual fee for the consolidated manufacturer permit for beer is \$1,407. Under current law, the annual fee for the manufacturer permit for (1) beer is \$1,000; (2) brew pub is \$300; (3) beer and brew pub is \$1,500; and (4) farm brewery is \$300.

Wine, Cider, and Mead

The bill creates a new manufacturer permit for wine, cider, and mead and eliminates the current cider, apple brandy and eau-de-vie, and farm winery manufacturing permits. It allows the new permittee to manufacture those products in addition to also making mead.

Allowed Products. The bill allows a wine, cider, and mead permittee to manufacturer wine, cider not exceeding 6% alcohol by volume (ABV), apple wine not exceeding 15% ABV, apple brandy, eau-de-vie, and mead. Under the bill, “mead” means fermented honey, with or without adjunct ingredients or additions, regardless of alcohol content; whether it is processed; and be it sparkling, carbonated, or still.

Requirements and Abilities. The wine, cider, and mead permit has substantially similar requirements and abilities as the current farm

winery permit, except the bill eliminates the requirements that the premises be located on a farm and a certain percentage of the product be grown there.

As is the case for the current manufacturing permits, the new permit allows for the storage, bottling, and wholesale distribution of the permitted products.

Under the bill, wine, cider, and mead permittees are authorized to do certain things current farm wineries can, including:

1. selling in bulk from the premises;
2. directly selling and shipping to a retailer in the original sealed containers of up to 15 gallons each, if they annually produce 100,000 gallons or less;
3. selling and shipping to individuals outside the state and Connecticut consumers (see below);
4. offering tastings of free samples, dispensed out of bottles or containers having capacities of less than two gallons; and
5. selling at retail from the premises, (a) sealed bottles or other containers for off-premises consumption or (b) by the glass and bottle for on-premises consumption.

Hours. Under current law, a cider manufacturer may sell and ship cider and apple wine under the same manner and conditions as a farm winery and may offer free tastings of up to two ounces per patron between 11:00 a.m. and 8:00 p.m. on Sunday and 10:00 a.m. and 8:00 p.m. Monday through Saturday.

As is the case for farm wineries under current law, a wine, cider, and mead permittee may only sell wine and offer tastings of free samples of its product between 10:00 a.m. and 10:00 p.m. on Sunday and 8:00 a.m. and 10:00 p.m. Monday through Saturday. The bill does not make the conforming change to allow the sale of the other products.

Direct Shipment. As current law requires for farm wineries shipping directly to a consumer, the bill requires a wine, cider, and mead permittee, when shipping his or her product directly to a consumer, to follow certain procedures. The permittee must:

1. ensure the shipping labels on all containers of product conspicuously state: "CONTAINS ALCOHOL—SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY;"
2. ensure that someone who is at least age 21, as shown on a driver's license or identity card, signs for the delivery;
3. not ship more than five gallons of product in any two-month period;
4. pay to DRS all required sales and alcoholic beverage excise taxes and file with the department all tax returns for such sales;
5. report to DCP a separate and complete record of all sales and shipments to consumers in Connecticut on a ledger or similar document that presents a chronological account of the dealings;
6. not ship to any address in the state where the sale of alcoholic liquor is prohibited by local option; and
7. hold an in-state transporter's permit (see below) or ship through someone who does.

Dual Permits. The bill allows the wine, cider, and mead permittee to simultaneously hold certain permits a farm winery is allowed to hold under current law. These permits, available from DCP for an additional fee, are for off-site tastings; in-state transporters; wine festivals; and farmers' market wine sales.

The additional permits allow the wine, cider, and mead permittees to, among other things,

1. sell and offer free samples at up to seven events or functions off

- the permit premises (CGS § 30-16a) (§ 8);
2. commercially transport any alcoholic liquor as permitted by law (CGS § 30-19f) (§ 9);
 3. participate in a wine festival that is organized and sponsored by an association that promotes manufacturing or selling wine (CGS § 30-37l) (§ 11); and
 4. sell their product at up to 10 farmers' market locations per year under certain conditions (CGS § 30-37o) (§ 13).

Prohibitions. The bill prohibits wine, cider, and mead permittees from selling product they did not manufacture, except they can sell other product from other wine, cider, and mead permittees and brandy manufactured from fruit harvested in Connecticut and distilled off the premises, but in the state.

Advertising. Under the bill, permittees must clearly and conspicuously state their liquor permit number on their advertisements when advertising or offering their products for direct shipments to Connecticut consumers online.

Permit Fee. The bill requires permittees to pay an annual \$200 permit fee. The permit fees under current law are: \$200 for cider, \$400 for apple brandy and eau-de-vie, and \$300 for a farm winery.

§§ 2, 6 & 7 — NON-UNIFORM CASE

The bill allows a wholesaler permittee to package and sell to a retail permittee a non-uniform case (e.g., different brand products in one case) that contains only one class of alcoholic liquor, if the wholesaler holds the exclusive rights to all bottles in such a case. But to do so, the wholesaler must have prior approval from the manufacturer or out-of-state shipper.

Under the bill, a wholesaler who does not hold exclusive rights to a given brand trademark may only sell a non-uniform case containing bottles of one class if all the bottles are available to all nonexclusive

wholesalers who also have rights to the given brand trademarks.

The bill requires monthly price postings for a non-uniform case of alcoholic liquor to contain the bottle price for each item in the case, the unit price, and the case price. The bottle price posted must equal the bottle price posted for the same month for a case containing one class and brand of alcoholic liquor.

Definition

The bill allows non-uniform cases of one class by changing the definition of “case price” to include “class” but not “brand, age, and proof,” thus requiring cases to be of the same class but not the same brand, age, and proof. It uses federal standards to define the different classes, which include, among others,:

1. spirits: whisky, gin, brandy, and tequila (27 C.F.R. § 5.22);
2. wine: grape, sparkling grape, citrus, fruit, and other agricultural products (27 C.F.R. § 4.21); and
3. beer: malt beverages that have been concentrated by removing water, products containing less than 0.5% of alcohol by volume, and products with geographical names (27 C.F.R. § 7.24).

§§ 4 & 5 — GIFT BASKET RETAILER

The bill allows gift basket retailer permittees to sell Connecticut beer made by a beer manufacturer in their gift baskets in addition to wine as under current law. It also limits the wine that may be sold to those manufactured in Connecticut by a wine, cider, and mead permittee.

The gift basket retailer permittee must purchase beer from a package store and such beer must not be consumed on the premises. In addition to the items (e.g., food items, nonalcoholic beverages, and certain articles of clothing) a permittee may already sell, the bill allows the permittee to sell gift baskets that have (1) a maximum of 72 ounces of beer per basket; (2) beer-making kits; and (3) drinking glasses, bottle openers, and literature related to beer. Under the bill, a gift basket can either have wine or beer, but not both.

As under current law for wine deliveries, a gift basket retailer permittee may sell, deliver, or ship gift baskets containing beer directly to a consumer. If a consumer is out-of-state, the permittee is subject to that state's applicable laws. If the consumer is in Connecticut, the permittee must:

1. ensure the shipping labels on gift baskets containing beer conspicuously state: "CONTAINS ALCOHOL—SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY;"
2. ensure that someone who is at least age 21, as shown on a driver's license or identity card, signs for the delivery;
3. obtain a seller's permit and pay DRS all required sales taxes;
4. report to DCP a separate and complete record of all sales and shipments to consumers in Connecticut on a ledger or similar document that presents a chronological account of the dealings;
5. allow DCP and DRS, separately or jointly, to audit his or her records upon request; and
6. not ship to any address in the state where the sale of alcoholic liquor is prohibited by local option.

The bill requires a permittee to clearly include his or her gift basket retailer permit number in all online advertising to ship beer. It also allows DCP, in consultation with DRS, to adopt regulations to ensure compliance with the beer shipment requirements.

§ 16 — FARMERS' MARKET SALES PERMIT FOR BEER

The bill eliminates the farmers market beer sales permit, which allows permittees that manufactured beer to sell beer at up to three farmers' market locations a year (CGS § 30-37r).

BACKGROUND

Related Bill

sHB 7184, favorably reported by the General Law Committee,

among other things, allows non-uniform cases.

COMMITTEE ACTION

General Law Committee

Joint Favorable

Yea 16 Nay 2 (03/25/2019)