

OLR BILL ANALYSIS

HB 5021 (LCO 536)

AN ACT CONCERNING COMPETITIVE ALCOHOLIC LIQUOR PRICING AND HOURS OF OPERATION FOR PERMITTEES.

SUMMARY:

This bill makes major changes to Connecticut's (1) alcohol pricing system; (2) package and grocery store permitting; and (3) days and hours of operation for alcohol sales, including allowing Sunday sales for off-premise consumption.

The bill also creates two new liquor permits and makes several minor liquor permitting changes. It makes other technical and conforming changes.

EFFECTIVE DATE: July 1, 2012, except upon passage for the provisions on the minimum and discounted pricing; package store ownership limit; days and hours for alcohol sales; and technical and conforming changes.

ALCOHOL PRICING

§ 24—Repealed Provisions

The bill repeals several alcohol pricing provisions, thus allowing manufacturers, wholesalers, and retailers to sell alcohol without a minimum selling price.

Minimum Selling Price (CGS § 30-68i)

The bill repeals the minimum selling price for alcohol requirement, allowing an out-of-state shipper, wholesaler, or manufacturer to sell alcohol below cost.

Price Discrimination (CGS § 30-68k)

The bill allows wholesalers to charge retailers different prices. Current law prohibits price discrimination.

Wholesale/Retail Sales Below Costs (CGS §§ 30-68l and -68m)

The bill allows wholesalers to sell alcohol to retailers below costs. It

also allows off-premise retailers to sell below costs. Current law prohibits both wholesalers and off-premise retailers from selling below cost.

Wholesale Wine Prices (CGS § 30-68)

The bill allows wholesalers to sell in-state wine to a retailer below the minimum base cost. It also allows wholesalers to sell out-of-state wine below the wholesaler's cost and eliminates a requirement to file prices with the Department of Consumer Protection (DCP). Current law prohibits selling wine to a retailer below cost.

Suggested Consumer Retail Price (CGS § 30-64)

The bill eliminates the requirement that out-of-state shippers, manufacturers, and wholesalers of alcohol post a schedule of suggested consumer resale prices for each brand (and each size) with DCP. Under current law, the suggested consumer resale price must be written and filed in a specified format and retailers may sell alcohol for less than the suggested consumer resale price.

Closeout Sale (CGS §§ 30-63e and -63f)

The bill removes conditions for retailers' and wholesalers' closeout sales. Under current law, before a brand may be closed out, it must have been sold in the state for at least one year before a closeout sale application can be made. The product then must be offered to the producer, wholesaler, or supplier who refuses to purchase the goods. Generally, after the closeout sale, no delivery or sale may be made within the state for two years.

Additionally, a brand or size to be closed out must be in a wholesaler's inventory for at least one year before a closeout sale application can be made. The product must first be offered to an authorized Connecticut wholesaler. If the offer is not accepted, it must then be advertised in a trade publication. The wholesaler is prohibited from purchasing the closed out brand for two years.

§ 12—Price Promotion

The bill eliminates the current ban on giving price discounts by allowing manufacturers or suppliers to offer price promotions to wholesalers. The wholesalers must then reduce their prices to the retailers in a manner consistent with the discount they received. If a wholesaler does not participate in the price promotion, then he or she is not entitled to the discount.

Under current law, manufacturers, wholesalers, and out-of-state shippers are generally prohibited from giving any price discounts. One exception is that they can charge different prices for beer depending on whether it is for on- or off-premise consumption.

§ 12—Price Posting

Under current law, manufacturers, wholesalers, and out-of-state shippers are required to post their prices with DCP each month. The price, once posted, must be held for the entire month. They must provide notice of all prices to all permittee purchasers by direct mail or advertising in a trade journal.

The bill (1) exempts the wholesalers from having to post their prices with DCP and (2) requires manufacturers and out-of-state shippers to post their prices electronically. To conform with the bill's pricing system, it also eliminates the manufacturer's option to amend prices for a month to meet a lower price posted by another manufacturer. Currently, manufacturers may amend their price during the month to match a lower price posted by someone else.

§ 17—Floor Stock / Depletion Allowance

The bill requires a manufacturer or out-of-state shipper to pay the wholesaler any floor stock or depletion allowance pursuant to a sales promotion within the same time period the manufacturer or out-of-state shipper requires the wholesaler to pay for the goods purchased for the sales promotion.

By law, a floor stock allowance is a rebate, discount, or other inducement given to a wholesaler to promote sales of stock already in the wholesaler's possession. A depletion allowance is a rebate, discount, or other inducement given to a wholesaler as a sales promotion. They are permitted by law for alcohol other than beer and must be approved by DCP.

PACKAGE AND GROCERY STORE PERMITTING

§ 18—Package Store Medallion System

The bill creates a medallion system that requires all package store permittees to hold a medallion. Under the bill, DCP may only issue a package store permit to someone who has a package store medallion.

Under the bill, DCP must issue medallions by July 31, 2012 to every package store backer. A backer is the proprietor or owner of a permit premises where the permittee is not the owner. DCP must issue a

medallion to anyone who has filed a complete application on or before July 1, 2012, and had his or her application approved. The medallion must be issued at the time of approval.

Medallion holders may sell or transfer a medallion. A seller or transferor must notify DCP within 30 days of the sale or transfer on a DCP-prescribed form. Once the medallion is sold or transferred, the seller or transferor must immediately stop package store operations and DCP must terminate the permit.

Anyone who executes a contract to purchase a package store medallion may submit an application for a package store permit to DCP. DCP must accept and promptly process the application, provided the applicant provides proof of the executed contract.

Once a sale or transfer is complete, a medallion holder who does not have a package store permit has six months from the date of the medallion purchase or transfer to apply for a package store permit. If the medallion holder does not file an application for a permit within that time, DCP may grant the medallion holder an extension of up to six months. The commissioner must grant the extension upon a showing of good cause. If the medallion holder does not file a package store permit application before the extension period expires, he or she forfeits the medallion to DCP unless the owner sells or transfers it before the expiration date. If DCP denies the package store permit, the medallion holder may reapply to DCP within six months of the rejection. If the holder does not reapply, he or she forfeits the medallion to DCP.

Any medallion that has not been forfeited can be sold or transferred. DCP may auction to the public a forfeited medallion.

In this process, the DCP time periods do not include any time the permit application is under its review.

§ 10—Ownership Limit

The bill increases the number of package stores a permittee may own from two to nine.

§ 1—Population Limitation Eliminated

The bill eliminates the population limitation for issuing package store permits. Under current law, DCP may only issue one package store permit for every 2,500 town residents, based on the most recently completed decennial census. But, package stores will still have to go

through the permit application process, which requires town approval.

§ 6—Expanding Package Store Items Sold

The bill expands the types of commodities a package store permittee may sell to include (1) complementary fresh fruits used in the preparation of mixed alcoholic beverages; (2) cheese and crackers; and (3) snack food, including chips, candy and nuts. Current law limits package stores to selling 12 specified items, such as cigarettes, bar utensils, and lottery tickets.

§§ 6 and 11—Package Store and Grocery Store Permit Annual Fees

The bill increases the annual permit fees for owners of four or more package stores depending on the number a single permittee owns. Under current law, permittees pay a \$535 annual fee for each permit, up to two. Under the bill, permittees who own (1) one to three stores continue to pay the \$535 annual fee for each, (2) four to six stores pay a \$1,000 annual fee for each, and (3) seven to nine stores pay a \$1,500 annual fee for each.

The bill also increases the grocery store beer permit's annual fee from \$170 to \$1,500 for stores that have an annual food and grocery sales of at least \$2 million. Under current law, all grocery stores pay the \$170 annual fee, regardless of sales.

§ 9—Concurrent Ownership

The bill allows a grocery store beer permittee or backer to concurrently own a package store permit. Current law allows grocery store beer backers to own a package store only if they owned both prior to May 1, 1996.

§ 11—Grocery and Package Store Separation Exemption

By law, the permit premises in buildings that have multiple uses must be separated from the rest of the building. The bill exempts grocery stores with beer permits from the separation requirement if the store is located next to or is attached to a package store, as long as there is no interior access between the two (unless it was already DCP-approved and exempt prior to January 1, 2012).

DAYS AND HOURS FOR ALCOHOL SALES

The bill adds to the days and hours when alcohol may be sold for both on-premise and off-premise consumption.

§ 15—Off-Premise Sales

The bill allows the off-premise sale and dispensing of alcohol on Sundays, Memorial Day, Independence Day, and Labor Day. It also allows selling and dispensing on the Mondays following any Independence Day, Christmas, or New Year's Day that is on a Sunday. It allows off-premise permittees to sell and dispense alcohol until 10:00 P.M. each day, rather than 9:00 P.M., as under current law.

§14—On-Premise Sales

The bill allows the on-premise selling, dispensing, and consuming of alcohol every day from 9:00 A.M. to 2:00 A.M. the next morning, rather than just on weekends. Currently, these alcoholic related activities are allowed from 9:00 A.M. to 1:00 A.M. the next morning for Monday to Thursday, from 9:00 A.M. to 2:00 A.M. the next morning for Friday and Saturday and 11:00 A.M. to 1:00 A.M. the next morning on Sunday.

The bill allows these alcoholic related activities to begin at 9:00 A.M. on any January 1st that is on a Sunday. Currently, it cannot begin until 11:00 A.M.

§ 15—Café Permit. The bill allows café permittees to open at 6:00 A.M. to serve food, but not alcohol. It also prohibits public occupation of a café between 2:00 A.M. and 6:00 A.M. Currently, cafés can only be open when they can sell alcohol, which begins at 9:00 A.M.

§ 15—Taverns, Cafés, and Films. The bill allows a tavern or café being used as a site for projects eligible for the state film production tax credit to be open to the public beyond regular hours of operation. Sale or consumption of alcohol beyond the authorized hours of operation is still prohibited.

§ 16—Casino Permit. The bill allows alcohol consumption at the casinos in glasses or other suitable containers at any time, as long as the alcohol is served to a casino patron before 2:00 A.M. By regulation, a permittee may only serve one drink at a time (Conn. Agency Regs. § 30-6-A24b(b)).

NEW PERMITS**§ 4—Manufacturer for Beer and Brewpub**

The bill creates a new manufacturer for beer and brewpub permit that combine the permissible uses of the separate permits. The combined permit's annual fee is \$1,500. The current annual fee for a

manufacturer's permit for beer is \$1,000 and a brewpub permit is \$300.

The manufacturer for beer and brewpub permit gives the permittee the combined rights and abilities if he or she annually produces at least 5,000 gallons of beer. Generally, this means a manufacturer for beer and brewpub permittee can manufacture, bottle, store, wholesale distribute, and sell beer in the state and he or she may also offer beer for retail sale for on-premise consumption with or without food.

§ 7—Convenience Store Beer Permit

The bill creates a convenience store beer permit that allows the retail sale of beer at a convenience store in standard sized containers for off-premise consumption. The permittee, like a grocery store permittee, must post the retail price for each beer brand in a prominent location next to the beer display. The retail price must include all applicable federal and state taxes, including sales tax. The permit's annual fee is \$160.

For purposes of this permit qualification, a "convenience store" is a retail establishment (1) where groceries are regularly and customarily sold for off-premise consumption; (2) has a gross square foot are of up to 5,000 square feet. Before July 1, 2014, it must have a sales area of at least 1,500 square feet, of which at least 450 square feet must contain grocery products available and present for public sale. On or after that date, the square footage requirement decreases to 1,200 and 360, respectively.

MINOR LIQUOR PERMITTING PROVISIONS

§ 8—Bowling Establishment and Racquetball Facility Permits

The bill reduces, from \$2,250 to \$1,000, the annual fees for bowling establishment and racquetball facility permits.

Bowling establishment permittees may sell at retail, alcoholic liquor on the premises of commercial bowling establishments with 10 or more lanes. Racquetball facility permittees may sell alcoholic liquor on the premises of a commercial racquetball facility containing five or more courts.

§ 5—Wholesaler Salesman Certificate

The bill makes the wholesaler's salesman certificate expire biennially on January 31st rather than only when the salesman changes employment. The biennial certificate renewal fee is \$20.

§13—Higher Education Exemption

The bill allows a person at a regionally accredited higher education institution to make and dispense wine on the institution's premises without a permit as part of an approved academic course.

§§ 2 & 3—Increase in Beer Amount Sold

The bill increases the amount of beer a brewpub and manufacturer for beer permittee may sell at retail to an individual from eight to nine liters per day.

§ 2—Manufacturer for Beer

The bill allows manufacturer for beer permittees to provide beer offerings and tastings without requiring the visitor to first take a tour of the premises, which current law requires.

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