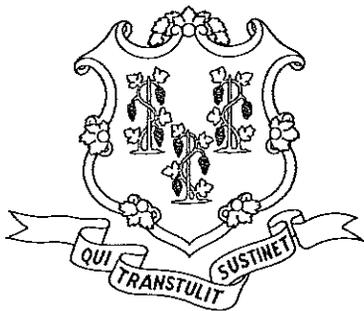


Department of Liquor Control

Connecticut
General Assembly



LEGISLATIVE
PROGRAM REVIEW
AND
INVESTIGATIONS
COMMITTEE

SUNSET 1982

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CONNECTICUT GENERAL ASSEMBLY

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 as the Legislative Program Review Committee to evaluate the efficiency and effectiveness of selected state programs and to recommend improvements where indicated. In 1975 the General Assembly expanded the Committee's function to include investigations and changed its name to the Legislative Program Review and Investigations Committee. During the 1977 session, the Committee's mandate was again expanded by the Executive Reorganization Act to include "Sunset" performance reviews of nearly 100 agencies, boards, and commissions, commencing on January 1, 1979.

The Committee is composed of twelve members, three each appointed by the Senate President Pro Tempore and Minority Leader, and the Speaker of the House and Minority Leader.

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Kenneth L. Levine, Staff Attorney
Anne E. McAloon, Program Review Coordinator
George W. McKee, Sunset Review Coordinator
L. Spencer Cain, Program Analyst
Catherine McNeill Conlin, Program Analyst
Debra S. Eyges, Program Analyst
Jill E. Jensen, Program Analyst
Leslee L. Meltzer, Program Analyst
Toby Moore, Ph.D., Program Analyst
Gary J. Reardon, Program Analyst
Lillian B. Crovo, Administrative Assistant
Mary Lou Gilchrist, Administrative Assistant

Staff on this Project

L. Spencer Cain, Principal Analyst

Legislative Office Building, 18 Trinity St., Hartford, CT 06115 (203)566-8480

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DEPARTMENT OF LIQUOR CONTROL

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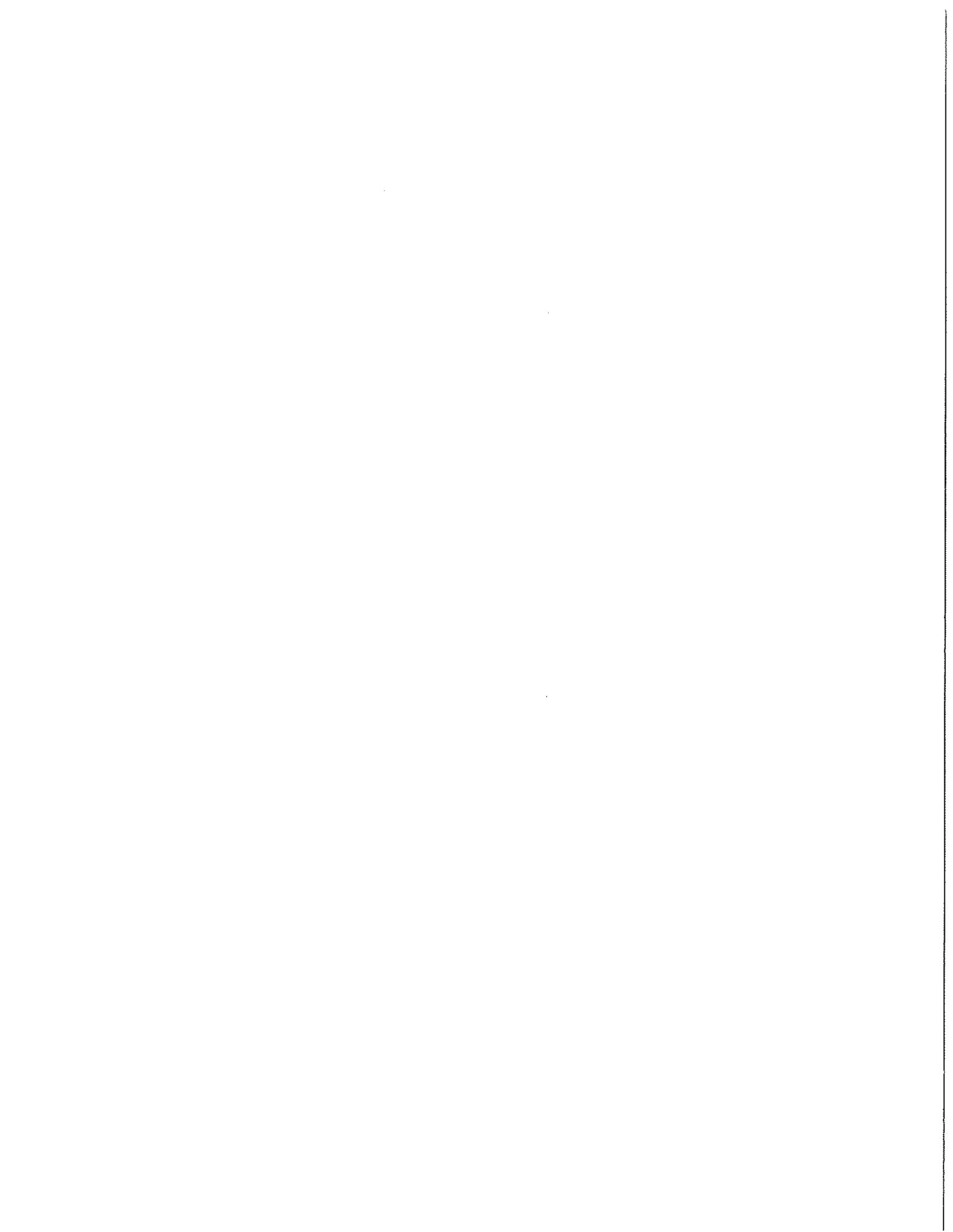
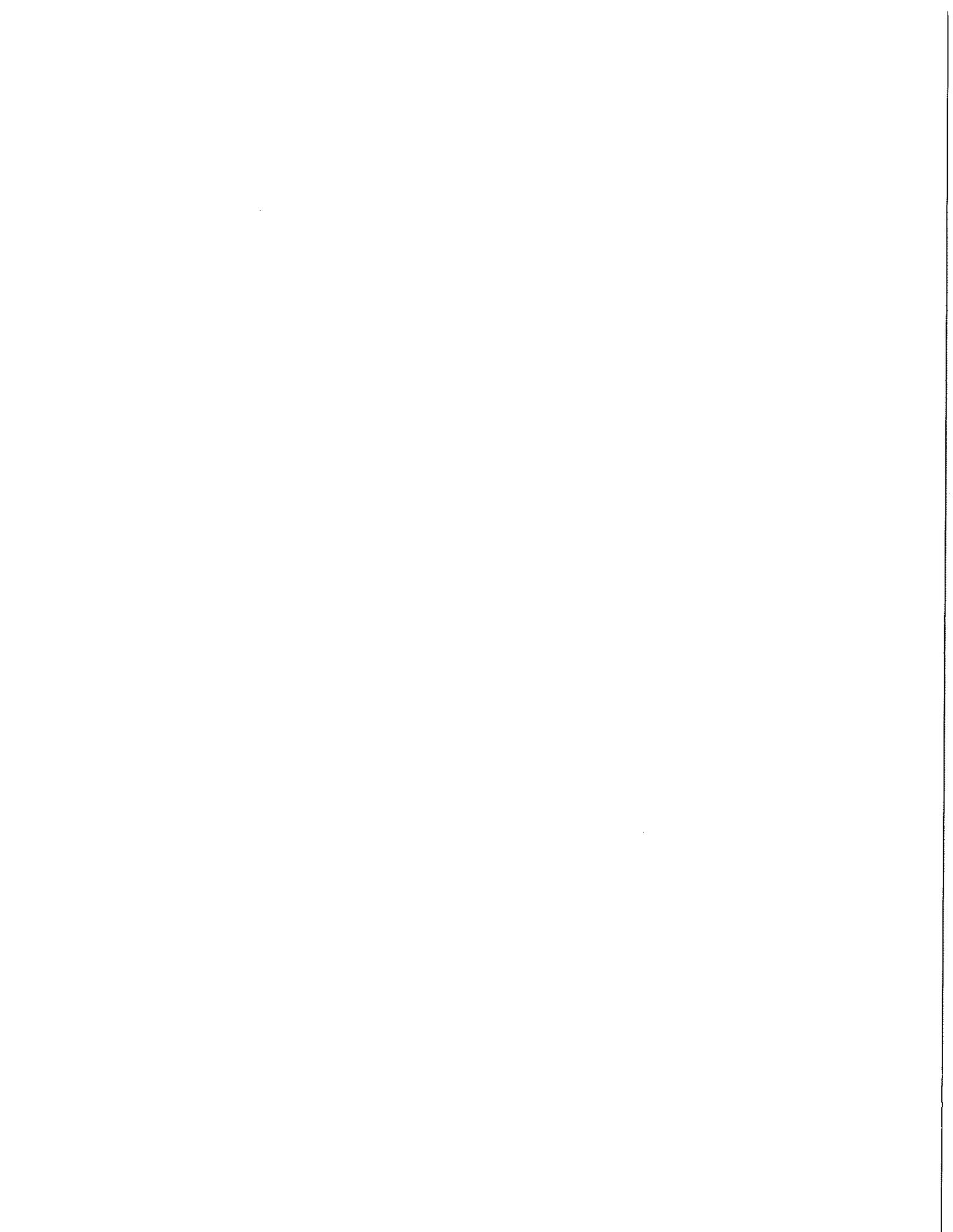


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DEPARTMENT OF LIQUOR CONTROL

SUMMARY

All 50 states and the federal government regulate the manufacture and sale of alcoholic beverages. In the context of regulation, states can be divided into two major categories: control states--where most beverages are wholesaled and retailed by a state agency; and license states--where the private sector is given a permit by a state agency to engage in sales. All states have some form of alcohol beverage control agency which is granted the power to:

- distribute and sell beverages in control states or issue permits in license states;
- investigate complaints;
- adjudicate matters concerning the issuance of permits and violation of statutes and regulations; and
- impose disciplinary sanctions.

In Connecticut, the sale and distribution of alcoholic beverages is governed by Chapter 30 of the General Statutes, the liquor control act. It grants the Department of Liquor Control the authority to carry out the regulatory program contained within the act.

The Department of Liquor Control is an independent agency headed by three part-time commissioners appointed by the governor, to staggered six-year terms. In addition, the governor appoints the chairperson. The commission, which exercises final authority over all matters, appoints a secretary who manages the department.

The department is organized into four units: 1) hearing section; 2) investigations and control section; 3) permit section; and 4) business management section.

The Department of Liquor Control, under the liquor control act, is given regulatory authority in the following specific areas:

- issuance and renewal of permits in 52 different categories;

- determination of the financial, legal and moral suitability of permittees, owners or backers, bartenders and liquor salesmen;
- enforcement of restrictions on certain business practices and economic activity as required by statute and regulation;
- investigation of statutory and regulatory violations;
- adjudication of violations and imposition of disciplinary sanctions, including fines placed upon licensed individuals and suspension and revocation of permits; and
- negotiation of agreements between parties in conflict as provided by the liquor control act.

The Legislative Program Review and Investigations Committee examined in detail the operations of the Department of Liquor Control and the regulation of the liquor industry in Connecticut. The committee's purpose throughout the ten month study was to bring efficiency to the regulatory process and continue those regulatory activities having the greatest impact on insuring the preservation of public health, safety and welfare.

The committee divided the study into four major areas: 1) permits and fee schedule; 2) public health and safety regulation; 3) business and economic regulation; and 4) administration of the liquor control act.

In reviewing these areas, the committee relied upon public hearing testimony, staff observations and analysis, input from interested parties and interviews with state officials. Additionally, committee members took note of the information produced by the debate on the repeal of the minimum markup law during the 1981 General Assembly.

Permits and Fee Schedule

Currently, there are over 50 different types of permits issued by the Department of Liquor Control. The Legislative Program Review and Investigations Committee concluded that the permit process needed to be streamlined. To simplify the process, reduce the time needed for the agency to make a determination on the permit, and make the fee schedule more equitable, the committee proposes the following.

The Legislative Program Review and Investigations Committee recommends the consolidation of all permits into the following categories:

- a) On-premise Consumption Retailer*
 - 1. beer only*
 - 2. beer and wine only*
 - 3. beer, wine and distilled spirits*
- b) Off-premise Consumption Retailer*
 - 1. grocery beer*
 - 2. druggist liquor*
 - 3. package store liquor*
- c) One Temporary Permit*
- d) One Wholesale Permit*
- e) One Manufacturer's Permit*
- f) One Supplier's Permit*

The Legislative Program Review and Investigations Committee recommends the elimination of the current fee schedule but maintain the current revenue generated by adopting either a progressive fee schedule based upon gross receipts or increasing the alcoholic beverage tax.

Finally, the Legislative Program Review and Investigations Committee recommends that, when obtaining a permit, the applicant be required to submit only the following:

- a sworn statement limited to the permittee's and owners' criminal record and financial statement covering the details of the business transaction;*
- the location of the business requesting the permit;*
- sufficient evidence to determine that the business has met state and local building, fire and zoning requirements, is in compliance with local options on hours and days of sale, and has allowed for the opportunity of a remonstrance by 'placarding' the business.*

The committee's proposed recommendations will simplify the state's involvement in the application process and eliminate the need to conduct an investigation of each applicant's background. Revamping the fee schedule will eliminate one reason often cited for maintaining numerous permit categories. It will also bring equity in the payment of fees by basing them on the volume of business rather than the type of business conducted.

Public Health and Safety Regulation

When considering the need to regulate, the committee believes the protection of public health and safety is of utmost concern. In this context, the prohibition on the sale of alcoholic beverages to minors and intoxicated persons is widely held to be the most important role the state has in the regulation of liquor.

Therefore, the Legislative Program Review and Investigations Committee recommends the following continue to be prohibited:

- *sale of alcoholic beverages to minors;*
- *sale of alcoholic beverages to intoxicated persons; and*
- *sale of alcoholic beverages without a permit.*

The Legislative Program Review and Investigations Committee recommends that the prohibition on minors entering and loitering in bars be extended to include package stores except when accompanied by a parent or guardian.

The department shall impose the following mandatory penalties for the sale of alcoholic beverages to minors: 1st offense - \$250 fine; 2nd offense - \$500 fine; 3rd offense - five day suspension; 4th offense - ten day suspension; 5th offense - revocation.

Also, the purchase of alcoholic beverages by minors and intoxicated individuals shall be considered an infraction as defined by Chapter 881b of the Connecticut General Statutes.

Business and Economic Regulation

The liquor control act requires the state to regulate a number of business and economic practices. The committee reviewed all regulations, particularly those dealing with: prices, credit, distribution agreements, permit ownership, advertising, labeling, storage, inducements, brand registration, goods sold in package stores, employment practices and physical changes in the business.

The Legislative Program Review and Investigations Committee proposes the following:

Price: The Legislative Program Review and Investigations Committee recommends the continuation of the prohibition on the sale of all alcoholic beverages below cost. Also, the committee recommends the retention of current price posting requirements, adding a provision allowing a retailer to charge the posted price at the time the product is purchased from a wholesaler, or

to charge a lower price if the current posted price is lower than the price posted at the time the product was purchased.

Credit: The Legislative Program Review and Investigations Committee recommends the elimination of the current credit law and replacement with the following:

- the extension of credit by permittees is limited to 30 days;
- wholesalers are required to list delinquent retailers;
- once a retailer is listed, all wholesalers are required to sell to the retailer on a cash on delivery basis only;

The state shall take no disciplinary action against delinquents.

Franchise Regulation and Distribution Agreement: The Legislative Program Review and Investigations Committee recommends the retention of the current territorial franchise structure with the inclusion of on-premise retailers in the provision allowing retailers to purchase goods outside a territory.

Business Operations: The Legislative Program Review and Investigations Committee recommends a reduction in the regulation of individual business entities. Specifically, the committee proposes:

- to allow off-premise storage by retailers at one registered location;
- to continue current restriction on goods sold in package stores, but the subject matter committee should consider during the 1983 session of the General Assembly the extension of the list of some or all of the goods to be sold;
- to retain the current restrictions on permit ownership;
- to eliminate the need to obtain approval of physical changes in the interior and exterior of the business;
- to eliminate the requirement that a permittee spend a substantial amount of his time on the permit premises; and
- to delete the prior approval requirement concerning entertainment and games, but retain current regulation concerning lewd behavior.

Advertising: The Legislative Program Review and Investigations Committee recommends the continuation of only the following restrictions on advertising:

- by statute, all federal regulations that apply to advertising will apply to manufacturer/supplier, wholesaler and retailer;
- prohibition of any statement implying athletic achievement is the result of the consumption of alcoholic beverages;
- prohibition of any picture of a woman which is immodest, undignified or in bad taste or which depicts a female in provocative dress or consuming alcoholic beverages;
- prohibition of pictures of children; and
- all retail prices must be displayed immediately beneath the merchandise in print not less than 36 point gothic type, except beer prices are exempt (but must be displayed in a conspicuous place).

Inducements: The Legislative Program Review and Investigations Committee recommends that inducements for the sale of alcoholic beverages be allowed to the full extent of the federal regulations with the exception of quantity discounts and sales below cost.

Brand Registration and Labeling: The Legislative Program Review and Investigations Committee recommends the elimination of brand registration and approval of labels along with the elimination of minimum and maximum bottle and container sizes, with the exception of those applying to malt beverages. Compliance with federal regulations covering product labeling and sizes shall be mandatory for all beverages sold in Connecticut.

Bartender and Liquor Salesmen: The Legislative Program Review and Investigations Committee recommends the elimination of the registration of bartenders and liquor salesmen.

Anti-Racketerring Statute: The Legislative Program Review and Investigations Committee recommends the adoption of an anti-racketerring statute to combat organized crime in the liquor industry.

The Administration of the Liquor Control Act

The final area reviewed by the committee was the administration of the liquor control act. Presently, the liquor laws and

regulations are administered by an independent agency which is governed by a three-member commission. The commissioners are defined by statute as department heads having final authority on all matters coming before the agency. The agency is managed by an executive secretary.

The Legislative Program Review and Investigations Committee recommends the sunseting of the Department of Liquor Control and creation of a division of liquor control within the Department of Consumer Protection. The current three-member part-time commission shall be replaced with a five-member commission, the Commission on Alcoholic Beverages. Commission members shall be compensated for expenses only and shall be all public members, with one member an attorney and one member with a background in drug and alcohol abuse services.

The Commission on Alcoholic Beverages shall be responsible for adjudicating complaints against permittees and advising the Commissioner of Consumer Protection on the promulgation of regulations.

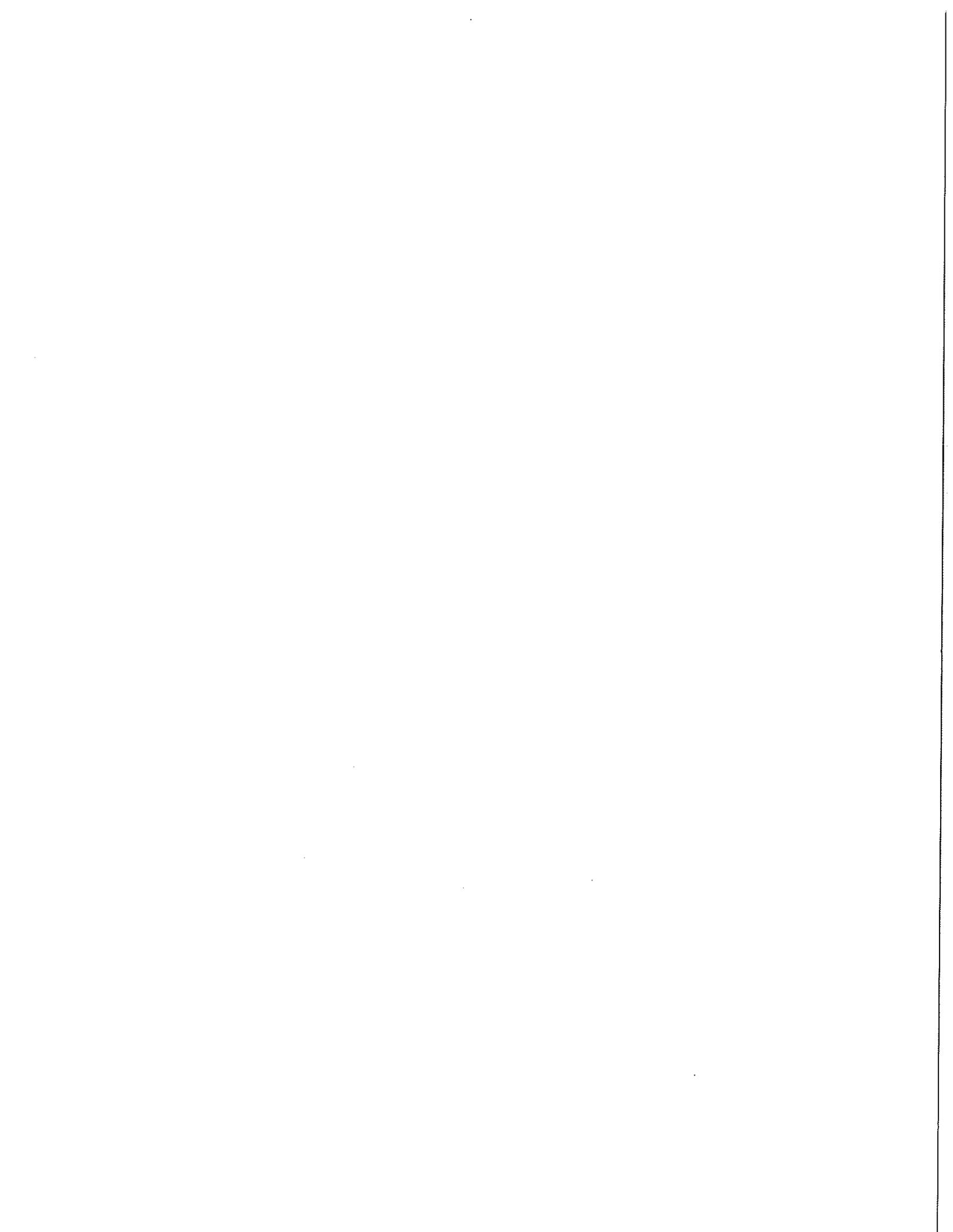
The Department of Consumer Protection shall be responsible for administering the liquor control act.

When considering the organizational location of the division of liquor control, the committee reviewed two options: the Department of Revenue Services and the Department of Consumer Protection. While the committee recognized the link between the regulation of alcoholic beverages and the collection of taxes within the Department of Revenue Services, the Department of Consumer Protection was believed to be a more appropriate organizational and functional location. This was based upon the committee's proposed recommendations that require the regulation of business and economic practices to continue and its belief that the Department of Consumer Protection has more experience and expertise in this regulatory area.

Fiscal Impact

It is estimated that there will be a savings of \$592,420 based upon a reduction in agency workload. This will be partially offset by recommendations resulting in a revenue loss of \$147,162. Therefore, the net general fund savings is estimated to be \$445,258.

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INTRODUCTION

Purpose and Authority for the Sunset Review

Chapter 28 of the Connecticut General Statutes provides for the periodic review of certain governmental entities and programs and for the termination or modification of those which do not significantly benefit the public health, safety, or welfare. This law was enacted in response to a legislative finding that there had been a proliferation of governmental entities and programs without sufficient legislative oversight.

The authority for undertaking the initial review in this oversight process is vested in the Legislative Program Review and Investigations Committee. This committee is charged, under the provisions of section 2c-3 of chapter 28, with conducting a performance audit of each entity or program scheduled for termination. This audit must take into consideration, but is not limited to, the four criteria set forth in section 2c-7. These criteria include: (1) whether termination of the entity or program would significantly endanger the public health, safety, or welfare; (2) whether the public could be adequately protected by another statute, entity, or program or by a less restrictive method of regulation; (3) whether the governmental entity or program produces any direct or indirect increase in the cost of goods or services and, if it does, whether the public benefits attributable to the entity or program outweigh the public burden of the increase in cost; and (4) whether the effective operation of the governmental entity or program is impeded by existing statutes, regulations, or policies, including budgetary and personnel policies.

In addition to the criteria contained in section 2c-7, the Legislative Program Review and Investigations Committee is required, when reviewing regulatory entities or programs, to consider, among other things: (1) the extent to which qualified applicants have been permitted to engage in any profession, occupation, trade, or activity regulated by the entity or program; (2) the extent to which the governmental entity involved has complied with federal and state affirmative action requirements; (3) the extent to which the governmental entity involved has recommended statutory changes which would benefit the public as opposed to the persons regulated; (4) the extent to which the governmental entity involved has encouraged public participation in the formulation of its regulations and policies; and (5) the manner in which the governmental entity involved has processed and resolved public complaints concerning persons subject to review.

In accordance with its legislative mandate, the Legislative Program Review and Investigations Committee reviewed sixteen entities and programs scheduled to terminate July 1, 1982. Contained in this report to the General Assembly is the result of the committee's review of the Department of Liquor Control,

Methodology

The Legislative Program Review and Investigations Committee's sunset review was divided into three phases. The initial step focused on collecting quantitative and qualitative data related to each entity's background, purpose, powers, duties, costs, and accomplishments. Several methods were used by committee members and staff to obtain this information. These include: (1) a review of statutes, transcripts of legislative hearings, entity records (including minutes, complaint files, test results and reports), and data and statutes of other states; (2) staff observations of numerous meetings held by each entity between January and August of 1981; (3) surveys of persons connected with each entity; (4) formal and informal interviews of selected individuals serving on, staffing, affected by, or knowledgeable about each entity; and (5) testimony received at public hearings.

During the second phase, the staff organized the information into descriptive packages and presented them to the committee. The presentations took place in public sessions designed to prepare committee members for the hearings, identify options for exploration, and alert entity officials to the issues the committee would pursue at the hearings. Seven public hearings concluded this phase.

The final step of the review involved committee members and staff following up on and clarifying issues raised at briefings and public hearings. During this period, the staff prepared decision papers and presented recommendations to the committee. The committee, in public sessions, then debated and voted upon recommendations for the continuation, termination or modification of each entity.

BACKGROUND

Legislative History

The regulation of alcoholic beverages in Connecticut began shortly after the first settlers founded the towns of Windsor, Wethersfield and Hartford in 1635. At an early meeting of the General Court, predecessor to the General Assembly, representatives of the towns noted the need for regulation. The meeting, held on February 14, 1643, found and ordered:

Whereas many complaints are brought into the Court by reason of diverse abuses...[of] wine and strong water, as well as in vessels on the River as also in several houses, for the preventing whereof, yet [it] is now ordered, that no person or persons, after the publishing of this order shall neither sell wine or strong water in any place within these liberties, without a license from the particular Court or any two magistrates.¹

This action by Connecticut's early legislators represents the historical origins of succeeding liquor legislation in the state.

In March of 1654, the General Court passed a comprehensive liquor control act that taxed all wine and spirits imported into the colony, appointed specific individuals as importers, created a system of licensing retailers, established maximum prices, imposed penalties for intoxication that applied to both the individual and the seller and prohibited the distillation of corn and malt into liquor. The magistrates and the secretary of the general court were responsible for issuing licenses, with local communities enforcing most of the other provisions.

Few significant legislative changes were made in the regulation of alcoholic beverages through the 1800's. Regulatory patterns established earlier were continued. Towns were required to appoint at least one tavern keeper who was allowed to sell spirits and provide lodging for travelers. However, licensing had

¹ The Public Records of the Colony of Connecticut, ed. J. Hammond Trumbull. Hartford, 1890, Vol. 1.

shifted away from control by the General Assembly to control by local authorities and county courts. An act passed by the General Assembly in May of 1832 reflects this shift in authority. Entitled, "AN ACT TO REGULATE THE SELLING OF SPIRITOUS LIQUOR," it firmly established a regulatory program that remained in effect until national prohibition in 1919. This legislation, along with an 1838 act regulating taverns, required local authorities to nominate individuals for a license. Once nominated by a majority vote of the local legislative body, the individual's application would go before the county court, where the license was actually issued. The law barred excessive drinking and prohibited gambling, and that prevented sale of beverages on certain days. Violations were handled by local authorities having the power to revoke a license. Resale of alcoholic beverages was also prohibited.

County governments increased their authority over liquor in the late 1800's. Between 1872 and 1888, the legislature passed a number of acts strengthening the authority of county commissioners. The commissioners were given sole authority to revoke licenses, though towns could still decide who would be eligible to receive a license. Applications for licensure had to specify the place and building where alcoholic beverages were to be sold, and only the county commissioners could actually issue a license. Most importantly, the county commissioners were given legislative authority to employ liquor control agents for the purpose of investigating violations of the law.

By 1918, various license categories were created. Licenses were granted for drug stores, saloons, wholesalers, hotels and clubs. In addition, the number of licenses was limited according to a town's population.

The most serious legislative change ever to impact the liquor industry came in 1919 with the ratification of the 18th amendment of the U. S. Constitution imposing national prohibition on sale and distribution of alcoholic beverages. Although Connecticut never ratified the amendment, it did pass an 'enforcement act' prohibiting the sale and transportation of intoxicating liquors. With the ratification of the 18th amendment, prohibition on the sale of alcoholic beverages became effective in January of 1920. Legislative activity in the area of liquor control remained dormant for the next 13 years.

After a decade of prohibition, lawmakers began to question whether the ban on liquor was a worthwhile social goal. Congress proposed an answer when it began the process of repealing the 18th amendment in 1933. The amendment was passed by Congress in February and ratified by the necessary three-fourths of the states in December 1933.

The Connecticut General Assembly acted while the amendment was moving through the ratification process. With the repeal of prohibition imminent, the states once again had to establish a legal mechanism for the sale and distribution of alcoholic beverages. On April 25, 1933, the legislature approved a program to regulate the liquor industry. The act became fully effective upon passage of the 21st amendment repealing national prohibition.

This legislation, Chapter 151 of the Cumulative Supplement to the General Statutes Revision of 1930, laid the foundation for all subsequent liquor regulation. To a large degree, it represents the origins of today's liquor control act. Specifically, Chapter 151, titled "the regulation of intoxicating liquors," did the following:

- created a three-member liquor control commission;
- allowed the commission to appoint a secretary and employ personnel;
- granted the commission the power to: a) issue permits; b) hold hearings; c) investigate all regulatory violations; and d) impose disciplinary sanctions;
- established 10 types of permits and prohibited ownership of two or more types;
- set hours and days of closing;
- prohibited sales to minors, prisoners and persons receiving town aid;
- created a tax structure based upon gross receipts of retail and wholesale operations;
- allowed towns the option of not permitting any sales within its borders; and
- barred certain individuals from obtaining a permit.

The act represented a major shift in the method of licensing prior to prohibition. Administration of the licensing and regulatory program became centralized at the state level, leaving local communities the option of not allowing any sales within their borders. Towns continued to have a role in the regulatory structure through the use of local zoning requirements and ordinances.

Principal changes since 1933 have involved the addition of numerous permits for special situations; changes in restrictions on credit, remonstrances and hours and days of closing; and the addition of specific criteria for refusal to issue a permit. Further restrictions were placed upon business practices and economic activity, particularly in the areas of price and distribution agreements between suppliers, wholesalers and retailers.

Price regulation, though found in the colonial period, first appears in this century with the passage of a comprehensive fair trade act in 1951. The law prohibited retailers from selling products at prices lower than those posted by the wholesaler. In 1953, the law was extended to include prices posted by manufacturers on goods sold to wholesalers. Between 1957 and 1973, the legislature established specific minimum percentage markups on beer, wine and distilled spirits. Manufacturers were prohibited from selling below cost in 1967. One last effort to regulate prices occurred in 1973 when the legislature passed a bill to require manufacturers and suppliers to charge Connecticut wholesalers no more than the lowest price being offered for their products anywhere else in the United States.

In the mid-seventies, the need for price regulation came under serious scrutiny by the legislature. Frequently noted concerns were the lower prices in bordering states and the accompanying loss of tax revenue due to residents making out-of-state purchases. In 1977, the legislature repealed the fair trade statutes applying to liquor. Prior to repeal, retailers were not only required to sell products above the minimum markup, but were also prohibited from selling below the minimum consumer resale price as determined by wholesalers and out-of-state suppliers.

Attempts were made in the succeeding sessions of the General Assembly to repeal laws establishing minimum percentage markup on alcoholic beverages. All attempts failed until 1981. In 1981, the General Assembly repealed all minimum markups on beer, liquor and wine, effective in January 1982 on beer and liquor and 1983 on wine. The legislation, "AN ACT CONCERNING THE ELIMINATION OF MINIMUM MARKUPS ON LIQUOR SALES," also: 1) establishes a five-year moratorium on the issuance of new package store permits and limits the number of permits that may be issued after the moratorium expires; 2) extends affirmation pricing to beer sold in contiguous states; 3) modifies wholesale price posting to allow for an adjustment in prices downward to meet competition; 4) strictly limits the number of package store permits to two per person; and 5) allows off-premise retailers to purchase liquor, but not beer, outside of their wholesaler's geographic territory if certain conditions are met. While the legislation

does eliminate minimum percentage markups, it continues to prohibit any sales by a wholesaler or retailer below cost.

In the context of this lengthy legislative history, the Legislative Program Review and Investigations Committee began its sunset review of the Department of Liquor Control in the spring of 1981.

Nature of the Industry and Market Structure

The alcoholic beverage industry in the United States and Connecticut is substantial in terms of consumer expenditures and taxes generated. On the national level, the industry sold over \$50 billion worth of products to consumers in 1980. Individuals consumed 452 million gallons of distilled spirits, 465 million gallons of wine and 5.5 billion gallons of beer. For 1980 it has been estimated that 2.8 percent of individual disposable income was used to purchase alcoholic beverages. This consumer expenditure netted the federal government \$5.7 billion in taxes for beer, wine and distilled spirits.

Connecticut ranked 18th in adult per capita consumption of liquor in 1980. For the period from July 1980 to June 1981, Connecticut consumers purchased 75 million gallons of beer, wine and distilled spirits in the state, generating approximately \$35 million in tax revenues.

Alcoholic beverages are produced and marketed according to a three-tier distribution system: 1) manufacturers/suppliers/importers, 2) wholesalers, and 3) retailers. While such a distribution system is common to many other industries, and frequently economically efficient, it is mandatory in the case of the liquor industry. Federal laws generally prohibit ownership of a business at more than one tier, and Connecticut specifically prohibits such ownership.

The market in alcoholic beverages, however, is highly dispersed. There are eight major distillers in the United States having approximately a 60 percent market share in liquor; the remaining 40 percent of the market is left to numerous small distillers and importers. There is a somewhat greater concentration in the beer industry with six major United States brewers having an 81 percent market share for American beer. Foreign brewers have also been gaining in the market place with imported beers. The wine industry, in contrast, is highly dispersed with many producers and importers, none of whom have a significant percentage of the market.

While Connecticut has only one manufacturer of distilled spirits and a few farm wineries, there are over 200 suppliers

bringing approximately 15,000 different products into the state. These products are distributed to 6,811 retail outlets by 43 licensed Connecticut wholesalers.

Government Regulation of Alcoholic Beverages

All 50 states and the federal government regulate the manufacture and sale of alcoholic beverages. In the context of regulation, states can be divided into two major categories: control states--where most beverages are wholesaled and retailed by a state agency; and license states--where the private sector is given a permit by a state agency to engage in sales.

There are currently 18 control states where liquor is wholesaled by the state and, in most cases, retailed by the state when sold for off-premise consumption. The remaining 32 states license wholesalers and retailers. In two states, Mississippi and Wyoming, state agencies control all wholesale distribution of liquor, but license private retailers selling for off-premise consumption. All states, with the exception of Iowa, license private businesses to distribute and sell beer at the wholesale and retail level.

In addition, the federal government issues permits to manufacturers, suppliers and wholesalers and collects a special tax on retailers. The federal government also collects an excise tax on beverages, prohibits certain business practices and sets standards for product size, content labeling and advertising. The Bureau of Alcohol, Tobacco and Firearms, within the Department of Treasury, is responsible for the enforcement of federal laws and regulations.

Beyond licensing, each state imposes a myriad of other regulations. Generally, the states:

- issue permits to manufacturers, suppliers, wholesalers and retailers;
- collect sales and beverage taxes;
- prohibit specific business practices and economic activity, such as limiting hours and days of sale, or requiring minimum pricing; and
- set standards for sizes, labeling and advertising.

All states have some form of alcohol beverage control agency which is granted the power to:

- distribute and sell beverages in control states or issue permits in license states;
- investigate complaints;
- adjudicate matters concerning the issuance of permits and violation of statutes and regulations; and
- impose disciplinary sanctions.

The organizational location of the regulatory agency also varies throughout the United States. Almost two-thirds of the states maintain independent regulatory bodies. Table I-1 shows the organizational location of alcoholic beverage control agencies broken down by control and license states.

Table I-1. Organizational Location of Alcoholic Beverage Control Agency.

Organizational Location	Control States	License States	Total Agencies
Independent Agency	13	16	29
Tax or Revenue Agency	3	10	13
Public Safety Agency	0	4	4
Office of the Governor	1	0	1
Business Regulation Agency	<u>1</u>	<u>2</u>	<u>3</u>
Total States	18	32	50

A third level of regulatory activity is generally found at the local level. (In some states, such as North Carolina, there is considerable regulatory authority located at the county level.) States usually allow local governments to establish zoning requirements and ordinances which restrict the location and sale of alcoholic beverages. Local fire and building code requirements affect businesses where beverages are sold, particularly for on-premise consumption. Local authorities are also called upon to enforce state laws and local ordinances pertaining to the sale and consumption of liquor.

Regulation in Connecticut

The sale and distribution of alcoholic beverages is governed by Chapter 30 of the Connecticut General Statutes, the liquor control act. It grants the Department of Liquor Control the authority to carry out the regulatory program contained within the act.

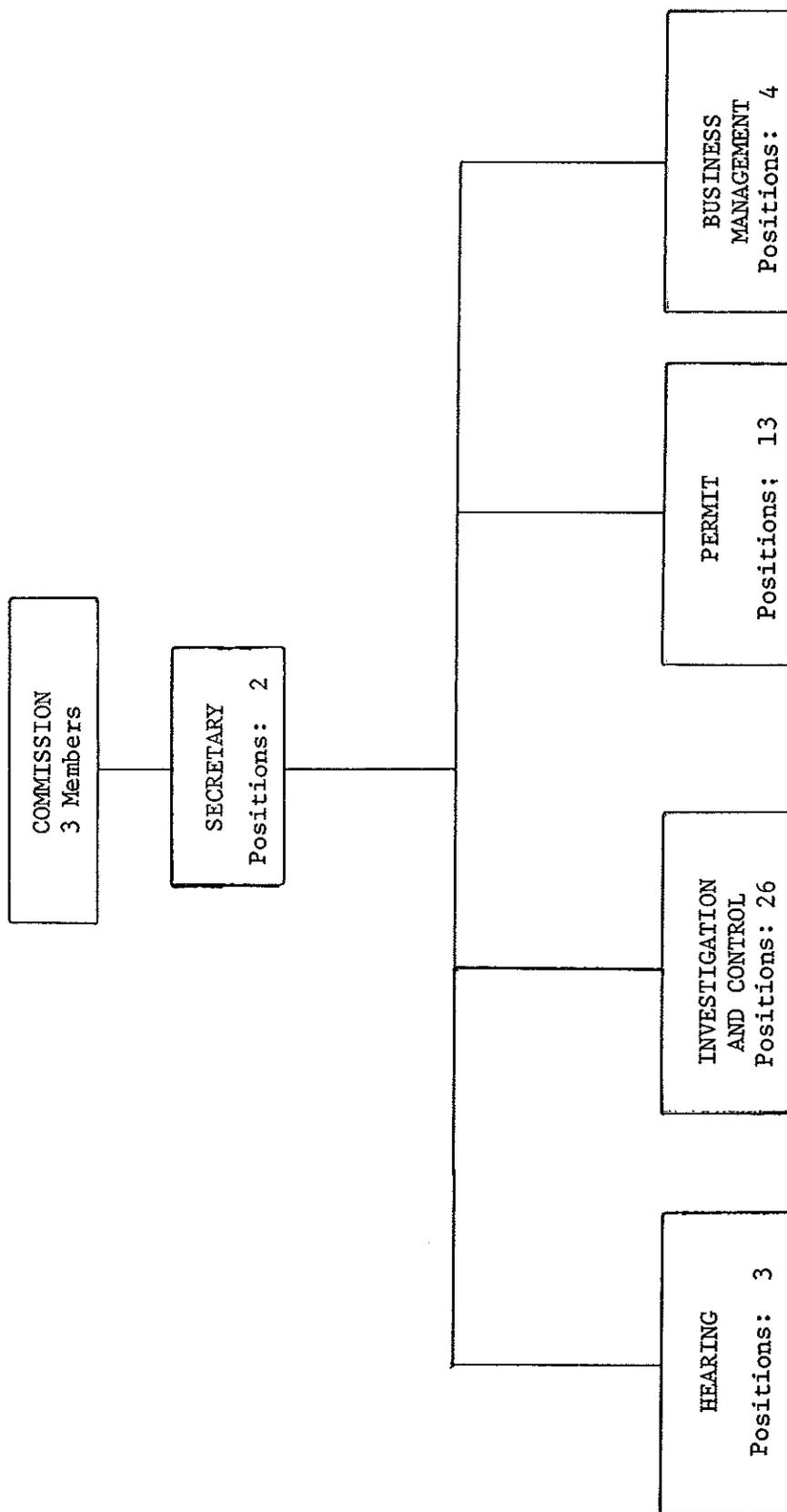
Organization and Structure. The Department of Liquor Control is an independent agency headed by three part-time commissioners appointed by the governor, to staggered six-year terms. In addition, the governor appoints the chairperson. The commission, which exercises final authority over all matters, appoints a secretary who manages the department.

The department is organized into four units: 1) hearing section; 2) investigations and control section; 3) permit section; and 4) business management section. Table I-2 outlines the organization of the department as well as the number of personnel employed in each section.

Powers and Duties. The Department of Liquor Control, under the liquor control act, is given regulatory authority in the following specific areas:

- issuance and renewal of permits in 52 different categories;
- determination of the financial, legal and moral suitability of permittees, owners or backers, bartenders and liquor salesmen;
- enforcement of restrictions on certain business practices and economic activity as required by statute and regulation;
- investigation of statutory and regulatory violations;
- adjudication of violations and imposition of disciplinary sanctions, including fines placed upon licensed individuals and suspension and revocation of permits; and
- negotiation of agreements between parties in conflict as provided by the liquor control act.

Table I-2. Organizational Chart: Department of Liquor Control.



Detailed Description of the Regulatory Program

Permits. The Department of Liquor Control has the authority to issue permits in 50 different classifications, each based upon the nature of the business to be operated. The department determines if the business conforms to the permit definition and if conformance is maintained. The issuance of, or change in, a permit falls into five categories: a) new, b) annual renewal, c) removal of a permit from one location to another, d) substitution of one permittee for another, and e) change of ownership/permittee.

An applicant may be refused a permit based upon the location of the business or the suitability of the permittee and owner. To determine suitability of the permittee or owner, the department must obtain a complete financial record of the business transaction as well as the applicant's criminal record. In determining appropriate location, such factors as proximity to churches and schools, the character of the community, the number and type of existing permits, and conformance with local zoning requirements are considered by the department.

There is generally a prohibition on the granting of two different types or classes of permits to a single individual. However, there are exceptions made by statute. Also, there is a restriction on ownership of more than two retail package store permits. An individual may have more than one permit if the department concludes that the location allows for sufficient supervision by the permittee in charge. The prohibition on permit ownership restricts a wholesaler or a retailer from acquiring an interest in the other. A five year moratorium, effective June 1981, has been placed on the issuance of new package store permits, after which time new permits will be issued only in towns where there are more than 2,500 persons per package store permit.

Business practices. By statute and regulation, the Department of Liquor Control has jurisdiction over business and economic practices. The regulation of these practices falls into three categories: a) activities prohibited; b) economic regulation; and c) regulation of business operations. A brief description of each area follows:

Prohibited activities in connection with the sale of alcoholic beverages include:

- sale to minors;
- sale without a permit;

- resale of liquor by one retail permittee to another (e.g., package store to restaurant);
- minors loitering on premises;
- unsuitable persons having a financial interest in a regulated business;
- delivery to no-permit towns;
- sale to intoxicated persons or habitual drunkards;
- conducting the business in a lewd or disorderly manner; and
- procurement of liquor by a false statement.

Economic regulation includes restrictions upon marketplace operations. The restrictions cover price, credit and distribution agreements involving the liquor industry. The department's role is generally to enforce the statutory restrictions and not to determine the exact nature of each (e.g., set prices, allocate territories to distributors).

All prices for liquor sold to Connecticut wholesalers by suppliers must be the lowest price charged by a supplier to any other wholesaler in any other state. Prices for beer must be the lowest offered in any of the states bordering Connecticut. These prices are required to be affirmed in writing by suppliers and filed with the department.

In addition, the case, can and bottle prices charged the retailer by wholesalers must be listed with the department on a monthly basis. Minimum markup, until its elimination, is the lowest retail price to the consumer on beer, liquor and wine and must be listed. These prices must be made available to all purchasing permittees. Listed prices become the controlling prices for the month and no product may be sold for less. Prices may be amended downward by wholesalers and manufacturers within three days of the listing deadlines to meet a competitor's lower posted price on the same brand, trade name, age, vintage, quality and beverage size.

A list of suggested consumer resale prices must also be posted with the department, but sales below the resale list price are allowed. With the elimination of minimum markup,

only the manufacturer's price to the wholesaler and the wholesaler's price to the retailer will be listed. With the elimination of minimum markups, products sold to consumers cannot be less than the wholesale price charged to the retailer.

Wholesale prices to the retailer and the controlling price to the consumer are published monthly in the Connecticut Beverage Journal, a trade publication distributed to retailers. Suggested consumer resale prices are published for beer and liquor in a separate journal.

Credit granted retailers by wholesalers is restricted to 30 days from the date of product delivery. No retailer may receive credit from a wholesaler beyond 30 days, and wholesalers are prohibited from extending credit beyond the limit or from lending money to any retailer for any purpose.

The department receives a monthly computerized list of delinquent retailers from the Wine and Spirits Wholesalers Association of Connecticut. The department then may take disciplinary action against any retailer listed.

Distribution agreements among suppliers, wholesalers and retailers are governed by statute and regulation. The department does not establish any distribution agreements between private parties nor allocate geographic territories for distribution, but rather enforces specific statutory provisions outlining contractual arrangements. The statutes require suppliers to register with the department: 1) each brand to be sold in the state; 2) the wholesaler authorized to sell the brand; and 3) the geographic territory the wholesaler is allowed to sell within.

Territories are generally based upon counties, although nothing prevents a supplier from giving wholesalers authorization to distribute a product statewide. A supplier may also appoint more than one wholesaler to a given territory. Once a distributorship is held for more than six months, the supplier must prove to the department that there is just and sufficient cause to terminate or diminish a franchise granted to a wholesaler. All contracts and agreements between the wholesaler and supplier must be on file with the department.

A wholesaler is required to sell to all retailers within his geographic territory. Retailers may only purchase from a wholesaler outside of the retailers' geographic territory if they are: willing to accept delivery at the warehouse; meet the conditions set by the wholesaler; and the item to be purchased is not available from a wholesaler serving their

territory or is only available at a higher price. This provision does not apply to the purchase of beer nor to any purchases made by on-premise retailers.

Finally, business operations are extensively regulated by the liquor control act. Regulatory authority rests partly with the department and partly with local governments. Briefly, the following illustrates some regulatory areas within the state's purview:

- the storage of liquor;
- the building including signs, exits, size, seating capacity and any physical changes in the structure;
- the offering of entertainment and the type to be offered;
- business records;
- the type and amount of items, other than liquor, to be sold;
- inducements, discounts, coupons, and gifts;
- sanitation and fire safety;
- hours and days the business may be open;
- amount of time a permittee must be on the premises;
- advertising and product labeling; and
- bartenders and liquor salesmen.

Most businesses are subject to annual inspection by the department.

Fiscal Information

The Department of Liquor Control's actual expenditures for FY 1980-81 were \$929,354. For the same period, the department collected \$6,248,660 in fees and fines. Table I-3 gives a detailed breakdown of the department's budget by functional areas. One third of the department's budget is used to support 23 liquor control agents dispersed throughout the state. In the area of administration, 34 percent of the budget (\$72,000) is

used to support three part-time commissioners. The remainder of the agency's funds provide for clerical and supervisory, and investigative personnel.

Table I-3. Department of Liquor Control: Budget in Detail.

<u>Functional Areas</u>	<u>Actual 1979-80</u>	<u>Actual 1980-81</u>	<u>Estimated 1981-82</u>
Personnel Expenses			
Administration (10 positions)	\$ 188,427	\$ 226,233	\$ 223,350
Regulation and Control (40 positions)	553,297	566,570	550,681
Administrative Expenses	<u>98,927</u>	<u>136,551</u>	<u>134,525</u>
Total Agency Budget	\$ 840,651	\$ 929,354	\$ 908,556

The Department of Revenue Services collected an additional \$25,606,733 in alcoholic beverage taxes. Table I-4 indicates the amount of taxes collected by product and quantity sold in Connecticut for FY 1980-81.

Table I-4. Alcoholic Beverages: Quantity Purchased and Tax.

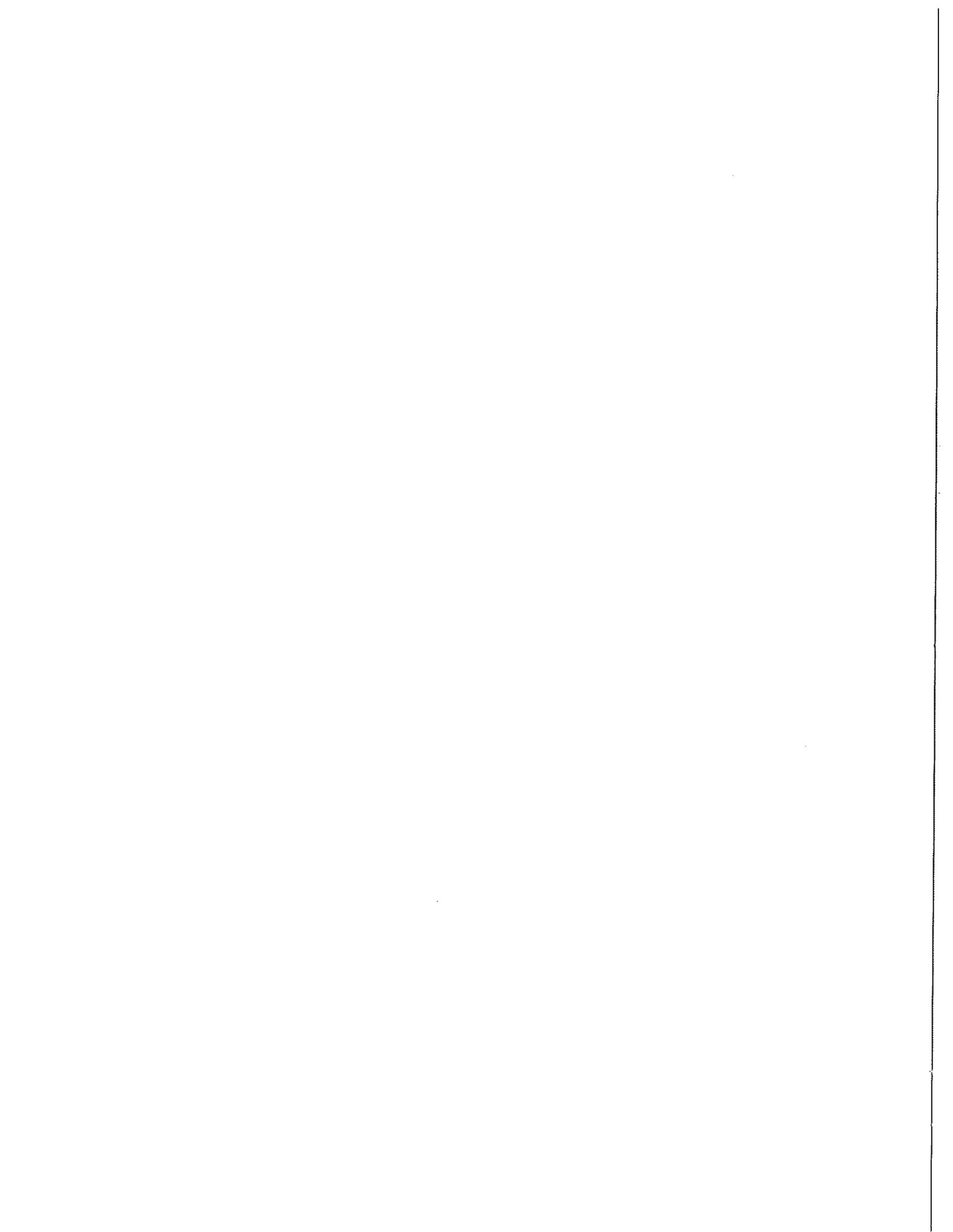
	<u>FY 1980-81</u>	
	<u>Quantity (gallons)</u>	<u>Tax</u>
Malt Beverage		
(barrels)	11,685,120	\$ 912,900
(cans and bottles)	48,467,786	\$ 4,038,982
Wines (under 21% alcohol)	8,078,265	2,019,566
(over 21% alcohol)	405,757	253,598
Distilled Liquor	7,333,870	18,334,677
Alcohol	<u>18,803</u>	<u>47,008</u>
Total	75,989,601	\$25,606,733

Connecticut currently imposes a tax of approximately \$2.50 per gallon of alcoholic beverages. The tax varies based upon the type and proof of the beverage. Table I-5 compares the Connecticut tax with those in surrounding states.

Table I-5. Gallonage Tax: Contiguous States.

1980 Rate per gallon

Connecticut	\$2.50
Mass.	\$4.05
N. Y.	\$3.25
Rhode Island	\$2.50



ACTIVITIES

The Department of Liquor Control, as noted in the previous section, is involved in a number of activities related to the sale and distribution of alcoholic beverages. The Legislative Program Review and Investigations Committee and staff examined the department's activities in detail utilizing a variety of sources, including the agency's budget, records and minutes.

Agency activities can be divided into three categories: 1) licensing; 2) commission functions; and 3) inspections and investigations.

Licensing includes the issuance of permits, renewals, changes in permittees and the registering of brands, bartenders and liquor salesmen. A compilation of licensing activities can be found in Table II-1.

Table II-1. Department of Liquor Control: Licensing Activities.

<u>Type of Activity</u>	<u>1979-80</u>	<u>1980-81</u>
Permits Renewed	7,323	7,274
New Permits Issued	318	331
Temporary permits issued	1,079	1,174
Permittee substitutions	1,081	1,231
Brands registered	5,776	5,962
Bartenders and liquor salesmen registered	4,892	5,154

Permits run in length from one day to one year and cover a wide range of operations including outings, restaurants, wholesalers and manufacturers. As noted earlier, there are 52 different types of permits the department may issue. Appendix A identifies these permit categories.

The three part-time commissioners have final authority on all matters coming before the department. They make decisions on all new permits, changes in the status of existing permits, and on disciplinary proceedings. They impose administrative penalties on licensees determined to be in violation of statutes and regulations. They also establish policy for the agency and interpret legislation governing the sale of liquor by issuing

regulations and making decisions on individual cases. The administrative process can be outlined as follows:

- 1) An application or complaint comes to the department and is processed or investigated by the appropriate unit.
- 2) The staff prepares a file or retrieves the existing file and conducts an investigation to acquire the necessary information; once completed, the file is forwarded to the commissioners for action.
- 3) Staff appears before the commission to explain each file and may suggest the type of action needed.
- 4) The commissioners have three procedural options available -- a) make a decision on the file and notify the applicant or permittee of the action taken; b) ask the applicant or permittee to appear at a compliance meeting to discuss the particular situation and possibly negotiate a settlement and render a decision; or c) hold a formal hearing requiring the applicant or permittee to attend along with other parties having an interest in the matter. A decision then will be made after all parties are heard.
- 5) In the case of disciplinary proceedings, the department may revoke, suspend or fine a permittee/owner for any violation of the liquor control act or felony resulting in a conviction; the department may also suspend, revoke or fine a permittee/owner upon finding cause. If an individual is arrested and found not guilty or the charge is dismissed, the department cannot take any action. All decisions may be appealed to the Superior Court.

A summary of the commission's activities is displayed in Table II-2.

Table II-2. Activities of the Three-Member Part-time Commission.

	<u>FY 1979-80</u>	<u>FY 1980-81</u>
Meetings	92	93
Compliance Meetings	719	835
Compromise Offer in Lieu of Formal Hearing	227	168
Formal Hearings	407	476
Suspensions	18	11
Revocations	71	81
Total Amount of Fines Imposed	\$123,733	\$ 67,168

A detailed analysis of one month of commission meetings revealed the following information. During January 1981, 7 meetings were held involving 30 formal hearings, 31 compliance meetings and 155 file decisions. A breakdown by the nature of the activity gives a picture of department's involvement in the regulation of alcoholic beverages. (See Table II-3.)

Table II-3. Commission Activity Breakdown: January 1981.

<u>Nature of Activity</u>	<u>No. of Cases</u>
Delinquent liquor bills	41
Changes of ownership/permittee	40
New Permit	35
Substitution of permittee	4
Change of location	2
Late renewal	32
Suitability of permittee/backer	4
Bartenders certificate	8
Remonstrance (public objection to new permit)	6
Failure to cooperate with commission	1
Not operating within permit definition (e.g., restaurant not selling food; "grocery beer" not selling enough groceries)	7
Not operating within the law or regulations (e.g., overcrowding, indecent performance, selling after hours, etc.)	15
Sale to minor	4
Minimum markup	1
Other	16
	<u>216</u>

Data were also gathered over a seven month period on disciplinary actions taken by the commission. Appendix B gives a month by month breakdown of the types of violations, types of commission meetings and sanctions imposed. For the period reviewed (November 1980 to May 1981), there were 190 violations, 82 hearings and 93 compliance meetings. The commission imposed \$36,719 in fines. The most common violation was delinquent liquor bills--70 out of the 190 violations.

The final area of department activity involves investigations and inspections. Department staff are principally involved in assuring compliance with the liquor control act and providing information to the commission for decision purposes. The investigations and inspections conducted during FY 1979-80 and FY 1980-81 are presented in Table II-4.

Table II-4. Investigation and Inspection Activities.

	<u>FY 79-80</u>	<u>FY 80-81</u>
Annual Inspections	5,663	5,542
Investigations (total)	2,795	2,240
New Applications	1,141	1,022
Substitutions	1,250	889
Removals	108	103
Special	261	215
Minimum Price	13	4
Food Check	22	7

ANALYSIS AND RECOMMENDATIONS

The Legislative Program Review and Investigations Committee examined in detail the operations of the Department of Liquor Control and the regulation of the liquor industry in Connecticut. The committee's purpose throughout the ten month study was to bring efficiency to the regulatory process and continue those regulatory activities having the greatest impact on insuring the preservation of public health, safety and welfare. The study evaluated and identified statutes, regulations, definitions and procedures which are outdated, inappropriate, arbitrary or unnecessarily restrictive. The committee sought to bring clarity and rationality to a regulatory program frequently described as vague and difficult to understand. The committee, mindful of the state's limited resources as well as the need to continue to exercise authority over the sale of alcoholic beverages, made proposals that targeted resources principally for the protection of public health and safety.

The committee divided the study into four major areas: 1) permits and fee schedule; 2) public health and safety regulation; 3) business and economic regulation; and 4) administration of the liquor control act. In reviewing these areas, the committee relied upon public hearing testimony, staff observations and analysis, input from interested parties and interviews with state officials. Additionally, committee members took note of the information received during the debate on the repeal of the minimum markup law during the 1981 General Assembly.

Permits and Fee Schedule

Currently, there are over 50 different types of permits issued by the Department of Liquor Control. To receive a permit, an applicant must fulfill the definition of the permit category and: 1) cite the location of the business, name of the owner and permittee; 2) meet local fire, building and zoning requirements; 3) allow for the opportunity for a re-monstrance by "placarding" the business; and 4) submit to a complete investigation of the financial transaction of the business and criminal history of the owners and permittee. The applicant then must proceed through the administrative process previously outlined in the activities section of this report. In addition, the applicant must pay the appropriate fee for the permit requested.

The committee concluded that the number of permits needed to be reduced into categories based upon the type of business being operated. Under the present system there are a number of permits for similar business operations such as cafes and restaurants. Similar types of businesses are classified into broad categories where there is a clear difference in the way in which alcoholic beverages are sold. The committee's proposal reflects the need to maintain separate categories of permits, while eliminating the need to define each type of business by a permit. The committee's proposed permit definitions and categories encompass all of the current 52 permits. (See Appendix D.)

The Legislative Program Review and Investigations Committee recommends the consolidation of all permits into the following categories:

a) on-premise consumption retailer

- beer only*
- beer and wine only*
- beer, wine and distilled spirits*

b) off-premise consumption retailer

- grocery beer*
- druggist liquor*
- package store liquor*

c) one temporary permit

d) one wholesale permit

e) one manufacturer's permit

f) one supplier's permit

This consolidation will result in 33 permits being combined into three categories under the on-premise consumption permit. Off-premise consumption permits will remain the same and four temporary permits will be consolidated into one. Five manufacturer and farm winery permits will become a single permit and five wholesale permits will also be reduced to one. The two out-of-state shipper permits will be consolidated into one supplier permit. The committee considered these categories to be the most appropriate means of regulating the industry and proposed the following definitions for each category.

The Legislative Program Review and Investigations Committee defines the revised permit categories as:

Manufacturer and Supplier: A firm producing alcoholic beverages from raw materials, or a firm buying alcoholic beverages from a manufacturer and importing them into Connecticut from another state or country.

Wholesaler: A firm purchasing alcoholic beverages from a manufacturer and/or supplier and selling to another wholesaler or retailer.

On-premise Consumption Retailer: A firm selling alcoholic beverages to individuals for consumption at the retail establishment where the beverage is sold.

Off-premise Consumption Retailer: A firm selling alcoholic beverages to individuals in sealed containers for consumption at a location other than the retail establishment where it is sold.

Temporary Permit: A permit issued for a limited period of time for on-premise consumption of alcoholic beverages.

To achieve the consolidation of permits, the committee believes it is necessary to restructure the current fee schedule. The fee schedule, provided in Appendix A, establishes a separate fee for each type of business. For instance there is a different fee for a bowling alley permit, a coliseum permit, a restaurant permit, a club permit and a wholesaler permit. Fees bear little relationship to the volume of business conducted. All restaurants selling liquor are required to pay the same fee regardless of their volume of business. Package stores also pay the same fee without regard for the size of the operation. The committee concluded that the amount charged businesses needed to be based upon the volume to make the fee structure more equitable.

The Legislative Program Review and Investigations Committee recommends the elimination of the current fee schedule and the adoption of either a progressive fee schedule based upon gross receipts or an increase in the alcoholic beverage tax maintaining the current revenue generated.

The committee reviewed the criteria for receiving a permit and noted that the administrative costs connected with the process need to be reduced. One activity in particular consumed a large amount of staff time--the investigation of an applicant's criminal background and the investigation of the financial aspects of the business transaction. While permits

are rarely refused based upon this investigation, staff resources committed to this activity are substantial. A reason frequently cited for requiring an investigation into the applicant's background is to prevent organized crime from infiltrating the liquor industry. According to information received by the committee from the Chief State's Attorney, the investigation done by the Department of Liquor Control does not prevent organized crime from influencing the liquor industry.

The committee sought a mechanism by which the process could be simplified and the personnel costs needed to carry out this function reduced. The committee believes the benefits gained from such an investigation do not outweigh the costs incurred in conducting it. The committee did cite the necessity to maintain the state's involvement in the application process as well as continue local control of land and building use through zoning regulations.

The Legislative Program Review and Investigations Committee recommends that, when obtaining a permit, an applicant be required to submit only the following:

- *a sworn statement limited to the permittee's and owner's criminal record and a financial statement covering the details of the business transaction;*
- *the location of the business requesting the permit;*
- *sufficient evidence to determine that the business has met state and local building, fire and zoning requirements, is in compliance with local options on hours and days of sale, and has allowed for the opportunity of a remonstrance by "placarding" the business.*

The committee's recommendation will allow a sworn statement concerning the applicant's background to be substituted for the department's investigation process, substantially reducing the manpower needs currently generated by this mandate. It will eliminate the need to conduct an investigation into the background of most applicants unless there is a reason to believe the applicant is submitting a false statement. Other safeguards on land and building use are continued and are necessary and sufficient to protect public health, safety and welfare.

Public Health and Safety Regulation

When considering the need to regulate, the committee believed the protection of public health and safety is of utmost concern. In this context, the prohibition on the sale of alcoholic beverages to minors is widely held to be the most important role the state has in the regulation of liquor.

Analysis of the department's activities indicates there were no suspensions or revocations of permits in connection with illegal sales to minors during fiscal year 1980-81. On the other hand, there were 32 revocations for delinquent liquor bills. For a period of seven months, (see Appendix B), 37 percent of the total disciplinary actions taken were for delinquent liquor bills while 13 percent were for sales to minors. The typical sanction for sale to a minor was a \$250 fine.

The committee believes that current restrictions on the purchase of alcohol are necessary and that penalties for noncompliance should be strengthened. The committee also sought a simplified procedure for fining minors and intoxicated individuals charged with the purchase of alcoholic beverages. It was noted that few minors are ever prosecuted while a permittee faces a severe administrative penalty for a sale to minors. The committee expressed a concern that both parties be exposed to similar penalties with minimal court involvement.

Therefore, the Legislative Program Review and Investigations Committee recommends the continuation of the following prohibited activities:

- *sale of alcoholic beverages to minors;*
- *sale of alcoholic beverages to intoxicated persons;*
and
- *sale of alcoholic beverages without a permit.*

The Legislative Program Review and Investigations Committee recommends the extension of the prohibition on minors entering and loitering in bars to include package stores.

In order to strengthen the law on sales to minors, the committee believes that mandatory penalties should appear in statute rather than being imposed at the discretion of the department. During the review, it was noted that few licenses are revoked or suspended for selling to minors despite the fact that this is considered to be the most important regulatory function the state has in terms of protecting public health

and safety. To insure that the agency with regulatory responsibility focuses upon this role, the committee proposed the following penalties.

The Legislative Program Review and Investigations Committee recommends that the department impose the following mandatory penalties for the sale of alcoholic beverages to minors: 1st offense--\$250 fine; 2nd offense--\$500 fine; 3rd offense--five day suspension; 4th offense--ten day suspension; and 5th offense--revocation.

The committee believes that the purchases and the seller should be equally accountable under the law. Along with mandatory penalties for permittees, the committee considered it necessary that disciplinary sanctions taken against minors and intoxicated individuals purchasing alcoholic beverages be easier to impose. The committee noted that violations of the law that were considered infractions as defined by Chapter 881b of the Connecticut General Statutes did not require a court appearance. An individual charged with an infraction has the option of paying the fine by mail. This system eases the burden on the courts while maintaining an individual's right to bring his case before a judge. Infractions are most often used in connection with traffic violations.

The Legislative Program Review and Investigations Committee recommends that the purchase of alcoholic beverages by minors and intoxicated individuals shall be considered an infraction as defined by Chapter 881b of the Connecticut General Statutes.

The committee concluded that these recommendations would provide the most appropriate means for enforcement of sales to minors, purchase by minors and intoxicated individuals, and sales without a permit. Clearly, these recommendations focus increased attention on the protection of public health and safety through the regulatory process.

Business and Economic Regulation

As noted earlier in the report, the liquor control act requires the state to regulate a number of business and economic practices. The committee reviewed all regulations, particularly those dealing with prices, credit, distribution agreements, permit ownership, advertising, labeling, storage, inducements, brand registration, goods sold in package stores, employment practices and physical changes in the business.

The committee, however, is reluctant to make major changes in business and economic practices without knowing the full

impact the repeal of minimum markup will have upon the marketplace. Committee members generally feel that repeal will significantly alter the current market structure and they are hesitant to recommend extensive changes that will further unsettle the marketplace. In this context, the following legislative and regulatory changes are proposed.

Price: The Legislative Program Review and Investigations Committee recommends the continuation of the prohibition on the sale of all alcoholic beverages below cost. The committee recommends retention of current price posting requirements, adding a provision allowing a retailer to charge the posted price at the time the product is purchased from a wholesaler, or the current posted price if it is lower than the price posted at the time the product was purchased.

The committee considered sales below cost contrary to the repeal of minimum markup. To enforce sales below cost, the committee felt the posting of prices was necessary. However, the committee sought to correct the current situation which requires a retailer to sell at the price posted for the month a product is sold irrespective of the retailer's invoice price at the time of purchase. The committee's recommendation would allow a product to be sold at its purchase price, rather than requiring it to be sold at a higher price in a future month just because of an increase in the posted price. The retailer should be given the option to charge a price that has a relationship with the product's cost.

For example, a package store owner who purchased a case of wine from a wholesaler for \$100 in May, but did not sell it until September, would be required to sell it at September's posted price, which might be \$120. This recommended change would allow the package store owner to sell the case of wine at \$100, his actual purchase price in May, rather than September's higher posted price. In other words, he would be charging the consumer prices that reflected his actual inventory costs instead of future prices based upon goods purchased in future months.

Credit: The Legislative Program Review and Investigations Committee recommends the elimination of the current credit law and replacement with the following:

- the extension of credit by permittees is limited to 30 days;
- wholesalers are required to list delinquent retailers;
and

- *once a retailer is listed, all wholesalers are required to sell to the retailer on a cash on delivery basis only.*

The state shall take no disciplinary action against delinquents.

The committee found the Department of Liquor Control to be heavily involved in the collection of liquor debts for wholesalers. In a review of disciplinary action, 37 percent of the actions taken were for delinquent liquor bills. According to the department, 32 out of 38 revocations in 1980 were for delinquent liquor bills. The committee concluded that the state's involvement in the collection of debts is excessive.

In a survey of several other states, staff provided the committee with the following summary details on credit enforcement.

Colorado--no restriction or enforcement; federal regulations apply to all businesses.

Oklahoma--all sales are cash only; the regulatory agency checks for credit extensions during inspections.

Maryland--30 to 45 day credit extension allowed; wholesalers list delinquents who are placed on cash only list by the regulatory agency. Once on cash only, no wholesaler can extend credit. (As a result, there are few disciplinary actions taken by the regulatory agency; actions taken are usually against wholesalers for extending credit to cash only listed retailers.)

Rhode Island--30 days credit extension; placed on cash only list by wholesalers; action is taken against long-term delinquent retailers and wholesalers who fail to list a delinquent retailer.

Massachusetts--60 days credit extension; enforcement similar to Maryland and Rhode Island; regulatory agency is not involved with any list or debt collection on a regular basis. Agency takes only selective disciplinary action.

Florida--10 to 15 days credit; the regulatory agency sends notices to delinquent retailers placing all purchases on a cash only basis; after an extended delinquency, all sales to a retailer are terminated.

New Jersey--30 days credit; wholesalers prepare list of delinquent retailers; no sales to delinquent retailers are allowed by law; the regulatory agency does not conduct disciplinary proceedings, only arbitrates disputes in billings.

In reviewing these other states, the committee sought to maintain a credit law that would allow retailers to receive credit, but remove the state from the responsibility of enforcing the law. The committee recognized the need to restrict credit to 30 days to prevent wholesalers from gaining an interest in a retail business through the over extension of credit. The committee's recommendation addresses this concern and eliminates state involvement in the enforcement by establishing a self policing mechanism.

Franchise Regulation and Distribution Agreement: The Legislative Program Review and Investigations Committee recommends the retention of the current territorial franchise structure with the inclusion of on-premise retailers in the provision allowing retailers to purchase goods outside a territory.

In reviewing franchise regulations, the committee noted that 17 states have some form of regulation, 16 have none and 2 states specifically prohibit distribution agreements. The committee further considered in detail the laws of following states:

Colorado--has franchise regulation for beer only; the state reacts to complaints of wholesalers selling outside of their appointed territories; retailers are not restricted by law from purchasing goods from anyone willing to sell to them.

Oklahoma--franchise agreements are prohibited by constitutional amendment; all manufacturers must sell to all wholesalers; retailers can purchase from any wholesaler.

Maryland--suppliers and manufacturers must appoint a wholesaler, and appointing a dual wholesaler to a single geographic territory is prohibited. To terminate a wholesaler, the manufacturer must give 90 days notice for liquor and wine, and 180 days notice for beer before a change can occur. There is no involvement by the regulatory agency in mediating disputes; the courts are responsible for resolving contractual differences.

Rhode Island--there is no state regulation; franchise disputes are considered a civil matter and handled by the courts.

Massachusetts--suppliers/manufacturers may appoint wholesalers having specific geographic territories. Once appointed (for six months) the manufacturer/supplier must give the wholesaler 120 days before terminating. Termination must be for good cause and specifically related to six statutory criteria. The regulatory agency may hold a hearing to determine if cause is reasonable. Retailers are not restricted by law from purchasing outside of franchise territories.

Maine--manufacturer/supplier must appoint exclusive wholesaler to a given geographic territory; to terminate a wholesaler, notice must be given outlining the reason and allowing 90 days to correct the deficiency; the regulatory agency does not get involved in mediating franchise disputes. Disagreements first go to a neutral arbitrator chosen by both parties to the franchise agreement and then to the courts if not resolved by arbitration.

As explained earlier in the report, the repeal of minimum markup made changes in the territorial franchise law allowing off-premise retailers to purchase goods outside of wholesaler's territory if certain conditions are met. The committee's recommendation extends this provision of the law to include on-premise retailers as well. The committee was reluctant to make further changes in the law until the effects of the repeal of minimum markup are known.

The Connecticut sunset law requires the committee to consider whether the public could be adequately protected by a less restrictive method of regulation and whether the benefits attributable to the regulatory program outweigh the burden of increased costs to the public. In considering the need to regulate business operations, the committee concluded that certain areas involved decisions better made by a business, based upon information received from consumers in the marketplace, rather than by a state agency. The committee's proposal on changes in this regulatory area reflect the concern that government intervention in business decisions be limited and that state resources be used to protect public health and safety.

Business Operations: *The Legislative Program Review and Investigations Committee recommends a reduction in the regulation of individual business entities. Specifically, the committee proposes:*

- *to allow off-premise storage by retailers at one registered location;*
- *to continue current restrictions on goods sold in package stores, but the subject matter committee should consider during the 1983 session of the General Assembly the extension of the list of some or all of the goods to be sold;*
- *to retain the current restrictions on permit ownership;*
- *to eliminate the need to obtain approval of physical changes in the interior and exterior of the business;*
- *to eliminate the requirement that a permittee spend a substantial amount of his time on the permit premises; and*
- *to delete the prior-approval requirement concerning entertainment and games, but retain current regulation concerning lewd behavior (See Appendix C for a discussion of obscenity.)*

Allowing off-premise storage by retailers will alleviate the problem many package stores have concerning the storage of inventory. Stores are now required to store merchandise only on the permit premises which is limited by the size of the store. Package store owners have difficulty taking advantage of special offers and volume purchases due to the lack of storage space. The committee's recommendation will benefit small package stores in need of additional space, particularly in light of the demands placed upon them as a result of the repeal of minimum markup.

The committee also discussed the restrictions on goods sold in package stores and believed that as market conditions alter in the next year, some consideration should be given to allowing package stores greater flexibility in determining the products it offers. Elimination of the requirement that all physical changes to the interior and exterior of the permit premises be approved by the department will result in substantial savings in administrative costs. Last year the department conducted 80 investigations into alterations done on permit premises. The committee believes that public health and safety would be adequately protected by state and local building codes and local

enforcement, without the additional administrative burden of approval by a state agency. The committee followed similar reasoning in proposing the elimination of the prior-approval requirement for entertainment.

Finally, the committee recommends that determining the amount of time a permittee works on the premises can be left to the permittee and owner. Both the permittee and owner are responsible for the conduct of the premises and disciplinary sanctions affect the business and not just the permittees. If the permit is suspended, then the business is required to close for a specified number of days or if a fine is imposed, the fine is paid by the permittee and the owner. The permittee and owner are responsible for the operation of the business as well as the actions of employees whether the permittee is on the premises or not.

In summation, the committee considered all regulations dealing with the operation of a business and believes certain areas should be changed, especially those involving decisions better made by the business owner and marketplace than a state agency.

Advertising: The Legislative Program Review and Investigations Committee recommends the continuation of only the following restrictions on advertising:

- *all federal regulations that apply to advertising will continue to apply to manufacturers/suppliers, wholesalers and retailers;*
- *prohibit any statement implying athletic achievement is the result of the consumption of alcoholic beverages;*
- *prohibit any picture of a woman which is immodest, undignified or in bad taste or which depicts a female in provocative dress or consuming alcoholic beverages;*
- *prohibit all pictures of children; and*
- *all retail prices must be displayed immediately beneath the merchandise in print not less than 36 point gothic type. Beer prices are exempt but must be displayed in a conspicuous place.*

The committee held a lengthy discussion on both the state and federal restrictions on advertising. The committee generally concluded that, as proposed, the recommendations would

sufficiently protect the public while allowing businesses the opportunity to be involved in aggressive advertising. It was also stated that state regulations need not duplicate federal regulations.

Inducements: The Legislative Program Review and Investigations Committee recommends that inducements for the sale of alcoholic beverages be allowed to the full extent of the federal regulations with the exception that quantity discounts and sales below cost continue to be prohibited.

The committee found Connecticut's restrictions on inducements to be greater than restrictions of federal regulations. In order to give the consumer full benefit of national sales promotions, restrictions on inducements should be similar to those imposed by the federal government.

Brand Registration and Labeling: The Legislative Program Review and Investigations Committee recommends the elimination of brand registration and approval of labels, along with the elimination of minimum and maximum bottle and container sizes with the exception of those applying to malt beverages. Compliance with federal regulations covering product labeling and sizes shall be mandatory for all beverages sold in Connecticut.

The committee found brand registration and labeling requirements to be a duplication of the federal requirements. All brands must be properly labeled and meet federal standards no matter where they are sold.

A question raised by the committee concerned the possibility of manufacturers being able to avoid Connecticut's affirmation law if bottle sizes were removed from the statute and only federal regulations applied. The New York regional office of the Bureau of Alcohol, Tobacco and Firearms indicated that federal regulations do require specific bottle sizes for wine and distilled spirits but not for beer. Statutory bottle sizes for beer should remain in place to prevent the possibility of noncompliance with the affirmation law.

The bureau was also consulted concerning the private labeling of alcoholic beverages within a state. They indicated that because alcohol is taxed by the federal government, federal regulations apply no matter where the products are manufactured or labeled. They further stated that even bottles labeled privately contain a label affixed to the back containing the information required by federal regulations. By requiring that all federal regulations apply to goods manufactured, bottled and sold within the state, private labeling will be sufficiently regulated.

Bartender and Liquor Salesmen: The Legislative Program Review and Investigations Committee recommends the elimination of the registration of bartenders and liquor salesmen.

The committee found that the only requirement for receiving a bartender's registration was that the applicant be a suitable person. Suitability is determined based upon the applicant's criminal history, which must be submitted to the Department of Liquor Control. While the department may deny an applicant for a bartender or salesman registration based upon a criminal record, during the course of this review no applications were denied for that reason. In addition, the department is currently six months behind in processing renewal applications. The committee concluded that in light of the administrative cost connected with this activity and the fact that no significant threat to public health or safety could be identified, registration should be eliminated. Again, the permittee and owner are held responsible for the actions of their employees and face the imposition of serious disciplinary sanctions on the business, if it is not conducted in accordance with the law.

Anti-Racketeering Statute: The Legislative Program Review and Investigations Committee recommends the adoption of an anti-racketeering statute to combat organized crime in the liquor industry.

The committee received testimony that the purpose of many of the regulations governing the liquor industry was to stem the influence of organized crime. The committee found that most regulations, particularly in the area of business restrictions and the investigation of an applicant's background, are not successful in preventing criminal influence in the industry. At the suggestion of the Chief State's Attorney, the committee proposed this recommendation.

The Administration of the Liquor Control Act

The final area reviewed by the committee was the administration of the liquor control act. Presently, the liquor laws and regulations are administered by an independent agency which is governed by a three-member commission. The commissioners are defined by statute as department heads having final authority on all matters coming before the agency. The agency is managed by an executive secretary.

The committee considered two major options concerning administration:

- 1) Sunset the Department of Liquor Control and create a Division of Liquor Control within the Department of Revenue Services. Replace the three

member part-time commission with the following administrative and adjudicatory personnel:

- a commissioner of revenue services;
- an attorney to act as an adjudicator in contested cases; and
- a division head for the new Division of Liquor Control.

- 2) Sunset the Department of Liquor Control and create a Division of Liquor Control within the Department of Consumer Protection. The three-member part-time commission would be replaced by a five-member volunteer board.

Both options were thoroughly discussed by the committee. While the committee recognized the link between the regulation of alcoholic beverages and the collection of taxes within the Department of Revenue Services, the Department of Consumer Protection was considered to be a more appropriate organizational and functional location.

The Legislative Program Review and Investigations Committee recommends the sunsetting of the Department of Liquor Control and the creation of a Division of Liquor Control within the Department of Consumer Protection. The current three-member part-time commission shall be replaced with a five-member Commission on Alcoholic Beverages. Commission members shall be compensated only for expenses and all shall be public members, with one member an attorney and one member with a background in drug and alcohol abuse services.

The Commission on Alcoholic Beverages shall be responsible for only adjudicating complaints against permittees and advising the Commissioner of Consumer Protection on the promulgation of regulations.

The Department of Consumer Protection shall be responsible for administering the liquor control act.

Based upon the recommendations proposed by the program review committee, the regulation of business and economic practices will continue to be a major concern. The Department of Consumer Protection has experience and expertise in the regulation of business practices. The department regulates a number of business operations and occupations such as pharmacies, real estate brokers and salesmen, accountants, food establishments, bakeries, soda wholesalers and vending machine operators. The department is charged with enforcing legislation intended

to protect the consumer from injury by product use or merchandise deceit. In addition, the department conducts investigations into alleged fraudulent activities, responds to consumer complaints, issues and reviews licenses, and provides consumer information and referral services.

Merging the Department of Liquor Control within the Department of Consumer Protection will result in savings of administrative expenses and personnel. The Department of Liquor Control is an independent agency administered by three department heads. Under the proposed recommendation, the authority to administer the agency--reduced in size as a result of the recommendations to reduce its regulatory workload--will rest with the commissioner of consumer protection. Given its powers and duties, the Department of Consumer Protection is best equipped to handle the regulation of alcoholic beverages.

Under the committee's proposed recommendations, the Commission on Alcoholic Beverages will be responsible for adjudicating violations of the liquor control act and advising the commissioner of consumer protection on regulations. The department will issue and renew permits and establish policy for the Division of Liquor Control. The Commission on Alcoholic Beverages shall consist of five members compensated for expenses only. The committee believes that adding an attorney and an individual with a background in drug and alcohol abuse will strengthen the commission's decision-making process. Changing the compensation for commissioners and reducing the current commissioner's discretionary powers will bring the Commission on Alcoholic Beverages in line with other boards and commissions within the Department of Consumer Protection.

Fiscal Impact

The Department of Liquor Control's appropriated budget for FY 1981-82 is \$950,307 for 50 positions. Within that budget, the following estimate of personnel costs is made.

Agency by Function and Personnel Costs (FY 1981-82)

I. Administration

Personnel: Executive Secretary
Liquor Control Commissioners (3)
Administrative Services Officer II
Associate Accountant
Accountant II
Executive Secretary III
Business Services Officer
Executive Secretary II

Total positions: 10

Cost:		\$229,840
	Plus fringe (34%)	<u>78,145</u>
	Total cost	\$307,985

II. Permit Section

Personnel: Chief of Permit Section
Office Supervisor
Senior Clerks (7)
Clerk Typist (3)
Senior Secretary

Total positions: 13

Cost:		\$162,713
	Plus fringe	<u>55,322</u>
	Total cost	\$218,035

III. Hearing Section

Personnel: Unit Supervisor
Head Clerk
Messenger and Supply Clerk

Total positions: 3

Cost:		\$ 35,348
	Plus fringe	<u>12,018</u>
	Total cost	\$ 47,366

IV. Investigations and Control Section

Personnel: Chief of Section
Supervising Agents - 5
Agents - 17
Senior Clerks - 3

Total positions: 26

Cost:		\$426,983
	Plus fringe	<u>145,174</u>
	Total cost	\$572,157

V. Agency Administrative Expenses \$141,605

The agency's total budget for FY 1981-82, including fringe benefits, is \$1,287,148. Based upon the committee's recommendation there will be a reduction in the department's workload. Table III-1 demonstrates, activity by activity, the reduced involvement of the department in each area. The table divides responsibility between the commissioners and department staff. It compares current involvement with projected involvement resulting from implementation of LPR&IC's recommendations.

It is projected that the primary reductions in workload will come in the areas of brand, bartender and liquor salesman registration; annual inspections; investigations; and disciplinary actions. Based upon the workload reductions in these categories, it is estimated that only the following personnel will be transferred to the Department of Consumer Protection. Listed along with personnel are total costs transferred and projected net savings.

I. Administration: Five volunteer board members
 Executive Secretary
 Secretary
 Administrative Services Officer

Total cost plus fringe \$ 93,471

Projected net savings \$214,513

II. Permit Section: Transfer all current positions

Cost \$218,036

Projected net savings 0

III. Hearing Section: Transfer all current positions

Cost \$ 47,367

Projected net savings 0

IV. Investigation and Control Section: Agents - 12
 Senior Clerk

Cost \$257,971

Projected net savings \$314,185

V. Administrative Expenses (45% reduction)

Cost \$141,605

Projected net savings \$ 63,722

Total Net Agency Savings:	\$592,420
Revenue Lost: (reduced fines, elimination of bar- tender registration and brand registration)	\$147,162
Net General Fund Savings	\$445,258

Table III-1.

MAJOR ACTIVITIES: LIQUOR CONTROL

INVOLVEMENT

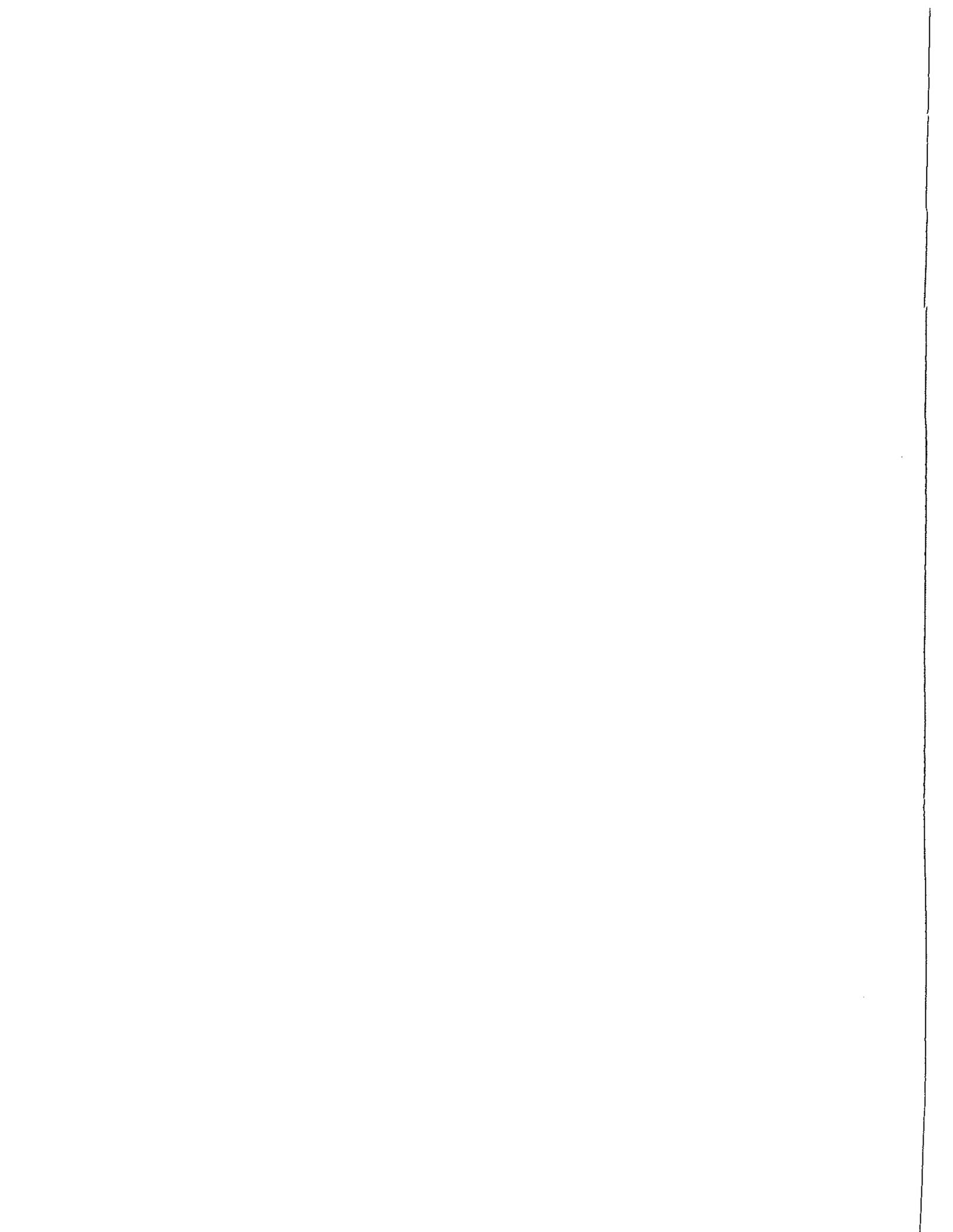
Type of Activity	Current		Projected as Per Committee's Recommendations	
	Commissioners	Staff	Commissioners	Staff
1. Issue Permits	Partial	Full	Minimal	Full; permit consolidation should simplify administration process.
Temporary New (including changes in type, permittee, and owner)	None Full	Full Full	None Minimal	Full
2. Permits renewed	Partial: late renewals only	Full	None	Full
3. Permanent permittee substitutions	Partial	Full	Minimal	Full
4. Registration of Brands	None	Full	None	None
5. Registration of Bartenders and liquor salesmen	Partial	Full	None	None
6. Annual inspections	None	Full	None	Substantial reduction; not required by statute
7. Investigations	None	Full	None	Reduced
New Applications	1,022	Full		Reduced
Substitutions	889	Full		Reduced
Special	215	Full		Full
Removals	103	Full		Full
Minimum price	4	Full		Full
Food check	7	Full		Reduced
Alterations	80	Full		None
Stock transfers/change of ownership	117	Full		Minimal

INVOLVEMENT

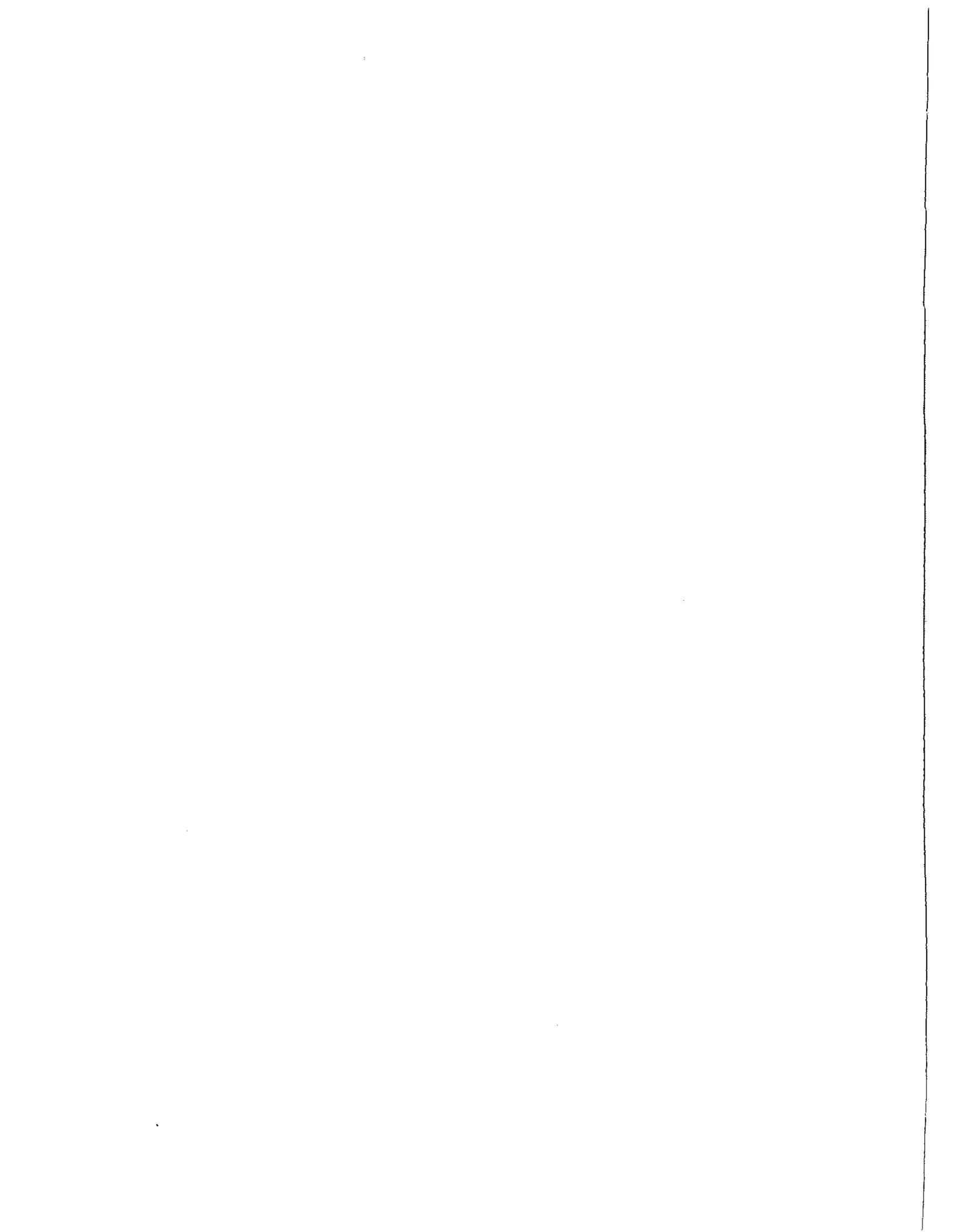
Projected as Per Com-
mittee's Recommendations

Type of Activity	Current			Projected as Per Com- mittee's Recommendations	
	Commissioners	Staff	Staff	Commissioners	Staff
8* Disciplinary actions..... 325	Full	Partial (staff preparation)	Partial	Reduced	Partial
a. Delinquent liquor bills..... 120	Full	Partial	Partial	None	None
b. Failure to receive approval for.... 51 alterations, ownership change, unregistered bartenders, stock transfer, not operating as a restaurant	Full	Partial	Partial	None	None
c. Others (minors, dancers, statutory..154 and regulatory violations)	Full	Partial	Partial	Full	Partial
9. Remonstrance..... 40-45	Full	Staff Preparation	Staff Preparation	Full	Staff Preparation

* Projected estimate - based upon seven months of data.



APPENDICES



APPENDIX A

Permits and Fee Schedule

	<u>FULL YEAR</u>	<u>SIX MONTHS</u>	<u>NIGHT CLUB</u>
ADDITIONAL CONSUMER BAR (NO FILING FEE REQUIRED)	\$ 150.00		
AIRLINE	400.00	\$ 266.67	\$
BOAT	400.00	266.67	
BOWLING ALLEY	2,000.00	1,333.33	
BROKER	160.00	106.67	
CAFE	1,750.00	1,166.67	1,250.00
CHARITABLE ORGANIZATION (PER DAY) (ONLY REQUIRES \$10.00 FILING FEE)	25.00		
CLUB	240.00	160.00	2,760.00
COLISEUM CONCESSION (BEER ONLY)	1,000.00	666.67	3,000.00
COLISEUM	2,000.00	1,333.33	3,000.00
CONCESSION	240.00	160.00	
CONCESSION (ONE DAY)	25.00		
DRUGGIST BEER	85.00	56.66	
DRUGGIST LIQUOR	425.00	283.34	
FARM WINERY	240.00		
GOLF COUNTRY CLUB	800.00	533.13	2,200.00
GROCERY BEER	85.00	56.66	
HOTEL BEER	240.00	160.00	3,000.00
HOTEL LIQUOR			
10,000 OR LESS POPULATION	1,200.00	800.00	3,000.00
50,000 OR LESS POPULATION	1,600.00	1,066.67	3,000.00
50,000 OR MORE POPULATION	2,400.00	1,600.00	3,000.00
MANUFACTURER APPLE BRANDY	320.00	213.33	
MANUFACTURER BEER	800.00	533.33	
MANUFACTURER CIDER	160.00	106.67	
MANUFACTURER LIQUOR	1,600.00	1,066.67	
MILITARY	15.00		
NON-PROFIT PUBLIC ART MUSEUM	200.00	133.33	2,800.00
OUT-OF-STATE SHIPPER (CONNECTICUT)	45.00		
OUT-OF-STATE SHIPPER (OTHER)	1,000.00		
PACKAGE STORE BEER	85.00	56.66	
PACKAGE STORE LIQUOR (INCLUDES ALL TYPES OF LIQUOR)	425.00	283.34	
RAILROAD	400.00	266.67	
RESORT	1,200.00		
RESTAURANT BEER	240.00	160.00	2,760.00
RESTAURANT LIQUOR	1,200.00	800.00	1,800.00
RESTAURANT WINE & BEER	560.00	373.33	2,440.00
SPECIAL CLUB (PER DAY) (ONLY REQUIRES \$10.00 FILING FEE)	25.00		
SPECIAL OUTING FACILITY BEER	240.00		
SPECIAL OUTING FACILITY LIQUOR	1,200.00		
SPECIAL SPORTING FACILITY BAR	300.00	200.00	2,700.00
SPECIAL SPORTING FACILITY CONCESSION	240.00	160.00	2,760.00
SPECIAL SPORTING EMP. REC.	240.00	160.00	2,760.00
SPECIAL SPORTING FACILITY GUEST	240.00	160.00	2,760.00
SPECIAL SPORTING FACILITY RESTAURANT	1,200.00	800.00	1,800.00
TAVERN	240.00	160.00	2,760.00
TEMPORARY ALCOHOL (PER DAY) (ONLY REQUIRES \$10.00 FILING FEE)	25.00		
TEMPORARY BEER (PER DAY) (ONLY REQUIRES \$10.00 FILING FEE)	15.00		
THEATER	200.00	133.33	2,800.00
UNIVERSITY BEER	240.00	160.00	
WAREHOUSE BOTTLING	160.00	106.67	
WAREHOUSE STORAGE	35.00		
WHOLESALE BEER	800.00	533.33	
WHOLESALE LIQUOR	2,400.00	1,600.00	

APPENDIX B

Disciplinary Actions: Department of Liquor Control

The accompanying data gives a breakdown of disciplinary actions by violation. It also indicates the type of procedure and outcome of each violation. The period covered is from November 1980 to May 1981. In addition, a map indicating in which town an action was taken is attached.

Summary of Disciplinary Actions

Total Violations.....	190
Hearings.....	82
Compliance Meetings.....	93
Total Fines.....	\$ 36,719
Most common violation: Delinquent liquor bills....	70

Month - November 1980

Disciplinary Action

<u>Violation</u>	<u>Hearing</u>	<u>Compliance Meeting</u>	<u>Fine</u>	<u>Suspension</u>	<u>Revocation</u>
Exercise of ownership before approval and alterations without approval		x	\$500		
Sale to minor and disturbance		x	250		
Indecent performance		x	500		
Failure to return permit upon change of ownership		x	250		
Altered premises; unregistered bartenders and failure to keep records on premises		x	250		
Sale to minor		x	250		
Transfer or sale of corporate stock without approval		x	250		
Delinquent liquor bills	Reopened/ Paid				
Delinquent liquor bills	Reopened/ Paid				
Delinquent liquor bills	Reopened/ Paid				
<u>December 1980</u>					
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x

Month -- November 1980

Disciplinary Action

<u>Violation</u>	<u>Hearing</u>	<u>Compliance Meeting</u>	<u>Fine</u>	<u>Suspension</u>	<u>Revocation</u>
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Indecent Performance and Failure to Cooperate		x	\$2,000		
Gambling on Premises		x	500		
Sale to Minor	x		500		
Not operating as a restaurant and dancer mingling with patrons		x	250		
Offering Discounts		x		5 days (Abeyance)	
Failure to get Department of Liquor Control permission on ownership change		x	250	5 days	
Sale to minor	x				
Minor loitering and off-premise consumption		x	250		
Sale intoxicated persons and after hours		x	250		
Delinquent liquor bills	Reopened/ Paid				
Off-premise consumption sale by on premise consumption permittee		x	250		

December - 1980

Disciplinary Action

Violation	Disciplinary Action				
	Hearing	Compliance Meeting	Fine	Suspension	Revocation
Failure to comply with Department of Liquor Control order	x			5 days (abeyance)	
Minor loitering	x				
Selling to minors	x		\$3,669		
Retailing selling/buying from or to unauthorized business entity		x	250		
Gambling on premises		x	250		
Indecent performance		x	500		
Failure of permittee to devote entire time to permit premises		x	250		
Sale to minor		x	250		
Allowing entertainer to mingle with patrons and refusing to cooperate with police	x		250		
Failure to return permit upon change of ownership		x	250		
Sale to minor		x	250		
Sale to minor		x	250		
Failure to notify Department of Liquor Control of change of ownership; permittee not on premises majority of hours open; unregistered bartenders		x	250		
Delinquent liquor bills					Reopened/ Paid

December - 1980

Disciplinary Action

Violation	Compliance		Fine	Suspension	Revocation
	Hearing	Meeting			
Delinquent Liquor Bills					
Failure to return permit upon change of ownership; new owner exercising control prior to Department of Liquor Control approved		x	250		
Delinquent liquor bills	Reopened/ Paid				
Disorderly conduct	Charge Dismissed				
Selling to intoxicated persons	Charge Dismissed				
<u>January 1981</u>					
Delinquent liquor bills	x				x
Failure to cooperate; fail to appear at hearing; applying for renewal without fire marshal approval	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x

January - 1981

Disciplinary Action

Violation	Hearing	Compliance Meeting	Fine	Suspension	Revocation
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	Reopened/ Paid				
Delinquent liquor bills	Reopened/ Paid				
Sale to minor	x			5 days (abeyance)	
Sale for off-premise consumption by cafe			250		
Sale to minors		x	500		
Business not conducted as restaurant as required by permit		x	250		
Fire safety code; failure to cooperate with fire marshal		x	250		
Failure to notify Department of Liquor Control on transfer of corporate stock; failure to return permit		x			
Selling to business entity not within permit authorization		x	250		
Indecent dancers		x	1500		
Sale to minor		x	250		
Failure to notify Department of Liquor Control of permittee termination; failure to devote entire time to permit business		x	250		

January - 1981

Disciplinary Action

<u>Violation</u>	<u>Hearing</u>	<u>Compliance Meeting</u>	<u>Fine</u>	<u>Suspension</u>	<u>Revocation</u>
Failure to devote full time to permit business; failure to notify Department of Liquor Control of permittee termination			250		
Failure to notify Department of Liquor Control of change of ownership			250		
Giving away free gifts, prizes, coupons, premiums or other articles of value to a consumer	Indefinitely Postponed				
Indecent performance		x	500		
Sale to minor		x	250		
Transfer of corporate stock without Department of Liquor Control approval		x	250		
Delinquent liquor bills	Indefinitely Postponed				
Delinquent liquor bills	Indefinitely Postponed				
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
<u>February - 1980</u>					
Delinquent liquor bills	x				x

February - 1981

Disciplinary Action

Violation	Hearing	Compliance Meeting	Fine	Suspension	Revocation
Failure to appear	x				x
Delinquent liquor bills	Indefinitely Postponed/Paid				
Delinquent liquor bills	Indefinitely Postponed/Paid				
Delinquent liquor bills	Indefinitely Postponed/Paid				
Sale to a minor		x	250		
Failure to notify Department of Liquor Control of permittee termination and submit substitute permittee application		x	250		
Failure to maintain minimum mark-up price		x	500		
Gambling		x	250		
Transfer of corporate stock without Department of Liquor Control approval		x	250		
Transfer of corporate stock without Department of Liquor Control approval		x	500		
Failure to cover beer in grocery store after prohibited hours		x	250		
Failure to return permit upon change of ownership		x	250		
Delinquent liquor bills	Indefinitely Postponed/Paid				
Delinquent liquor bills	x				x

March - 1981

Disciplinary Action

<u>Violation</u>	<u>Hearing</u>	<u>Compliance Meeting</u>	<u>Fine</u>	<u>Suspension</u>	<u>Revocation</u>
Indecent performances	x		500		
Failure to appear at hearing		x	250		
Transfer of corporate stock without approval		x	250		
Sale after legal hours		x	250		
Sale to minor		x	250		
Convicted of illegal gambling		x	500		
Transfer of corporate stock without approval		x	250		
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Failure to notify Department of Liquor Control of permittee termination and submit substitute permittee application		x	250		
Sale to minor		x	250		
Consumption of liquor during prohibited hours	x			5 days (abeyance)	
Indecent performances	x		500		
Sale of liquor by on-premise permittee for off-premise consumption; refusal to cooperate with police; sale after hours	x		300		
Delinquent liquor bills	Reopened/ Paid				x

March - 1981

Disciplinary Action

<u>Violation</u>	<u>Hearing</u>	<u>Compliance Meeting</u>	<u>Fine</u>	<u>Suspension</u>	<u>Revocation</u>
Delinquent liquor bills	x				
Retail permittee purchasing liquor from other than a wholesaler					x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills; lottery permit revoked	x				x
Failure to return permit upon change of ownership		x	250		
Transfer of corporate stock without approval	Indefinitely Postponed				
Sale of liquor during prohibited hours		x			x
Delinquent liquor bills	x				
Sale during prohibited hours; unregistered bartenders		x	250		
Failure to notify Department of Liquor Control of permittee termination and filing of application for substitute permittee		x	250		
Sale of liquor on Sunday; sale to minors		x	250		
Failure to return permit upon change of ownership		x	250		
Failure to return permit upon change of ownership		x	250		

March - 1981

Disciplinary Action

<u>Violation</u>	<u>Hearing</u>	<u>Compliance Meeting</u>	<u>Fine</u>	<u>Suspension</u>	<u>Revocation</u>
Failure to return permit upon change of ownership		x	250		
Transfer of corporate stock without approval		x	250		
Permitting unlawful conduct upon premises and failure to cooperate with police		x	750		
Sale to minor		x	250		
Failure to return permit upon change of ownership		x	250		
<u>April - 1980</u>					
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Failure to obtain local fire marshal approval upon permit renewal; failure to cooperate with Department of Liquor Control	x				
Sale to minor; minor loitering		x	500		
Delinquent liquor bills	x				
Delinquent liquor bills					Indefinitely Postponed/Paid
Delinquent liquor bills					Reopened/Paid
Delinquent liquor bills					Reopened/Paid

April - 1981

Disciplinary Action

<u>Violation</u>	<u>Hearing</u>	<u>Compliance Meeting</u>	<u>Fine</u>	<u>Suspension</u>	<u>Revocation</u>
Delinquent liquor bills	Reopened/ Paid				
Delinquent liquor bills	Indefinitely Postponed/ Paid				
Delinquent liquor bills	Reopened/ Paid				
Delinquent liquor bills	Reopened/ Paid				
Sale to minor		x	250		
Failure to appear for hearing; failure to renew permit	x				
Altered premises without permission; no meeting room as required by permit		x	250		
Officer of corporation arrested on narcotics charge		x	250		
Altered premises without permission		x	250		
Failure to return permit upon change of ownership		x	250		
Delinquent liquor bills	Reopened/ Paid				
Sale to minor		x	250		
Sale to minor		x	250		

April - 1981

Disciplinary Action

<u>Violation</u>	<u>Hearing</u>	<u>Compliance Meeting</u>	<u>Fine</u>	<u>Suspension</u>	<u>Revocation</u>
Allowing minor to loiter; failure to return permit upon change of ownership; indecent performances; entertainer mingling with patrons		x	500		
Failure to return permit upon change of ownership		x	500		
Unlawful conduct upon premises		x	250		
Sale to minor		x	250		
Indecent performances; entertainer mingling with patrons		x	750		
Sale to minor; sale during prohibited hours; no storage facility		x	500		
<u>May - 1980</u>					
Failure to appear at hearing; failure to return permit upon change of ownership	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Delinquent liquor bills	x				x
Unregistered bartenders; unsuitable person employed on permit premises; refusal to cooperate with Department of Liquor Control		x	250		

May - 1981

Disciplinary Action

<u>Violation</u>	<u>Hearing</u>	<u>Compliance Meeting</u>	<u>Fine</u>	<u>Suspension</u>	<u>Revocation</u>
Failure to cooperate with police		x	250		
Failure to cooperate with Department of Liquor Control; failure to file application for substitute permittee; failure to have proper rubber stamp		x	250		
Transfer of corporate stock without approval		x	250		
Sale to intoxicated persons; sale for off-premise consumption; allowing intoxicated persons to loiter		x	250		
Delinquent liquor bills	Reopened/ Paid				
Failure to appear for hearing; delinquent liquor bills	Reopened		250		
Delinquent liquor bills	Reopened Paid				
Delinquent liquor bills	Reopened Paid				
Delinquent liquor bills	Reopened Paid				
Sale to minor		x	250		
Sale to minor; allowing minor to loiter		x	250		
Unregistered bartenders; no up-to-date coil cleaning record; selling liquor contrary to class of permit held; no records on premises; failure to obtain permission to records off premises; fail to maintain safe and secure storage facility		x	250		

May - 1981

Disciplinary Action

<u>Violation</u>	<u>Hearing</u>	<u>Compliance Meeting</u>	<u>Fine</u>	<u>Suspension</u>	<u>Revocation</u>
Unregistered bartender; unlawful conduct upon permit premises		x	250		
Failure to keep age statement forms; having live entertainment without Department of Liquor Control permission; failure to have suitable signs identifying permit type; failure to notify Department of change in trade name; failure of permittee to devote full-time to business; refusal to cooperate with police; failure to return permit to Department; new ownership exercising control prior to Department approval		x	500		
Operating not as a restaurant; altered premises without approval; having amusement devices without approval		x	250		
Sale to minor; minor loitering		x	250		
Failure to appear for hearing	x				x
Refusal to cooperate with police	x			5 days	
Delinquent liquor bills	x				x
Sale to minor		x	250		
Sale to minor		x	250		
Failure to notify Department of Liquor Control of change in permittee and change in corporate officers		x	250		

APPENDIX C

The Regulation of Lewd Conduct of Permit Premises

I. Introduction

Free expression is constitutionally guaranteed by the First Amendment. However, expressions that are obscene, (whether or not in the context of the regulation of alcoholic beverages) do not receive First Amendment protection and may be prohibited and subject to criminal penalties. In the context of the regulation of the sale and distribution of alcoholic beverages, the state's power under the Twenty-First Amendment is broader and may prohibit, on licensed premises, behavior which otherwise might not be obscene or protected by the First Amendment. (Inturri v. Healy, 426 F Supp 543 (1977.)

II. Obscenity statutes (C.G.S. Sec. 53a-193-53a-210)

- A. Definition - A "material" or a dance or other exhibition performed before an audience is obscene if as a whole, its predominate appeal is to a prurient interest in nudity, sex, sadism, etc., it goes beyond customary limits of candor, and it is without redeeming social value.
- B. Penalty - It is a Class B misdemeanor to be guilty of promoting any obscene material or performance when knowing its content and character. The court shall fix a term of imprisonment not to exceed six months and a fine not to exceed \$1,000. An injunction may be granted.

III. Department of Liquor Control Regulations (Sec. 30-6-A-24)

- A. Prohibited conduct - The following conduct of permit premises, which generally relates to lewdness, is prohibited:
- the employment or use of a person who is unclothed or has specified parts of the body exposed;
 - the contact of specified parts of another's body by a person over whom the permittee can reasonably exert control;
 - a person's or employee's wearing of a device or covering that simulates specified parts of the body;
 - live entertaining without prior written permission;
 - entertainment performed on the bar;

- the performance of specified acts or simulated sex acts;
- allowing a person or entertainer, who exposes specified parts of the body, to remain on the premises;
- entertainer's performance in more than one location;
- entertainer's mingling with patrons, except if waived upon written request;
- showing reproductions (i.e. films) depicting specified acts or parts of the body, or artificial devices employed to portray prohibited activities.

Gambling, loitering, disturbances, employing a minor without parental or guardian consent, and installing amusement devices are also prohibited.

B. Penalty - A permit may be suspended or revoked for such violations. (C.G.S. Sec. 30-55.) An offer in compromise (money) may be submitted, if permitted by the department, as an alternative. (C.G.S. Sec. 30-58; Regs. Sec. 30-6-A8.)

IV. Local Regulation

Towns have general powers to regulate in this area. For example, towns which have a charter may define, prohibit and abate nuisances and all things detrimental to health, morals, safety, convenience and welfare of inhabitants. They may regulate the mode of using any buildings when such regulations promote safety, health, morals and general welfare of inhabitants. Such towns may also prohibit businesses which are prejudicial to public health or dangerous or an unreasonable annoyance to those living or owning property in the vicinity. (C.G.S. Sec. 7-194.)

East Hartford, under its police powers, regulates the location of dance halls (i.e. distance from schools) and the people who own or operate such dance halls by licensing), and controls their structures (i.e. distance between performance area and patrons, separate bathrooms, and railway around stage). The town, however, does not regulate conduct because it does not want to get involved in the grey area of what is or is not protected conduct. The authority of the town to regulate these areas has not as yet been challenged.

One town noted that the broader the grant of authority to a town, the more restrictive courts are in their interpretation.

V. Options

- A. Deregulate conduct of permit premises - The conduct of permit premises could be deregulated. The conduct of permittees would still be regulated to some extent by the obscenity laws, towns, and the market place. For example, towns such as Greenwich and Stamford informed staff that they have no problem with lewd conduct and no need for local ordinance or zoning preclusions because the market place does not support such conduct.

The degree of regulation would, however, be reduced. Conduct which did or did not meet the statutory definition of obscenity could no longer be prohibited conduct under regulations.

- B. Deregulate conduct of permit premises and grant towns specific statutory authority to regulate in this area - In addition to the above option, towns could be given specific statutory authority to regulate lewd conduct of permit premises. Towns could exercise their specific authority to regulate such lewd conduct through injunctions and fines if they perceived such conduct to be a problem. While towns already have some authority in this area, one town noted that the broader the grant of authority, the more restrictive courts are in its interpretation. In addition, obscenity laws and the market place would still play a part in both towns that chose to regulate and towns that did not choose to regulate under their specific authority.

Towns, however, may not have the sophistication or resources to regulate properly even if given specific authority. In addition, towns may be reluctant to get into the grey area of what is constitutionally protected conduct.

- C. Transfer authority over the regulation of conduct of permit premises to the Department of Revenue Services if the Department of Liquor Control is to be sunsetted - The Department of Liquor Control's authority over a permit premise's lewd conduct could be transferred to the Department of Revenue Services. The status quo would be maintained under this option. Permits could be suspended or revoked or an offer of compromise submitted. Conduct which fell within the statutory definition of obscenity would be covered by the obscenity laws and in some instances would also be covered by departmental regulations. In addition, conduct which did not meet such statutory definition may still be covered by departmental regulations.

Moreover, proof of regulatory violations would probably be easier than proof of statutory violations. To prove a violation of the current regulations, it must be shown by a preponderance of the evidence that the prohibited conduct took place. For a person to be guilty of obscenity, the conduct must beyond a reasonable doubt be shown to have taken place and to meet the three factors set forth in the obscenity definition.

APPENDIX D

PROPOSED PERMIT CONSOLIDATION

On-premise retailer

MILITARY
NON-PROFIT PUBLIC ART MUSEUM
ADDITIONAL CONSUMER BAR
(NO FILING FEE REQUIRED)
AIRLINE
BOAT
BOWLING ALLEY

CAFE
CHARITABLE ORGANIZATION (PER DAY)
(ONLY REQUIRES \$10.00 FILING FEE)
CLUB
COLISEUM CONCESSION (BEER ONLY)
COLISEUM
CONCESSION
RAILROAD
RESORT
RESTAURANT BEER
RESTAURANT LIQUOR
RESTAURANT WINE & BEER
HOTEL BEER
HOTEL LIQUOR
10,000 OR LESS POPULATION
50,000 OR LESS POPULATION
50,000 OR MORE POPULATION

GOLF COUNTRY CLUB

SPECIAL OUTING FACILITY BEER
SPECIAL OUTING FACILITY LIQUOR
SPECIAL SPORTING FACILITY BAR
SPECIAL SPORTING FACILITY CONCESSION
SPECIAL SPORTING EMP. REC.
SPECIAL SPORTING FACILITY GUEST
SPECIAL SPORTING FACILITY RESTAURANT
TAVERN
THEATER
UNIVERSITY BEER

Wholesaler

WAREHOUSE BOTTLING
WAREHOUSE STORAGE
WHOLESALE BEER
WHOLESALE LIQUOR

BROKER

Manufacturer and/or supplier

MANUFACTURER APPLE BRANDY
MANUFACTURER BEER
MANUFACTURER CIDER
MANUFACTURER LIQUOR

OUT-OF-STATE SHIPPER (CONNECTICUT)
OUT-OF-STATE SHIPPER (OTHER)
FARM WINERY

Off-premise retailer

PACKAGE STORE LIQUOR

DRUGGIST LIQUOR
GROCERY BEER

Temporary permit

TEMPORARY ALCOHOL (PER DAY)
(ONLY REQUIRES \$10.00 FILING FEE)
TEMPORARY BEER (PER DAY)
(ONLY REQUIRES \$10.00 FILING FEE)
SPECIAL CLUB (PER DAY)
CONCESSION (ONE DAY)

