

May towns regulate “bring-your-own-beverage” establishments?

Some restaurants that do not have liquor licenses allow customers to bring their own alcoholic beverages (“BYOB”). Most Vermont municipalities have chosen *not* to regulate these establishments.

Generally, Vermont municipalities may grant liquor licenses of various classes to establishments that serve or sell liquor. 7 V.S.A. § 161. The various classes are broken up in a few ways. For example, a first class license would allow the license holder to sell alcoholic beverages for consumption only on the licensed premises. A second class license would allow the license holder to sell packaged beverages for off-premise consumption. The other licenses are beyond the scope of this article.

In the context of “bring-your-own,” there is no liquor license required because no liquor is being sold on the premises. It is, in fact, brought to the premises. However, the consumption of alcohol in a public place may warrant regulation, particularly because of alcohol’s association with social problems such as drunken driving, public disorder, and so on.

If your municipality decides to explore regulating BYOB establishments, it should first look to its authority to craft regulations that promote the general health, safety, and welfare of the town. 24 V.S.A. § 2291. More specifically, it may “... regulate, license, ... or prohibit ... entertainments ... for which money is received.” 24 V.S.A. § 2291 (11). Municipalities may view BYOB restaurants, clubs and establishments as an “entertainment” of sorts and may regulate them as such through an entertainment ordinance.

A final note: When determining how to permit BYOB establishments, there are some general rules that towns may not change: (1) the drinking age in Vermont is 21 and no alcohol may be furnished to minors on the premises, and (2) no one under 18 may be a waiter or waitress serving alcoholic beverages.

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