



## Legislation Text

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File #: 18-870B, Version: 1

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### **CITY COUNCIL AGENDA ITEM**

#### **ACTION REQUESTED:**

Pass the ordinance amending Section 3-3-11 of the Naperville Municipal Code increasing the serving limitation of the Class S - Specialty Wine Shop and Class P - Manufacturer licenses as well as modifying the Class P license by removing the manufactured on-premises restriction and increasing the number of available marketing permits

**DEPARTMENT:** Legal Department

**SUBMITTED BY:** Jennifer Lutzke, Senior Assistant City Attorney

#### **BOARD/COMMISSION REVIEW:**

On September 6, 2018, the Liquor Commission voted unanimously to recommend a liquor code text amendment increasing the serving limitation of the Class S - Specialty Wine Shop and modifying the Class P - Manufacturer classification.

#### **BACKGROUND:**

##### **Class P - Manufacturer**

The Class P - Manufacturer license allows for local craft beer, cider, wine, and distilled spirit manufacturers to include a retail component onsite to offer their craft beer and cider for retail sale, both for consumption on-premises and off-premises (package sales). At present, there are two Class P licensees: Solemn Oath Brewery and 2 Fools Cider, both located on Quincy Ave. On August 21, 2018, City Council raised the Class P liquor license cap to allow for three Class P licensees; there is one Class P license available.

The Class P license restricts on premises consumption to no more than three servings per person, per day and limits retail sale to craft beer, cider, wine, and distilled spirits manufactured on premises.

Class P licensees are also eligible to apply for a Marketing Event permit. The Marketing Event permit allows for a one (1) day, for profit, marketing event twice per year.

On August 13, 2018, Governor Rauner signed a new state law, Public Act 100-0816, which amended the Liquor Control Act of 1934 to allow breweries to purchase beer and cider from either a wholesaler or self-distributing brewery and sell it in their taprooms. The new state law also creates a Brewer Warehouse Permit, which allows breweries to transfer and store a fixed amount of beer at an offsite warehouse.

##### **Class S - Specialty Wine Shop**

The Class S - Specialty Wine Shop allows for the retail sale of wine in its original package for off-

premises consumption and on-premises consumption of a maximum of 12 ounces of wine per person, per day. There are four current Class S licensees: Cooper's Hawk Winery & Restaurant, 1740 Freedom Drive; Le Chocolat du Bouchard, 127 S. Washington Street; SixtyFour - A Wine Bar, 123 Water Street, Suite 105A; and Tasting deVine Cellars, 21 West Jefferson Street.

## **DISCUSSION:**

### **Class P - Manufacturer**

In 2012, Solemn Oath opened in the industrial park located at Quincy Avenue. Since its opening, Solemn Oath has experienced significant growth. Its production has increased from 1000 BBLs (1 BBL = 31 US gallons) to 7500 BBLs. In 2018, it was one of the top ten largest craft breweries in the state and currently employs twenty-five people.

Recently Solemn Oath appeared before the Liquor Commission and requested several changes to the Class P liquor license it holds including:

- Removal of the limitation restricting retail sale to craft beer only manufactured on-site. Removal of that restriction would mirror the change in state law. Solemn Oath requested removal of the restriction because it needs flexibility to move beer through either secondary facilities or through contract brewing agreements. It anticipates that it may move production of Snaggletooth Bandana, its number one brand, offsite to free up tank space at its facility. Without the requested change to the ordinance, Solemn Oath would not be able to serve this product in their taproom if it were not manufactured on-site.
- Removal of the consumption limitation of three servings (48 ounces) of beer per person, per day. There are currently forty other "tap rooms" in Illinois, but only two outside of Naperville (Downers Grove and Elk Grove Village) have consumption limitations. Solemn Oath contends that it is at a competitive disadvantage due to lost revenue from the consumption limitation; it is unable to host corporate events, weddings, and or rehearsal dinners. If the serving cap is removed, Solemn Oath is committed to guarding against over service using BASSET trained servers, similar to the City's other on-premise license holders.
- Increasing the number of Marketing Event Permit available annually from 2 to 12. Currently, Solemn Oath has an annual anniversary party, Oath Day, that approximately 2,000 people attend. The event is held at the brewery, on private property, by using a fenced off portion of the parking lot. Solemn Oath also holds an Oktoberfest event with approximately 600 attendees. This event is held in front of the tap room at the brewery. If Solemn Oath's request for an increase in the number of available Marketing Event Permits is granted, they indicated that they would like to hold an auto show and farmer's market.

The Liquor Commission voted unanimously to recommend Solemn Oath's requests to City Council for approval.

On October 16, 2018, City Council conducted the first reading of the amendments to the Class P license classifications. Council directed staff to work with the existing Class P license holders to incorporate food requirements, a limitation on the number of non-manufacturer types of craft beer and cider that could be offered for sale, and location restrictions.

After meeting with the Class P license holders, the following revisions have been incorporated into the Class P amendment:

- Requirement that 75% of the craft beer and cider or wine offered for retail sale be labeled by the manufacturer;
- Requirement that prepared food be provided during permitted Marketing Events (neither Solemn Oath nor Too Fools Cider have equipped kitchens so daily food service is not feasible under their current business models - although they do often have food trucks in their parking lot)
- Clarifications primarily regarding the sale of cider including: (1) that license holders may sell beer and cider; (2) increases in serving sizes consistent with other liquor licenses; and (3) clean-up of redundant language regarding liquor service and hourly restrictions.
- Due to Class P licenses being capped, a premises location restriction is not recommended. City Council may control the appropriateness of future Class P locations on a case-by-case basis.

### **Class S - Specialty Wine Shop**

The Class S - Specialty Wine Shop was initially created for Tasting deVine Cellars (“Tasting deVine”). At the time that the license classification was created, Tasting deVine was primarily engaged in the sale of gift baskets. As Tasting deVine evolved, its primary focus shifted to the sale of wine. Tasting deVine also sells cold food products such as cheese and dried meat plates to pair with wine.

On September 6, 2018, Tasting deVine petitioned the Liquor Commission requesting an increase in the on-premises maximum serving limitation from 12 ounces to 18 ounces of wine. Since glasses of wine are served in 6 ounce containers, it is essentially a request for an increase from a maximum of two glasses of wine to three glasses of wine. Tasting deVine explained that the increased serving limitation is necessary to generate more business.

The Liquor Commission voted unanimously to recommend raising the serving limitation to 18 ounces to City Council for approval. Minutes from the September 6, 2018 (draft, unapproved) Liquor Commission meeting are attached.

On October 16, 2018, City Council conducted the first reading of the amendment to the Class S liquor license classification without expressing any concerns of this proposed change.

### **FISCAL IMPACT:**

This ordinance will have a fiscal impact associated with the increased revenue received from associated sales tax.