

# VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

## CHAPTER 105

*An Act to amend and reenact § 4.1-325 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 4.1-325.1, relating to alcoholic beverage control; prohibited acts by retail licensees; penalty.*

[H 249]

Approved March 4, 2002

**Be it enacted by the General Assembly of Virginia:**

**1. That § 4.1-325 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-325.1 as follows:**

§ 4.1-325. Prohibited acts by mixed beverage licensees; penalty.

A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

1. Sell or serve any alcoholic beverage other than as authorized by law;
  2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
  3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this title;
  4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;
  5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;
  6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except in a frozen drink dispenser of a type approved by the Board and in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine;
  7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage;
  8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;
  9. Remove or obliterate any label, mark or stamp affixed to any container of alcoholic beverages offered for sale;
  10. Deliver or sell the contents of any container if the label, mark or stamp has been removed or obliterated;
  11. Allow any immoral, lewd, obscene, indecent or profane conduct, language, literature, pictures, performance or materials on the licensed premises;
  12. Allow any striptease act, or the like on the licensed premises;
  13. Allow persons connected with the licensed business to appear nude or partially nude;
  14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty *and in a position that is involved in the selling or serving of alcoholic beverages to customers.*
- The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 g of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;*
15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-210;
  16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;
  17. Conceal any sale or consumption of any alcoholic beverages;
  18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;
  19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;
  20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling; or
  21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine or apparatus.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.  
§ 4.1-325.1. *Prohibited acts by employees of wine or beer licensees; penalty.*

*A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.*

*The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 g of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.*

*B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be agents of the retail wine or beer licensee.*

*C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed \$500.*