

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 420

An Act to amend and reenact § 4.1-222 of the Code of Virginia, relating to alcoholic beverage control; conditions under which the Board may refuse to grant licenses.

[H 786]

Approved April 2, 2002

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-222 of the Code of Virginia is amended and reenacted as follows:

§ 4.1-222. Conditions under which Board may refuse to grant licenses.

A. The Board may refuse to grant any license if it has reasonable cause to believe that:

1. The applicant, or if the applicant is a partnership or association, any partner or member thereof, or if the applicant is a corporation, any officer, director, or manager thereof or shareholder owning ten percent or more of its capital stock:

a. Is not twenty-one years of age or older;

b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude under the laws of any state, or of the United States;

c. Has been convicted, within the five years immediately preceding the date of the application for such license, of a violation of any law applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;

d. Is not a person of good moral character and repute;

e. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed;

f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business proposed to be licensed;

g. Has maintained a noisy, lewd, disorderly or unsanitary establishment;

h. Has demonstrated, either by his police record or by his record as a former licensee of the Board, a lack of respect for law and order;

i. Is unable to speak, understand, read and write the English language in a reasonably satisfactory manner;

j. Is a person to whom alcoholic beverages may not be sold under § 4.1-304;

k. Has the general reputation of drinking alcoholic beverages to excess or is addicted to the use of narcotics;

l. Has misrepresented a material fact in applying to the Board for a license;

m. Has defrauded or attempted to defraud the Board, or any federal, state or local government or governmental agency or authority, by making or filing any report, document or tax return required by statute or regulation which is fraudulent or contains a false representation of a material fact; or has willfully deceived or attempted to deceive the Board, or any federal, state or local government, or governmental agency or authority, by making or maintaining business records required by statute or regulation which are false and fraudulent;

n. Is violating or allowing the violation of any provision of this title in his establishment at the time his application for a license is pending;

o. Is a police officer with police authority in the political subdivision within which the establishment designated in the application is located;

p. Is physically unable to carry on the business for which the application for a license is filed or has been adjudicated incapacitated; or

q. Is a member, agent or employee of the Board.

2. The place to be occupied by the applicant:

a. Does not conform to the requirements of the governing body of the county, city or town in which such place is located with respect to sanitation, health, construction or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulation;

b. Is so located that granting a license and operation thereunder by the applicant would result in violations of this title, Board regulations, or violation of the laws of the Commonwealth or local ordinances relating to peace and good order;

c. Is so located with respect to any church; synagogue; hospital; public, private or parochial school, college or university; public or private playground or other similar recreational facilities; or any state, local or federal government-operated facility, that the operation of such place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities or institutions;

d. Is so located with respect to any residence or residential area that the operation of such place

under such license will adversely affect real property values or substantially interfere with the usual quietude and tranquillity of such residence or residential area; or

e. Under a retail on-premises license is so constructed, arranged or illuminated that law-enforcement officers and special agents of the Board are prevented from ready access to and reasonable observation of any room or area within which alcoholic beverages are to be sold or consumed.

3. The number of licenses existent in the locality is such that the granting of a license is detrimental to the interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall consider the (i) character of, population of, the number of similar licenses and the number of all licenses existent in the particular county, city or town and the immediate neighborhood concerned; (ii) effect which a new license may have on such county, city, town or neighborhood in conforming with the purposes of this title; and (iii) objections, if any, which may have been filed by a local governing body *or local residents*.

4. There exists any law, ordinance, or regulation of the United States, the Commonwealth or any political subdivision thereof, which warrants refusal by the Board to grant any license.

5. The Board is not authorized under this chapter to grant such license.

B. The Board may refuse to grant any retail wine and beer license, retail beer license or retail wine or winery license to any person who has not resided in the Commonwealth for at least one year immediately preceding application therefor, or to any corporation a majority of the stock of which is owned by persons who have not resided in the Commonwealth for at least one year immediately preceding application therefor, unless refusal to grant the license would in the opinion of the Board substantially impair the transferability of the real property upon which the licensed establishment would be located.