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HOUSE BILL NO. 784

Offered January 9, 2002

Prefiled January 9, 2002

A BILL to amend and reenact § 4.1-111 of the Code of Virginia, relating to conditions under which the Board may refuse to grant licenses; ABC.

Patrons—Jones, D.C., Baskerville and Miles; Senator: Lambert

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 4.1-111 of the Code of Virginia is amended and reenacted as follows:**

§ 4.1-111. Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations which:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within thirty days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Establish, pursuant to authority of the Board to grant licenses in Article 2 of Chapter 2 of this title (§ 4.1-206 et seq.), a reasonable limitation on the number and type of licensed establishments in any given area, taking into account, among other things, the character and population of the immediate neighborhood, the effect that a new license may have on the neighborhood in conforming to the purposes of this title, historical information regarding alcohol sales in that area, the sufficiency of licensed establishments to serve the populace, and concerns that have been raised by local government or citizens.

C. The Board may promulgate regulations which provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no

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59 profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit
60 with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be
61 limited to two events per year for each applicant.

62 D. Board regulations shall be uniform in their application, except those relating to hours of sale for
63 licensees.

64 E. Courts shall take judicial notice of Board regulations.

65 F. The Board's power to regulate shall be broadly construed.

66 **2. That the Board shall promulgate regulations to implement the provisions of this act to be**
67 **effective within 280 days of its enactment.**