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SENATE BILL NO. 798

Offered January 8, 2003

Prefiled January 6, 2003

A BILL to amend and reenact §§ 4.1-132, 4.1-207, 4.1-212, and 4.1-238 of the Code of Virginia, relating to alcoholic beverage control; wine licenses; off-premises bonded warehouses.

Patron—Reynolds

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-132, 4.1-207, 4.1-212, and 4.1-238 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-132. Transportation into or within Commonwealth under internal revenue bond and holding in warehouses; release.

A. Alcoholic beverages may be transported into the Commonwealth under United States internal revenue bonds and be held in the Commonwealth in United States internal revenue bonded warehouses. Alcoholic beverages may be removed from any such warehouse, wherever situated, to such a warehouse located in the Commonwealth and be held in the Commonwealth.

B. *Alcoholic beverages may be transported within the Commonwealth under United States internal revenue bonds and be held in United States internal revenue bonded warehouses. Alcoholic beverages may be removed from any such warehouse and transported to a winery or farm winery licensee in accordance with § 4.1-207.*

C. Alcoholic beverages so transported or removed to such warehouses in the Commonwealth shall be released from internal revenue bonds in the Commonwealth only on permits issued by the Board for delivery to (i) boats engaged in foreign trade, trade between the Atlantic and Pacific ports of the United States, or trade between the United States and any of its possessions outside of the several states and the District of Columbia or; (ii) installations of the United States Department of Defense; or (iii) holders of permits issued in accordance with subdivision 14 of § 4.1-212.

§ 4.1-207. Wine licenses.

The Board may grant the following licenses relating to wine:

1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee, and (ii) *store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board.*

2. Wholesale wine licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3. Wine importers' licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the licensee to sell wine at the place of business designated in the winery license, in closed containers, for off-premises consumption and to deliver or ship the wine to the purchasers in accordance with Board regulations.

5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing eighteen percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale or retail for the purpose of resale, § 4.1-326 notwithstanding, or (iii) persons outside the

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59 Commonwealth. In addition, the licensee may (i) acquire and receive deliveries and shipments of wine
60 manufactured by the licensee and to sell and deliver or ship this wine, in accordance with Board
61 regulations, to persons licensed to sell wine in the Commonwealth, § 4.1-326 notwithstanding *and* (ii)
62 *store wine in bonded warehouses located on or off the licensed premises upon permits issued by the*
63 *Board.* For the purposes of this title, a farm winery license shall be designated either as a Class A or
64 Class B farm winery license in accordance with the limitations set forth in § 4.1-219.

65 Such licenses shall also authorize the licensee to sell wine at retail at the places of business
66 designated in the licenses, which may include no more than two additional retail establishments of the
67 licensee. Wine may be sold at these business places for on-premises consumption and in closed
68 containers for off-premises consumption, including delivery and shipment of such wine to purchasers in
69 accordance with Board regulations.

70 § 4.1-212. Permits required in certain instances.

71 The Board may grant the following permits which shall authorize:

72 1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and
73 beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

74 2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic
75 beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the
76 licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic
77 beverages.

78 3. Any person to keep upon his premises alcoholic beverages which he is not authorized by any
79 license to sell and which shall be used for culinary purposes only.

80 4. Any person to transport lawfully purchased alcoholic beverages within, into or through the
81 Commonwealth, except that no permit shall be required for any person shipping or transporting into the
82 Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of
83 residence to the Commonwealth in accordance with § 4.1-310.

84 5. Any person to keep, store or possess any still or distilling apparatus.

85 6. The release of alcoholic beverages not under United States custom bonds or internal revenue
86 bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive
87 them within or outside of the Commonwealth.

88 7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to
89 the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

90 8. The release of alcoholic beverages from United States internal revenue bonded warehouses for
91 delivery in accordance with subsection B C of § 4.1-132.

92 9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary
93 appointed or qualified in any court proceeding, to continue to operate under the licenses previously
94 issued to any deceased or other person licensed to sell alcoholic beverages for such period as the Board
95 deems appropriate.

96 10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which
97 may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment
98 lien or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a
99 sheriff, personal representative, receiver or other officer acting under authority of a court having
100 jurisdiction in the Commonwealth, or by any secured party as defined in subdivision (a)(72) of
101 § 8.9A-102 of the Virginia Uniform Commercial Code. Such sales shall be made only to persons who
102 are licensed or hold a permit to sell alcoholic beverages in the Commonwealth or to persons outside the
103 Commonwealth for resale outside the Commonwealth and upon such conditions or restrictions as the
104 Board may prescribe.

105 11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the
106 premises or property of a person licensed by the Board and who has become lawfully entitled to the
107 possession of the licensed premises. Such permit shall be temporary and shall (i) confer the privileges of
108 any licenses held by the previous owner to the extent determined by the Board and (ii) authorize the
109 permittee to continue to operate the establishment to the same extent as a person holding such licenses
110 for a period not to exceed sixty days or for such longer period as determined by the Board. Such
111 temporary permit may be issued in advance, conditioned on the above requirements.

112 12. The sale of wine and beer in kegs by any person licensed to sell wine or beer, or both, at retail
113 for off-premises consumption.

114 13. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue
115 bond in warehouses located in the Commonwealth.

116 14. *The storage of wine by a licensed winery or farm winery under internal revenue bond in*
117 *warehouses located in the Commonwealth.*

118 Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary
119 thereof which has supplied financing to a wholesale licensee to manage and operate the wholesale
120 licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

§ 4.1-238. Bond required to secure excise tax liability on beer and wine coolers, and wine stored in bonded warehouses.

A. Every manufacturer, bottler or wholesaler, as a condition precedent to obtaining a license to sell beer or wine coolers to a licensed retailer, shall file a bond with the Board in such sum and with such surety as the Board deems adequate to cover the tax liability of each such manufacturer, bottler or wholesaler. The sum of such bond shall be proportioned to the volume of business of each such manufacturer, bottler or wholesaler, but shall in no event be less than \$1,000 or more than \$100,000. Such bond shall be conditioned upon the payment by such manufacturer, bottler or wholesaler of the tax imposed by § 4.1-236.

B. *Every holder of a bonded warehouse permit, issued in accordance with subdivision 14 of § 2.2-212, as a condition to obtaining the permit, shall file a bond with the Board in such sum and with such surety as the Board deems adequate to cover the tax liability of each such permittee. The sum of such bond shall be proportioned to the volume of business of each such manufacturer, bottler, or wholesaler, but shall in no event be less than \$1,000 or more than \$10,000. Such bond shall be conditioned upon the payment by the permittee of the tax imposed by § 4.1-234.*

C. The Board may waive the requirement of both the surety and the bond, in cases where a manufacturer, bottler or wholesaler has previously demonstrated his financial responsibility.

~~C.~~ D. Upon the termination of the bond, its guaranty or surety, the Board, upon reasonable notice to the manufacturer, bottler or wholesaler so licensed, may suspend the license so granted until such times as the required bond is filed or the proper surety or guaranty is given.