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HOUSE BILL NO. 805

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact § 4.1-325 of the Code of Virginia, relating to alcoholic beverage control; prohibited acts by mixed beverage licensees; exception.

Patrons—Petersen, Ebbin, Hull, Moran, Scott, J.M., Shannon, Sickles and Watts

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 4.1-325 of the Code of Virginia is amended and reenacted 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.
- The provisions of this subdivision shall not apply to the delivery of "soju" or "sake." For the purposes of the previous sentence, (i) "soju" means a traditional Korean alcoholic beverage made from fermented rice, barley or other grains and (ii) "sake" means a traditional Japanese alcoholic beverage made from fermented rice;*
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

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59 prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person
60 who drinks to excess or engages in illegal gambling;

61 21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device,
62 machine or apparatus; or

63 22. Make any gift of an alcoholic beverage, other than as a gift made to (i) a personal friend, as a
64 matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the
65 restriction set forth in this subdivision or (ii) a person responsible for the planning, preparation or
66 conduct on any conference, convention, trade show or event held or to be held on the premises of the
67 licensee, when such gift is made in the course of usual and customary business entertainment and is in
68 no way a shift or device to evade the restriction set forth in this subdivision. Any gift permitted by this
69 subdivision shall be subject to the taxes imposed by this title on sales of alcoholic beverages. The
70 licensee shall keep complete and accurate records of gifts given in accordance with this subdivision.

71 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.