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SENATE BILL NO. 622

Offered January 21, 2004

A BILL to amend and reenact § 4.1-225 of the Code of Virginia, relating to the Alcoholic Beverage Control Board; summary suspension of licenses.

Patron—Stolle

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:**1. That § 4.1-225 of the Code of Virginia is amended and reenacted as follows:**

§ 4.1-225. Grounds for which Board may suspend or revoke licenses.

A. The Board may suspend or revoke any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership or association, any partner or member thereof, or if the licensee is a corporation, any officer, director, or manager thereof or shareholder owning 10 percent or more of its capital stock:

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

b. 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 or fraudulent;

c. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth, of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-300 et seq.) of this title; (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

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

e. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business which have not been disclosed;

f. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;

g. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;

h. Has allowed noisy, lewd or disorderly conduct upon the licensed premises, or has maintained such premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

i. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other than a busboy, cook or other kitchen help, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;

j. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect for law and order;

k. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii) intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

l. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as provided under this title;

m. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

n. Has allowed any lewd, obscene or indecent literature, pictures or materials upon the licensed

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59 premises;
60 o. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises; or
61 p. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly
62 allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use
63 marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled
64 paraphernalia as those terms are defined in Articles 1 and 1.1 (§ 18.2-247 et seq.) of Chapter 7 of Title
65 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3;
66 or (iii) conspired to commit any drug-related offense in violation of Articles 1 and 1.1 of Chapter 7
67 (§ 18.2-247 et seq.) of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.). The provisions of this
68 subdivision shall also apply to any conduct related to the operation of the licensed business which
69 facilitates the commission of any of the offenses set forth herein.

70 2. The place occupied by the licensee:
71 a. Does not conform to the requirements of the governing body of the county, city or town in which
72 such establishment is located, with respect to sanitation, health, construction or equipment, or to any
73 similar requirements established by the laws of the Commonwealth or by Board regulations;
74 b. Has been adjudicated a common nuisance under the provisions of this title or § 18.2-258; or
75 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,
76 prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs are
77 regularly used or distributed. The Board may consider the general reputation in the community of such
78 establishment in addition to any other competent evidence in making such determination.

79 3. The licensee or any employee of the licensee discriminated against any member of the armed
80 forces of the United States by prices charged or otherwise.

81 4. The licensee, his employees, or any entertainer performing on the licensed premises has been
82 convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed
83 premises and the licensee allowed such conduct to occur.

84 5. Any cause exists for which the Board would have been entitled to refuse to grant such license had
85 the facts been known.

86 6. Any other cause authorized by this title.

87 *B. The Board may suspend any license other than a brewery license, in which case the Board may*
88 *impose penalties as provided in § 4.1-227 without a hearing, simultaneously with the institution of*
89 *proceedings for a hearing, if it finds that there is substantial danger to the public safety which warrants*
90 *such action. Institution of proceeding for a hearing shall be provided simultaneously with the summary*
91 *suspension. The hearing shall be scheduled within a reasonable time of the date of the summary*
92 *suspension, not to exceed 96 hours.*