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## SENATE BILL NO. 386

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services  
on January 27, 2006)

(Patron Prior to Substitute—Senator McDougle)

*A BILL to amend and reenact §§ 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; motor car sporting event facility license.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted as follows:**

§ 4.1-206. Alcoholic beverage licenses.

The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

2. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

3. Banquet facility licenses to volunteer fire departments and volunteer rescue squads, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a fire or rescue squad station or both, regularly occupied as such and recognized by the governing body of the county, city or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a fire or rescue squad station, provided such other premises are occupied and under the control of the fire department or rescue squad while the privileges of its license are being exercised.

4. Bed and breakfast licenses, which shall authorize the licensee to serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises.

5. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event.

6. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

7. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

8. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

60 9. *Motor car sporting event facility licenses, which shall authorize the licensee to permit the*  
61 *consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof*  
62 *during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly*  
63 *or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the*  
64 *licensee's premises designated by the Board that are regularly occupied and utilized for motor car*  
65 *sporting events.*

66 § 4.1-231. Taxes on state licenses.

67 A. The annual fees on state licenses shall be as follows:

68 1. Alcoholic beverage licenses. For each:

69 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured  
70 during the year in which the license is granted, \$450; and if more than 5,000 gallons manufactured  
71 during such year, \$3,725;

72 b. Fruit distiller's license, \$3,725;

73 c. Banquet facility license or museum license, \$190;

74 d. Bed and breakfast establishment license, \$35;

75 e. Tasting license, \$40 per license granted; and

76 f. Equine sporting event license, \$130; and

77 g. *Motor car sporting event facility license, \$130.*

78 2. Wine licenses. For each:

79 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the  
80 license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;

81 b. Wholesale wine license, \$930 for any wholesaler who sells 150,000 gallons of wine or less per  
82 year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine  
83 per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;

84 c. Wine importer's license, \$370;

85 d. Retail off-premises winery license, \$145;

86 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license;

87 f. Wine shipper's license, \$65; and

88 g. Day spa license, \$100.

89 3. Beer licenses. For each:

90 a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which  
91 the license is granted, \$2,150, and if more than 10,000 barrels manufactured during such year, \$4,300;

92 b. Bottler's license, \$1,430;

93 c. Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less,  
94 and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a  
95 year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;

96 d. Beer importer's license, \$370;

97 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common  
98 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by  
99 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club  
100 cars operated daily in the Commonwealth;

101 f. Retail off-premises beer license, \$120;

102 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a  
103 town or in a rural area outside the corporate limits of any city or town, \$300; and

104 h. Beer shipper's license, \$65.

105 4. Wine and beer licenses. For each:

106 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a  
107 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common  
108 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining  
109 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to  
110 a common carrier of passengers by airplane, \$750;

111 b. Retail on-premises wine and beer license to a hospital, \$145;

112 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience  
113 grocery store license, \$230;

114 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600;

115 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the  
116 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be  
117 \$100 per license;

118 f. Gourmet brewing shop license, \$230;

119 g. Wine and beer shipper's license, \$65; and

120 h. Annual banquet license, \$150.

121 5. Mixed beverage licenses. For each:

122 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants  
 123 located on premises of and operated by hotels or motels, or other persons:

124 (i) With a seating capacity at tables for up to 100 persons, \$560;

125 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and

126 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.

127 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by  
 128 private, nonprofit clubs:

129 (i) With an average yearly membership of not more than 200 resident members, \$750;

130 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,  
 131 \$1,860; and

132 (iii) With an average yearly membership of more than 500 resident members, \$2,765.

133 c. Mixed beverage caterer's license, \$1,860;

134 d. Mixed beverage special events license, \$45 for each day of each event;

135 e. Mixed beverage club events licenses, \$35 for each day of each event;

136 f. Annual mixed beverage special events license, \$560;

137 g. Mixed beverage carrier license:

138 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the  
 139 Commonwealth by a common carrier of passengers by train;

140 (ii) \$560 for each common carrier of passengers by boat;

141 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.

142 h. Annual mixed beverage amphitheater license, \$560;

143 i. Annual mixed beverage motor sports race track license, \$560; and

144 j. Annual mixed beverage banquet license, \$500.

145 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax  
 146 imposed by this section on the license for which the applicant applied.

147 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be  
 148 subject to proration to the following extent: If the license is granted in the second quarter of any year,  
 149 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be  
 150 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by  
 151 three-fourths.

152 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000  
 153 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license  
 154 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the  
 155 number of gallons permitted to be manufactured shall be prorated in the same manner.

156 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000  
 157 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or  
 158 winery license, such person shall pay for such unlimited license a license tax equal to the amount that  
 159 would have been charged had such license been applied for at the time that the license to manufacture  
 160 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person  
 161 shall be entitled to a refund of the amount of license tax previously paid on the limited license.

162 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than  
 163 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest  
 164 cent, multiplied by the number of months in the license period.

165 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state  
 166 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,  
 167 shall be liable to state merchants' license taxation and state restaurant license taxation and other state  
 168 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer  
 169 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license  
 170 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining  
 171 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the  
 172 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases  
 173 shall be disregarded.

174 § 4.1-233. Taxes on local licenses.

175 A. In addition to the state license taxes, the annual local license taxes which may be collected shall  
 176 not exceed the following sums:

177 1. Alcoholic beverages. - For each:

178 a. Distiller's license, \$1,000; no local license shall be required for any person who manufactures not  
 179 more than 5,000 gallons of alcohol or spirits, or both, during such license year;

180 b. Fruit distiller's license, \$1,500;

181 c. Bed and breakfast establishment license, \$40;

182 d. Museum license, \$10;

183 e. Tasting license, \$5 per license granted;  
184 f. Equine sporting event license, \$10; ~~and~~  
185 g. Day spa license, \$20; *and*  
186 h. *Motor car sporting event facility license, \$10.*  
187 2. Beer. - For each:  
188 a. Brewery license, \$1,000;  
189 b. Bottler's license, \$500;  
190 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;  
191 d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer  
192 license in a city, \$100, and in a county or town, \$25; and  
193 e. Beer shipper's license, \$10.  
194 3. Wine. - For each:  
195 a. Winery license, \$50;  
196 b. Wholesale wine license, \$50;  
197 c. Farm winery license, \$50; and  
198 d. Wine shipper's license, \$10.  
199 4. Wine and beer. - For each:  
200 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail  
201 off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery  
202 store license, in a city, \$150, and in a county or town, \$37.50;  
203 b. Hospital license, \$10;  
204 c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board  
205 pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20  
206 per license;  
207 d. Gourmet brewing shop license, \$150;  
208 e. Wine and beer shipper's license, \$10; and  
209 f. Annual banquet license, \$15.  
210 5. Mixed beverages. - For each:  
211 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated  
212 by hotels or motels, or other persons:  
213 (i) With a seating capacity at tables for up to 100 persons, \$200;  
214 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and  
215 (iii) With a seating capacity at tables for more than 150 persons, \$500.  
216 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;  
217 c. Mixed beverage caterer's license, \$500;  
218 d. Mixed beverage special events licenses, \$10 for each day of each event;  
219 e. Mixed beverage club events licenses, \$10 for each day of each event;  
220 f. Annual mixed beverage amphitheater license, \$300;  
221 g. Annual mixed beverage motor sports race track license, \$300; and  
222 h. Annual mixed beverage banquet license, \$75.  
223 B. Common carriers. - No local license tax shall be either charged or collected for the privilege of  
224 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the  
225 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises  
226 consumption only.  
227 C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in  
228 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local  
229 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,  
230 may include alcoholic beverages in the base for measuring such local license taxes the same as if the  
231 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter  
232 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local  
233 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license  
234 taxes authorized by this chapter.  
235 The governing body of any county, city or town, in adopting an ordinance under this section, shall  
236 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation  
237 under the ordinance, and in computing the local wholesale merchants' license tax on such beer  
238 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be  
239 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license  
240 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine  
241 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale  
242 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall  
243 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary  
244 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax

245 paid by such wholesale wine licensee.

246 D. Delivery. - No county, city or town shall impose any local alcoholic beverages license tax on any  
247 wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such  
248 wholesaler maintains no place of business in such county, city or town.

249 E. Application of county tax within town. - Any county license tax imposed under this section shall  
250 not apply within the limits of any town located in such county, where such town now, or hereafter,  
251 imposes a town license tax on the same privilege.