

070950848

## HOUSE BILL NO. 2491

## FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Williams  
on February 20, 2007)

(Patron Prior to Substitute—Delegate Albo)

A BILL to amend and reenact §§ 4.1-328 and 4.1-329 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 4.1-216.1, relating to alcoholic beverage control; interior advertising; civil penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-328 and 4.1-329 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-216.1 as follows:

§ 4.1-216.1. Point-of-sale advertising materials authorized under certain conditions; civil penalties.

A. As used in this section:

"Alcoholic beverage advertising material" or "advertising material" means any item, other than an illuminated device, which contains one or more references to a brand of alcoholic beverage and which is used to promote the sale of alcoholic beverages within the interior of a licensed retail establishment and which otherwise complies with Board regulations.

"Authorized vendor" or "vendor" means any person, other than a wholesale wine or beer licensee, that a manufacturer has authorized to engage in a business consisting in whole or in part of the sale and distribution of any articles of tangible personal property bearing any of the manufacturer's alcoholic beverage trademarks.

"Manufacturer" means any brewery, winery, distillery, bottler, broker, importer and any person that a brewery, winery, or distiller has authorized to sell or arrange for the sale of its products to wholesale wine and beer licensees in Virginia or, in the case of spirits, to the Board.

B. Notwithstanding the provisions of § 4.1-215 or 4.1-216 and Board regulations adopted thereunder, a manufacturer or its authorized vendor and a wholesale wine and beer licensee may lend, buy for, or give to a retail licensee any alcoholic beverage advertising material made of paper, cardboard, canvas, rubber, foam, or plastic, provided the advertising materials have a wholesale value of \$40 or less per item.

C. Alcoholic beverage advertising materials, other than those authorized by subsection B to be given to a retailer, may be displayed by a retail licensee in the interior of its licensed establishment provided:

1. The wholesale value of the advertising material does not exceed \$250 per item, and

2. The advertising material is not obtained from a manufacturer, its authorized vendor, or any wholesale wine or beer licensee.

A retail licensee shall retain for at least two years a record of its procurement of, including any payments for, such advertising materials along with an invoice or sales ticket containing a description of the item so purchased or otherwise procured.

D. Except as otherwise provided in this title, a retail licensee shall not display in the interior of its licensed establishment any alcoholic beverage advertising materials, other than those that may be lawfully obtained and displayed in accordance with this section or Board regulation.

E. Nothing in this section shall be construed to prohibit any advertising materials permitted under Board regulations in effect on January 1, 2007.

§ 4.1-328. Prohibited trade practices; penalty.

A. No licensee person subject to the jurisdiction of the Board shall violate, attempt to violate, solicit another person to violate or consent to any violation of § 4.1-216 or 4.1-216.1, or regulations adopted pursuant to subdivision B 3 of § 4.1-111.

B. Any person convicted of a violation of this section, § 4.1-216 or of Board regulations adopted pursuant to subdivision B 3 of § 4.1-111 shall be guilty of a Class 1 misdemeanor found by the Board to have committed a violation of this section shall be subject to a civil penalty as provided in § 4.1-227.

C. No person shall be deemed guilty of a Class 1 misdemeanor or to have admitted such guilt by virtue of the fact that administrative sanctions have been imposed pursuant to § 4.1-227 either as a result of Board proceedings or the acceptance by the Board of an offer in compromise in response to the institution of such administrative proceedings.

§ 4.1-329. Illegal advertising materials; penalty.

No retail licensee person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to, any manufacturer, bottler, wholesaler, or importer as defined in § 4.1-216.1, or any wholesale licensee selling, renting, lending, buying for or giving to such retailer any person any advertising materials or decorations under circumstances prohibited by law this title or Board regulations.

Any person convicted of a violation of found by the Board to have violated this section shall be

60 guilty of a Class 1 misdemeanor subject to a civil penalty as provided in § 4.1-227.

61 2. That the Alcoholic Beverage Control Board shall (i) include as part of its inspection of any  
62 retail licensee's records a review of evidence of procurement, including payment, required by this  
63 act to be maintained by that retail licensee involving the procurement of alcoholic beverage  
64 advertising materials and (ii) report annually to the House Committee on General Laws and the  
65 Senate Committee on Rehabilitation and Social Services the following information: (a) the results  
66 of any audits of retail records involving the procurement, including purchases, of alcoholic  
67 beverage advertising materials authorized by this act and (b) the extent to which the Board has  
68 achieved compliance with the provisions of this act.