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HOUSE BILL NO. 2493

Offered January 10, 2007

Prefiled January 9, 2007

A BILL to amend and reenact § 15.2-2288.3 of the Code of Virginia, relating to farm wineries.

Patrons—Albo, Callahan, Landes and Moran

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-2288.3 of the Code of Virginia is amended and reenacted as follows:**

§ 15.2-2288.3. Licensed farm wineries; local regulation of certain activities.

A. Localities ~~may shall~~ not require that a special exception or special use permit be obtained for the processing, production, harvesting of fruit and other agricultural products, manufacturing and production of wine by licensed farm wineries.

B. (~~Expires July 1, 2007~~) No locality ~~may shall regulate~~, adopt any requirements for special exceptions or special use permits, or enforce any restrictions or conditions relating to on-premises sale, tasting, and consumption of wine during regular business hours at licensed farm wineries beyond that set forth in Title 4.1 that would be more restrictive than its requirements in effect as of January 1, 2006. Further, any special exception or special use permit in effect as of January 1, 2006, shall remain in effect until July 1, 2007, unless such exception or permit is either no longer required by the locality or is amended to be less restrictive.

C. (~~Expires July 1, 2007~~) No locality ~~may shall~~, as related to farm wineries, regulate, adopt any requirements for special exceptions or special use permits, or enforce any existing restrictions or conditions that (i) prohibit music or the amplification of music, except as necessary to prevent such music from being audible beyond the farm winery property or property adjacent thereto owned or controlled by the owners of the farm winery, unless consent is obtained from all affected adjacent property owners prohibit noise from being audible beyond the farm winery property; (ii) establish any restrictions or conditions, beyond restrictions or conditions placed upon private personal gatherings by nonfarm winery citizens, that regulate private personal parties held by the owners of the farm winery who reside at the farm winery or on property adjacent thereto owned or controlled by the owners of the farm winery at which event wine is not sold or marketed and for which no monetary consideration is received by the farm winery or its agents; or (iii) are more restrictive as to the construction or expansion of farm winery facilities, as long as such facilities are for farm wine production or processing, as compared to other agricultural facilities in agricultural districts; (iv) limit indoor wine tasting luncheons, dinners, and events that are incidental and customary to a farm winery, where the purpose is to promote, market, sell, or educate guests about wine; (v) limit the direct sale and shipment of wine by common carrier to consumers; or (vi) limit the sale of wine-related and accessory items customary and incidental to the sale of wine, beyond the restrictions or conditions placed upon other retailers.

D. A locality may, as related to farm wineries, regulate, adopt any requirements for special exceptions or special use permits, or enforce any restrictions or conditions upon outdoor events at a farm winery where such outdoor event exceeds 10 persons per acre of fresh fruit or agricultural products grown on such farm winery property or property adjacent thereto owned or leased by the owner of the farm winery that are used by the owner to manufacture the wine sold by such farm winery. However, these restrictions may not be more restrictive than similar activities in an agricultural district.

E. If a court of competent jurisdiction holds that a locality has violated the rights of a farm winery set forth in this section, such court may award reasonable attorney fees to the complainant.

INTRODUCED

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