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HOUSE BILL NO. 2493

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Counties, Cities and Towns
on February 2, 2007)

(Patron Prior to Substitute—Delegate Albo)

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

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 not require that a special exception or special use permit be obtained for the processing of wine by licensed farm wineries. Prior to enacting any regulation, restriction or condition, including but not limited to any requirement for special exceptions or special use permits, on an activity or event conducted at a farm winery, a locality shall first determine if such activity or event is usual and customary for farm wineries throughout the Commonwealth, and whether that type of activity or event contributes to the economic viability of farm wineries.

B. Usual and customary events and activities at farm wineries throughout the Commonwealth shall not be restricted, unless the locality finds that such activity at the individual farm winery causes a substantial impact upon the health, safety or welfare of the public.

BC. (Expires July 1, 2007) No locality may shall regulate, adopt any restrictions or conditions, or adopt any requirements for special exceptions or special use permits relating to licensed farm wineries 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.

(i) Noise, other than outdoor amplified music, arising from activities and events at farm wineries that are more restrictive than standards established in the general ordinance of such locality;

(ii) Private personal gatherings by the owner of the farm winery where wine is not sold or marketed and for which no consideration is received by the farm winery or its agents, which are more restrictive than standards established in the general ordinances of such locality;

(iii) Production and harvesting of fruit and other agricultural products and the manufacturing of wine;

(iv) On-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;

(v) Direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;

(vi) Sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control board, and federal law;

(vii) Storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or

(viii) Sale of wine-related items that are incidental to the sale of wine.

C. (Expires July 1, 2007) No locality may, as related to farm wineries, 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, (ii) 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 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.

D. For the purposes of this section, "farm winery" means a farm winery licensed in accordance with subdivision 5 of § 4.1-207.