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HOUSE BILL NO. 2493

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Local Government
on February 13, 2007)

(Patron Prior to Substitute—Delegate Albo)

A BILL to amend and reenact § 15.2-2288.3 of the Code of Virginia, relating to zoning; licensed farm wineries; local regulation of certain activities.

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. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B. (Expires July 1, 2007) No locality may 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 treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

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 shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 5 of § 4.1-207:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;

2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;

3. The 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;

4. The 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;

5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or

6. The sale of wine-related items that are incidental to the sale of wine.