

079191204

HOUSE BILL NO. 3120

Offered January 18, 2007

A BILL to amend and reenact §§ 4.1-128 and 4.1-207 of the Code of Virginia, relating to alcoholic beverage control; farm wineries.

Patrons—Albo and Moran

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-128 and 4.1-207 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-128. Local ordinances or resolutions regulating or taxing alcoholic beverages.

A. No county, city, or town shall, except as provided in § 4.1-205 or § 4.1-129, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. *Nor shall any county, city, or town adopt an ordinance or resolution that prohibits a licensed farm winery from being located in an agricultural zoning district or that, except as provided in § 15.2-2288.3, regulates the activities at a farm winery where the purpose is to promote, market, sell, or educate guests about the wine produced at the farm winery.*

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by §§ 58.1-605, 58.1-3833 or § 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance which (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of subsection B of § 4.1-308, or the acts described in § 4.1-309 and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, and public streets.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this title, are repealed to the extent of such inconsistency.

§ 4.1-207. Wine licenses.

The Board may grant the following licenses relating to wine:

1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee, and (ii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board.

2. Wholesale wine licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3. Wine importers' licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the licensee to sell wine at the place of business designated in the winery license, in closed containers, for

INTRODUCED

HB3120

59 off-premises consumption.

60 5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 18
61 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board
62 regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured
63 at wholesale for the purpose of resale, § 4.1-326 notwithstanding, or (iii) persons outside the
64 Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine
65 manufactured by the licensee and to sell and deliver or ship this wine, in accordance with Board
66 regulations, to persons licensed to sell wine in the Commonwealth, § 4.1-326 notwithstanding and (b)
67 store wine in bonded warehouses located on or off the licensed premises upon permits issued by the
68 Board. For the purposes of this title, a farm winery license shall be designated either as a Class A or
69 Class B farm winery license in accordance with the limitations set forth in § 4.1-219.

70 Such licenses shall also authorize the licensee to *(1) conduct, in facilities located on the licensed*
71 *premises, events that are incidental and customary to a farm winery, the purpose of which is to*
72 *promote, market, sell, or educate guests about such wine; (2) sell, in facilities located on the licensed*
73 *premises, wine-related and accessory items incidental and customary to the sale of such wine; and (3)*
74 *sell wine at retail at the places of business designated in the licenses, which may include no more than*
75 *five additional retail establishments of the licensee. Wine may be sold at these the business places*
76 *identified in clause (3) for on-premises consumption and in closed containers for off-premises*
77 *consumption.*