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## SENATE BILL NO. 1149

Offered January 10, 2007

Prefiled January 10, 2007

*A BILL to amend and reenact §§ 4.1-103, 4.1-104, and 4.1-119 of the Code of Virginia, relating to alcoholic beverage control; government stores; sale of mixers.*

Patron—Wagner

Referred to Committee on Rehabilitation and Social Services

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-103, 4.1-104, and 4.1-119 of the Code of Virginia are amended and reenacted as follows:**

§ 4.1-103. General powers of Board.

The Board shall have the power to:

1. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;

2. ~~Buy and sell any mixers;~~

3. Control the possession, sale, transportation and delivery of alcoholic beverages;

4.3. Determine, subject to § 4.1-121, the localities within which government stores shall be established or operated and the location of such stores;

5.4. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic beverages to and from such warehouses;

6.5. Lease, occupy and improve any land or building required for the purposes of this title;

7.6. Purchase or otherwise acquire title to any land or building required for the purposes of this title and sell and convey the same by proper deed, with the consent of the Governor;

8.7. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be considered necessary or useful in carrying into effect the purposes of this title, including rectifying, blending and processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic beverages;

9.8. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this title, and prescribe the form and content of all labels and seals to be placed thereon;

10.9. Appoint every agent and employee required for its operations; require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts and professionals;

11.10. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and make summary decisions, subject to final decision by the Board, on application of any party aggrieved;

12.11. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

13.12. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111 of this chapter;

14.13. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;

15.14. Assess and collect civil penalties and civil charges for violations of this title and Board regulations;

16.15. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

17.16. Establish minimum food sale requirements for all retail licensees; and

18.17. Do all acts necessary or advisable to carry out the purposes of this title.

§ 4.1-104. Purchases by the Board.

The purchasing of alcoholic beverages ~~and mixers~~, the making of leases, and the purchasing of real

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59 estate by the Board under the provisions of this title are exempt from the Virginia Public Procurement  
60 Act (§ 2.2-4300 et seq.).

61 § 4.1-119. Operation of government stores.

62 A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain and  
63 operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by  
64 farm wineries, *and* vermouth, *and* mixers, in such counties, cities, and towns considered advisable by the  
65 Board. The Board may discontinue any such store.

66 B. The Board shall fix the wholesale and retail prices at which the various classes, varieties and  
67 brands of alcoholic beverages are sold in government stores. Differences in the cost of operating stores,  
68 and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at  
69 government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and  
70 operating under the laws of the United States and regulations of the United States Department of  
71 Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United  
72 States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged  
73 other authorized purchasers.

74 C. Alcoholic beverages at government stores shall be sold by employees of the Board, who shall  
75 carry out the provisions of this title and Board regulations governing the operation of government stores  
76 and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license  
77 or its officers and employees as agents of the Board for the sale of spirits manufactured by such  
78 licensee at government stores established by the Board on the distiller's licensed premises; provided at  
79 least 51% of the agricultural products used by such licensee to manufacture the spirits are grown on the  
80 licensee's farm and no more than 25% of the agricultural products are grown or produced outside the  
81 Commonwealth. However, upon petition by the Department of Agriculture and Consumer Services, the  
82 Board may permit the use of a lesser percentage of products grown on the licensee's farm if unusually  
83 severe weather or disease conditions cause a significant reduction in the availability of agricultural  
84 products grown on the farm to manufacture the spirits during a given license year. Such agents shall sell  
85 the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency  
86 agreement between the Board and the licensed distiller.

87 D. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without  
88 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101  
89 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

90 E. All alcoholic beverages sold in government stores shall be in closed containers, sealed and affixed  
91 with labels prescribed by the Board.

92 F. No alcoholic beverages shall be consumed in a government store by any person.

93 G. With respect to purchases by licensees at government stores, the Board shall (i) accept in payment  
94 for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check  
95 payable to the Board, in the exact amount of any such purchase or series of purchases and (ii) provide  
96 notice to licensees on Board policies relating to the assignment of government stores from which  
97 licensees may purchase products and any procedure for the licensee to elect to make purchases from an  
98 alternative government store.

99 H. With respect to purchases by consumers at government stores, the Board shall accept cash in  
100 payment for any purchase or series of purchases. The Board may adopt regulations which provide for  
101 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where  
102 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by  
103 any consumer.