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## HOUSE BILL NO. 1399

Offered January 10, 2008

A BILL to amend and reenact § 4.1-201 of the Code of Virginia, relating to alcoholic beverage control; winery to winery transfers.

Patron—Scott, E.T.

Referred to Committee on General Laws

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

**1. That § 4.1-201 of the Code of Virginia is amended and reenacted as follows:**

§ 4.1-201. Conduct not prohibited by this title; limitation.

A. Nothing in this title or any Board regulation adopted pursuant thereto shall prohibit:

1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or given away in violation of this title.

2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in accordance with Board regulations.

3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic beverages.

4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed containers from other breweries owned by such person or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

5. The granting of any retail license to a brewery or winery licensee, or to an applicant for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the places of business or establishments for which the retail licenses are desired are located upon the premises occupied or to be occupied by such winery or brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary.

6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. The receipt by a fruit distillery licensee of deliveries and shipments of alcoholic beverages made from fruit or fruit juices in closed containers from other fruit distilleries owned by such licensee, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to persons outside of the Commonwealth for resale outside of the Commonwealth.

9. Any farm winery or winery licensee from shipping or delivering *fresh fruit or agricultural products*, or its wine in closed containers to another farm winery or winery licensee for the purpose of ~~additional~~ *manufacturing, blending, processing, cellaring, or bottling* in accordance with Board regulations and the return of the wine so ~~bottled~~ to the ~~manufacturing~~ farm winery or winery licensee. *Wine returned to wineries and farm wineries pursuant to this subdivision need not be transferred via persons licensed to sell wine at wholesale for the purpose of resale and may be sold at retail or*

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59 *wholesale. Any wine transferred under this subdivision shall be deemed an agricultural product*  
60 *produced in the Commonwealth for the purposes of § 4.1-219, to the extent it is produced from fresh*  
61 *fruits or agricultural products grown or produced in the Commonwealth by the farm winery or winery*  
62 *that sells the wine at retail or wholesale. Both licensees shall maintain complete and accurate records*  
63 *of the source of the fresh fruits or agricultural products used.*

64 10. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed  
65 containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be  
66 used by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall  
67 be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the  
68 extent it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth.  
69 The selling licensee shall provide to the receiving licensee, and both shall maintain complete and  
70 accurate records of, the source of the fresh fruits or agricultural products used to produce the wine so  
71 transferred.

72 11. Any distiller licensed under this title from serving as an agent of the Board for the sale of  
73 alcoholic beverages, other than beer and wine, at a government store established by the Board on the  
74 licensed premises of the distiller in accordance with subsection D of § 4.1-119.

75 12. Any retail on-premises beer licensee, his agent or employee, from giving a sample of beer to  
76 persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or retail  
77 on-premises wine or beer licensee, his agent or employee, from giving a sample of wine or beer to  
78 persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed  
79 beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to  
80 whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall  
81 not exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not  
82 exceed one-half ounce. No more than two product samples shall be given to any person per visit.

83 13. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not  
84 licensed in the Commonwealth, from selling service items bearing alcoholic brand references to  
85 on-premises retail licensees or prohibit any such retail licensee from displaying the service items on the  
86 premises of his licensed establishment. Each such retail licensee purchasing such service items shall  
87 retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of  
88 not less than two years from the date of each sale of the service items. As used in this subdivision,  
89 "service items" mean articles of tangible personal property normally used by the employees of  
90 on-premises retail licensees to serve alcoholic beverages to customers including, but not limited to,  
91 glasses, napkins, buckets, and coasters.

92 14. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in  
93 the Commonwealth, from distributing to retail licensees and their employees novelties and specialties,  
94 including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage  
95 advertising. Such items may be distributed to retail licensees in quantities equal to the number of  
96 employees of the retail establishment present at the time the items are delivered. Thereafter, such  
97 employees may wear or display the items on the licensed premises.

98 15. Any retail on-premises wine or beer licensee, his agent or employee from offering for sale or  
99 selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines  
100 or beers consisting of samples of not more than five different wines or beers.

101 B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale  
102 outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from  
103 receiving or selling the same.