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## HOUSE BILL NO. 1399

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws  
on February 5, 2008)

(Patron Prior to Substitute—Delegate Scott, E.T.)

A BILL to amend and reenact §§ 4.1-207 and 4.1-219 of the Code of Virginia, relating to alcoholic beverage control; privileges of farm wineries.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-207 and 4.1-219 of the Code of Virginia are amended and reenacted as follows:

§ 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, including those granted pursuant to § 4.1-207.1, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, 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 off-premises consumption.

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

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption.

6. Internet wine retailer license, which shall authorize persons located within or outside the Commonwealth to sell and ship wine, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

§ 4.1-219. Limitation on Class A and Class B farm wineries.

For Class A farm winery licensees, at least 51 percent of the fresh fruits or agricultural products used by the owner or lessee to manufacture the wine shall be grown or produced on such farm and no more than 25 percent of the fruits, fruit juices or other agricultural products shall be grown or produced

60 outside the Commonwealth.

61 For Class B farm winery licensees, 75 percent of the fresh fruits or agricultural products used by the  
62 owner or lessee to manufacture the wine shall be grown or produced in the Commonwealth and no more  
63 than 25 percent of the fruits, fruit juices or other agricultural products shall be grown or produced  
64 outside the Commonwealth. No Class B farm winery license shall be issued to any person who has not  
65 operated under an existing Virginia farm winery license for at least seven years.

66 However, upon petition by the Department of Agriculture and Consumer Services, the Board may  
67 permit the use (i) of a greater quantity of out-of-state products if supplies grown or produced in the  
68 Commonwealth are insufficient for a farm winery licensee, whether Class A or Class B, to achieve the  
69 level of production which otherwise could be anticipated during a given license year or (ii) by a Class A  
70 farm winery of a lesser percentage of products grown or produced on the farm if unusually severe  
71 weather or disease conditions cause a significant reduction in the availability of fruit or other agricultural  
72 products grown or produced on the farm to manufacture wine during a given license year. As used in  
73 this section, the terms "owner" and "lessee" shall include a cooperative formed by an association of  
74 individuals for the purpose of manufacturing wine. ~~In the event such cooperative is licensed as a farm~~  
75 ~~winery, the~~ The term "farm" as used in this section includes all of the land owned or leased by the  
76 ~~individual members of the cooperative~~ farm winery licensee as long as such land is located in the  
77 Commonwealth.