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HOUSE BILL NO. 548

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on January 29, 2008)

(Patron Prior to Substitute—Delegate Nixon)

A BILL to amend and reenact § 4.1-210 of the Code of Virginia, relating to alcoholic beverage control; mixed beverage licenses; limited mixed beverage restaurant licenses.

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-210 of the Code of Virginia is amended and reenacted as follows:

§ 4.1-210. Mixed beverages licenses.

A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to mixed beverages:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this paragraph, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board.

If the restaurant is located on the premises of a hotel or motel with not less than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms and other private rooms of such hotel or motel, such licensee may (i) sell and serve mixed beverages for consumption in such designated areas, bedrooms and other private rooms and (ii) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit or profit club exclusively for its members and their guests, or members of another private, nonprofit or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the

60 license. A separate license shall be required for each day of each special event.

61 5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or
62 association operating a performing arts facility or (ii) a nonprofit corporation or association chartered by
63 Congress for the preservation of sites, buildings and objects significant in American history and culture.
64 The operation in either case shall be upon premises owned by such licensee or occupied under a bona
65 fide lease the original term of which was for more than one year's duration. Such license shall authorize
66 the sale, on the dates of performances or events in furtherance of the purposes of the nonprofit
67 corporation or association, of alcoholic beverages, for on-premises consumption in areas upon the
68 licensed premises approved by the Board.

69 6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat
70 or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the
71 Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms
72 of establishments of air carriers at airports in the Commonwealth.

73 7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and beer
74 club license to sell and serve mixed beverages for on-premises consumption by club members and their
75 guests in areas approved by the Board on the club premises. A separate license shall be required for
76 each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar
77 year.

78 8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any
79 outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000
80 persons and is located in Prince William County or the City of Virginia Beach. Such license shall
81 authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic
82 or similar disposable containers to patrons within all seating areas, concourses, walkways, concession
83 areas, or similar facilities, for on-premises consumption.

84 9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any
85 outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000
86 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize
87 the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar
88 disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or
89 similar facilities, for on-premises consumption.

90 10. Annual mixed beverage motor sports facility license to persons operating food concessions at any
91 outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on
92 1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed
93 beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events
94 or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing
95 areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization
96 of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
97 premises in all areas and locations covered by the license.

98 11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic or
99 charitable membership organizations that are exempt from state and federal taxation and in charge of
100 banquets conducted exclusively for its members and their guests, which shall authorize the licensee to
101 serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of
102 the place designated in the license. Such license shall authorize the licensee to conduct no more than 12
103 banquets per calendar year.

104 12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve
105 *dessert wines as defined by Board regulation* and no more than six varieties of liqueurs, which liqueurs
106 shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the
107 restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall
108 the sale of such *wine or* liqueur-based drinks exceed 10 percent of the total annual gross sales.

109 B. The granting of any license under subdivision 1, 6, 7, 8, 9, 10, or 11 shall automatically include a
110 license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state
111 and local taxes required by §§ 4.1-231 and 4.1-233.

112 **2. That the Alcoholic Beverage Control Board shall promulgate regulations to implement the**
113 **provisions of this act to be effective within 280 days of its enactment.**