

## 2008 SESSION

LEGISLATION NOT PREPARED BY DLS  
ENGROSSED

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### SENATE BILL NO. 784

Senate Amendments in [ ] — January 29, 2008

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; operation of government stores.*

Patron Prior to Engrossment—Senator Deeds

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, *or magazines or other publications whose principal purpose is to feature and educate the consuming public about the [ Virginia] wine industry*;

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

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

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

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

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

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

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

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

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

18. 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, *magazines or other publications whose principal*

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60 *purpose is to feature and educate the consuming public about the [ Virginia] wine industry*, the making  
61 of leases, and the purchasing of real estate by the Board under the provisions of this title are exempt  
62 from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

63 § 4.1-119. Operation of government stores.

64 A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain and  
65 operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by  
66 farm wineries, vermouth, mixers, and products used in connection with distilled spirits, including any  
67 garnish or garnishment applied to the rim of a glass of distilled spirits, *and magazines or other*  
68 *publications whose principal purpose is to feature and educate the consuming public about the [*  
69 *Virginia] wine industry*, as may be approved by the Board from time to time, in such counties, cities,  
70 and towns considered advisable by the Board. The Board may discontinue any such store.

71 B. With respect to the sale of wine produced by farm wineries, the Board may give preference to  
72 farm wineries that produce 2,500 cases or less of wine per year.

73 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and  
74 brands of alcoholic beverages and other Board-approved products that are sold in government stores.  
75 Differences in the cost of operating stores, and market competition and conditions may be reflected in  
76 the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages  
77 to federal instrumentalities (i) authorized and operating under the laws of the United States and  
78 regulations of the United States Department of Defense and (ii) located within the boundaries of federal  
79 enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be  
80 greater or less than the wholesale price charged other authorized purchasers.

81 D. Alcoholic beverages at government stores shall be sold by employees of the Board, who shall  
82 carry out the provisions of this title and Board regulations governing the operation of government stores  
83 and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license  
84 or its officers and employees as agents of the Board for the sale of spirits manufactured by such  
85 licensee at government stores established by the Board on the distiller's licensed premises; provided:

86 1. At least 51 percent of the agricultural products used by such licensee to manufacture the spirits are  
87 grown on the licensee's farm and no more than 25 percent of the agricultural products are grown or  
88 produced outside the Commonwealth. However, upon petition by the Department of Agriculture and  
89 Consumer Services, the Board may permit the use of a lesser percentage of products grown on the  
90 licensee's farm if unusually severe weather or disease conditions cause a significant reduction in the  
91 availability of agricultural products grown on the farm to manufacture the spirits during a given license  
92 year; or

93 2. Such licensee is a duly organized nonprofit association holding title to real property, together with  
94 improvements thereon that are significant in American history, under a charter from the Commonwealth  
95 to preserve such property, and which association accepts no federal, state, or local funds.

96 Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations,  
97 and the terms of the agency agreement between the Board and the licensed distiller.

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

101 F. All alcoholic beverages sold in government stores shall be in closed containers, sealed and affixed  
102 with labels prescribed by the Board.

103 G. No alcoholic beverages shall be consumed in a government store by any person.

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

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