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## SENATE BILL NO. 1494

Offered January 22, 2009

A BILL to amend and reenact § 4.1-212 of the Code of Virginia, relating to alcoholic beverage control; spirits delivery permit.

Patron—Herring

Referred to Committee on Rehabilitation and Social Services

**Be it enacted by the General Assembly of Virginia:****1. That § 4.1-212 of the Code of Virginia is amended and reenacted as follows:**

§ 4.1-212. Permits required in certain instances.

A. The Board may grant the following permits which shall authorize:

1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.

3. Any person to keep upon his premises alcoholic beverages which he is not authorized by any license to sell and which shall be used for culinary purposes only.

4. Any person to transport lawfully purchased alcoholic beverages within, into or through the Commonwealth, except that no permit shall be required for any person shipping or transporting into the Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of residence to the Commonwealth in accordance with § 4.1-310.

5. Any person to keep, store or possess any still or distilling apparatus.

6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside of the Commonwealth.

7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery in accordance with subsection C of § 4.1-132.

9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal representative, receiver or other officer acting under authority of a court having jurisdiction in the Commonwealth, or by any secured party as defined in subdivision (a) (72) of § 8.9A-102 of the Virginia Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.

11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises to continue to operate the establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

12. The sale of wine and beer in kegs by any person licensed to sell wine or beer, or both, at retail for off-premises consumption.

13. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth.

14. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses located in the Commonwealth.

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SB1494

59 15. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has  
60 filed an application for a permit in which the applicant represents (i) that he or she is under contract to  
61 conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the  
62 application; (ii) that such contract grants to the applicant the authority to act as the authorized  
63 representative of such manufacturer or wholesaler; and (iii) that such contract contains an  
64 acknowledgment that the manufacturer or wholesaler named in the application may be held liable for  
65 any violation of § 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision  
66 shall be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with  
67 § 4.1-229.

68 16. Any person who, through contract, lease, concession, license, management or similar agreement  
69 (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises  
70 of a person licensed by the Board to continue to operate the establishment to the same extent as a  
71 person holding such licenses, provided such person has made application to the Board for a license at  
72 the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner  
73 to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer  
74 period as may be necessary as determined by the Board pending the completion of the processing of the  
75 permittee's license application. No permit shall be issued without the written consent of the previous  
76 licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes  
77 any state or local taxes, or has any pending charges for violation of this title or any Board regulation,  
78 unless the permittee agrees to assume the liability of the previous licensee for the taxes or any penalty  
79 for the pending charges. An application for a permit may be filed prior to the effective date of the  
80 contract, in which case the permit when issued shall become effective on the effective date of the  
81 contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance  
82 with the provisions of this title and any Board regulation and (b) the previous licensee shall not be held  
83 liable for any violation of this title or any Board regulation committed by, or any errors or omissions of,  
84 the permittee.

85 17. *Any person engaged for a fee by a mixed beverage licensee to act as its agent to purchase*  
86 *distilled spirits from the Board and to deliver the spirits to the business premises of the mixed beverage*  
87 *licensee. Each purchase by the permittee shall be separately documented for each mixed beverage*  
88 *licensee and the permittee shall maintain records of all purchases and deliveries for a period of two*  
89 *years. Upon written authorization provided by any mixed beverage licensee, the permittee may use its*  
90 *own business checks and credit cards to make any such purchases, provided that the mixed beverage*  
91 *licensee makes payment to the permittee for any and all purchases spirits at or before the time of*  
92 *delivery.*

93 B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary  
94 thereof which has supplied financing to a wholesale licensee to manage and operate the wholesale  
95 licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.