

11104160D

SENATE BILL NO. 1457

Offered January 21, 2011

A *BILL to amend and reenact §§ 4.1-411 and 4.1-232 of the Code of Virginia, relating to alcoholic beverage control; refund of state license taxes for act of God.*

Patron—Hanger

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-111 and 4.1-232 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-111. Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits.

12. *Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.*

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be

INTRODUCED

SB1457

59 based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit
60 status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the
61 purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its
62 not-for-profit status. The granting of such waiver shall be limited to two events per year for each
63 applicant.

64 2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the
65 course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of
66 § 4.1-325.2.

67 D. Board regulations shall be uniform in their application, except those relating to hours of sale for
68 licensees.

69 E. Courts shall take judicial notice of Board regulations.

70 F. The Board's power to regulate shall be broadly construed.

71 § 4.1-232. Refund of state license tax.

72 A. The Board may correct erroneous assessments made by it against any person and make refunds of
73 any amounts collected pursuant to erroneous assessments, or collected as taxes on licenses, which are
74 subsequently refused or application therefor withdrawn, and to allow credit for any license taxes paid by
75 any licensee for any license which is subsequently merged or changed into another license during the
76 same license year. No refund shall be made of any such amount, however, unless made within three
77 years from the date of collection of the same.

78 B. In any case where a licensee has changed its name or form of organization during a license year
79 without any change being made in its ownership, and because of such change is required to pay an
80 additional license tax for such year, the Board shall refund to such licensee the amount of such tax so
81 paid in excess of the required license tax for such year.

82 C. *The Board shall make refunds, prorated according to a schedule of its prescription, to licensees*
83 *of state license taxes paid pursuant to subsection A of § 4.1-231 if the place of business designated in*
84 *the license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm,*
85 *or similar natural disaster or phenomenon.*

86 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of
87 moneys appropriated to the Board; and in the manner prescribed in § 4.1-116.