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HOUSE BILL NO. 1026

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend and reenact § 4.1-320 of the Code of Virginia, relating to alcoholic beverage control; advertising "Happy Hour."

Patron—Englin

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 4.1-320 of the Code of Virginia is amended and reenacted as follows:**

§ 4.1-320. Illegal advertising; penalty; exception.

A. Except in accordance with Board regulations, no person shall advertise in or send any advertising matter into the Commonwealth about or concerning alcoholic beverages other than those which may legally be manufactured or sold without a license.

B. (Expires January 1, 2013) For manufacturers and wholesalers, including wineries and farm wineries:

1. No more than one sign may be displayed upon the licensed premises, no portion of which may be higher than 30 feet above ground level on a wholesaler's premises;

2. No more than two signs may be displayed, which shall be directional in nature, not farther than one-half mile from the licensed establishment limited in dimension to 64 square feet with advertising limited to brand names;

3. If the establishment is a winery and also holds a retail off-premises winery license or is a farm winery, additional directional signs with advertising limited to trade names, brand names, the terms "farm winery" or "winery," and tour information may be displayed in accordance with state and local rules, regulations, and ordinances; and

4. Advertising on vehicles and uniforms shall be limited to persons employed exclusively in the business of a manufacturer or wholesaler, which shall include any antique vehicles bearing original or restored alcoholic beverage advertising used for promotional purposes. Additionally, any person whether licensed in the Commonwealth or not, may use and display antique vehicles bearing original or restored alcoholic beverage advertising.

C. (Expires January 1, 2013) For retailers, including mixed beverage licensees, other than carriers and clubs:

1. No more than two signs at the establishment, or three signs in the case of establishments at intersections, may be displayed, the advertising on which, including symbols approved by the U.S. Department of Transportation relating to alcoholic beverages, shall be limited to 12 inches in height or width and not animated and, in the case of signs remote from the premises, subordinate to the main theme and substantially in conformance with the size and content of advertisements of other services offered at the establishment;

2. Signs may not include any reference to or depiction of "Happy Hour," or references or depictions of similar import, including references to "special" or "reduced" prices or similar terms when used as inducements to purchase or consume alcoholic beverages, except that, notwithstanding the provisions of Board regulations to the contrary, a retail licensee may post one two-dimensional sign not exceeding 17 inches by 22 inches, attached to the exterior of the licensed premises, limited in content to the terms "Happy Hour" or "Drink Specials" and the time period within which alcoholic beverages are being sold at the reduced prices. *Nothing in this title or Board regulation shall be construed to prohibit a retail on-premises licensee from advertising "Happy Hour" or "Drink Specials" and the time periods during which alcoholic beverages are being sold at reduced prices using the Internet or similar forms of electronic communications media, provided the licensee complies with all other provisions of this title and Board regulations; and*

3. No advertising of alcoholic beverages may be displayed in exterior windows or within the interior of the retail establishment in such a manner that such advertising materials may be viewed from the exterior of the retail premises, except on table menus or newspaper tear sheets.

D. (Expires January 1, 2013) The Board may grant a permit authorizing a variance from the provisions of subsection B or C for good cause shown.

E. (Expires January 1, 2013) Manufacturers, wholesalers, and retailers may engage in the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs, except as follows:

1. No outdoor alcoholic beverage advertising shall depict persons consuming alcoholic beverages or

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59 use cartoon characters in any way or use persons who have not attained the minimum drinking age as
60 models or actors; and

61 2. No outdoor alcoholic beverage advertising shall be placed within 500 feet of a church or
62 synagogue; public, private, or parochial school, college, or university; public or private playground or
63 similar recreational facility; or residentially zoned property.

64 F. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

65 G. Neither this section nor any Board regulation shall prohibit (i) the awarding of watches of a
66 wholesale value of less than \$100 by a licensed distillery, winery or brewery, to participants in athletic
67 contests; (ii) the exhibition or display of automobiles, boats, or aircraft regularly and normally used in
68 racing or other competitive events and the sponsorship of an automobile, boat or aircraft racing team by
69 a licensed distillery, winery or brewery and the display on the automobile, boat or aircraft and uniforms
70 of the members of the racing team, the trademark or brand name of an alcoholic beverage manufactured
71 by such distillery, winery or brewery; (iii) the sponsorship of a professional athletic event, including, but
72 not limited to, golf, auto racing or tennis, by a licensed distillery, winery or brewery or the use of any
73 trademark or brand name of any alcoholic beverage in connection with such sponsorship; (iv) the
74 advertisement of beer by the display of such product's name on any airship, which advertising is paid
75 for by the manufacturer of such product; (v) the advertisement of beer or any alcoholic beverage by the
76 display of such product's name on any scale model, reproduction or replica of any motor vehicle, aircraft
77 or watercraft offered for sale; (vi) the placement of billboard advertising within stadia, coliseums, or
78 racetracks that are used primarily for professional or semiprofessional athletic or sporting events; or (vii)
79 the sponsorship of an entertainment or cultural event.