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HOUSE BILL NO. 359

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact § 4.1-201 of the Code of Virginia, relating to alcohol beverage control; conduct not prohibited; leasing of licensed premises by breweries.

Patron—McClellan

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 4.1-201 of the Code of Virginia is amended and reenacted as follows:**

§ 4.1-201. Conduct not prohibited by this title; limitation.

A. Nothing in this title or any Board regulation adopted pursuant thereto shall prohibit:

1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or given away in violation of this title.

2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in accordance with Board regulations.

3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic beverages.

4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed containers from other breweries owned by such person or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

5. The granting of any retail license to a brewery or winery licensee, or to an applicant for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the places of business or establishments for which the retail licenses are desired are located upon the premises occupied or to be occupied by such winery or brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary.

6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. The receipt by a fruit distillery licensee of deliveries and shipments of alcoholic beverages made from fruit or fruit juices in closed containers from other fruit distilleries owned by such licensee, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to persons outside of the Commonwealth for resale outside of the Commonwealth.

9. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to another farm winery or winery licensee for the purpose of additional bottling in accordance with Board regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

10. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be

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HB359

59 used by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall
60 be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the
61 extent it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth.
62 The selling licensee shall provide to the receiving licensee, and both shall maintain complete and
63 accurate records of, the source of the fresh fruits or agricultural products used to produce the wine so
64 transferred.

65 11. Any distiller licensed under this title from serving as an agent of the Board for the sale of
66 alcoholic beverages, other than beer and wine, at a government store established by the Board on the
67 licensed premises of the distiller in accordance with subsection D of § 4.1-119.

68 12. Any retail on-premises beer licensee, his agent or employee, from giving a sample of beer to
69 persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or retail
70 on-premises wine or beer licensee, his agent or employee, from giving a sample of wine or beer to
71 persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed
72 beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to
73 whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall
74 not exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not
75 exceed one-half ounce. No more than two product samples shall be given to any person per visit.

76 13. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not
77 licensed in the Commonwealth, from selling service items bearing alcoholic brand references to
78 on-premises retail licensees or prohibit any such retail licensee from displaying the service items on the
79 premises of his licensed establishment. Each such retail licensee purchasing such service items shall
80 retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of
81 not less than two years from the date of each sale of the service items. As used in this subdivision,
82 "service items" mean articles of tangible personal property normally used by the employees of
83 on-premises retail licensees to serve alcoholic beverages to customers including, but not limited to,
84 glasses, napkins, buckets, and coasters.

85 14. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in
86 the Commonwealth, from distributing to retail licensees and their employees novelties and specialties,
87 including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage
88 advertising. Such items may be distributed to retail licensees in quantities equal to the number of
89 employees of the retail establishment present at the time the items are delivered. Thereafter, such
90 employees may wear or display the items on the licensed premises.

91 15. Any retail on-premises wine or beer licensee, his agent or employee from offering for sale or
92 selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines
93 or beers consisting of samples of not more than five different wines or beers.

94 16. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired
95 wine by bona fide customers on the premises in all areas and locations covered by the license. The
96 licensee may charge a corkage fee to such customer for the wine so consumed; however, the licensee
97 shall not charge any other fee to such customer.

98 17. Any licensed brewery from leasing its licensed premises and equipment located thereon to a
99 person holding a brewery license for the manufacture of beer by such person at such times as specified
100 in the lease agreement, § 4.1-203 notwithstanding. Any such lease agreement shall require that (i) title
101 to the beer at all stages of the manufacturing process be retained by the respective licensee using the
102 licensed premises to manufacture the beer, (ii) the respective licensee maintain separate records as
103 required by this title and Board regulations, and (iii) each licensee otherwise comply with Board
104 regulations.

105 B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale
106 outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from
107 receiving or selling the same.