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HOUSE BILL NO. 470**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws
on February 7, 2012)

(Patrons Prior to Substitute—Delegates Albo and Englin [HB 1026])

*A BILL to amend and reenact § 4.1-111 of the Code of Virginia, relating to alcoholic beverage control; regulation of happy hour advertising.***Be it enacted by the General Assembly of Virginia:****1. That § 4.1-111 of the Code of Virginia is 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 Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)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.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this title, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

60 a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i)
61 the general prohibition against tied interests between retail licensees and manufacturers or wholesale
62 licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of
63 wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the
64 general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and
65 retail licensees as set forth in Board regulation; and

66 b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this title and (ii) the
67 display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under
68 Chapter 7 (§ 33.1-351 et seq.) of Title 33.1 where such signs are located on commercial real estate as
69 defined in § 55-526, but only in accordance with this title and provided that no outdoor alcoholic
70 beverage advertising shall be placed within 500 feet of a church or synagogue; public, private, or
71 parochial school, college, or university; public or private playground or similar recreational facility; or
72 residentially zoned property. Nothing in this subdivision b shall be construed to authorize outdoor
73 alcoholic beverage advertising on property zoned agricultural or residential, or on any unzoned property.
74 Nor shall this subdivision b be construed to authorize the erection of new outdoor advertising that would
75 be prohibited under state law or local ordinance.

76 *14. Permit a retail on-premises licensee to post on a website or social media site maintained or*
77 *administered by the licensee or his agent information about the time periods during which alcoholic*
78 *beverages are being sold at reduced prices and to include in connection therewith the terms "Happy*
79 *Hour" or "Drink Specials," provided (i) such information is not sent or otherwise disseminated*
80 *electronically by the licensee and (ii) the licensee complies with all other provisions of this title and*
81 *Board regulations.*

82 C. The Board may promulgate regulations that:

83 1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be
84 based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit
85 status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the
86 purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its
87 not-for-profit status. The granting of such waiver shall be limited to two events per year for each
88 applicant.

89 2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the
90 course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of
91 § 4.1-325.2.

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

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

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

96 **2. That in promulgating regulations in accordance with this act, the Alcoholic Beverage Control**
97 **Board shall include parameters by which retail licensees with on-premises privileges may conduct**
98 **Happy Hours, including the time period during which alcoholic beverages may be sold at reduced**
99 **prices and any limitation of advertising Happy Hour.**