

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 4.1-509.1, relating to alcoholic*
3 *beverage control; contemplated actions by brewery or beer wholesaler.*

4 [H 1587]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 4.1-509.1 as follows:**8 **§ 4.1-509.1. Board proceedings; contemplated actions by brewery or wholesaler.**

9 *A. For purposes of this section, "contemplated action" means an action proposed by a brewery or*
10 *wholesaler that (i) if carried out would violate any provision of this chapter or subdivision 1 c (v) of*
11 *§ 4.1-225 and (ii) is demonstrated by a specific written statement authored by a brewery or an employee*
12 *of a wholesaler who is specifically authorized by virtue of job title and responsibility to make such*
13 *statement and such other evidence as may be required by the Board pursuant to the facts of any given*
14 *circumstance.*

15 *B. Subsequent to compliance with subsection D, any wholesaler may file a petition against a*
16 *brewery, and any brewery may file a petition against a wholesaler, in which the petitioner alleges that*
17 *the respondent named in the petition as a matter of past or present fact has contemplated action that if*
18 *carried out would violate any provision of this chapter or subdivision 1 c (v) of § 4.1-225. Any such*
19 *petition filed shall identify with specificity the alleged contemplated action, the document in which such*
20 *contemplated action is described or authorized, and specify the provision of law or regulation that the*
21 *contemplated action would violate if carried out. The petition shall include a statement that a*
22 *controversy as to the lawfulness of the contemplated action exists. The statement shall be supported by*
23 *evidence of the petitioner's good faith effort to resolve the controversy in accordance with subsection D.*
24 *The petitioner shall have the burden of establishing that the contemplated actions identified in the*
25 *petition, if carried out, would violate any provision of law or regulation enumerated in this subsection.*
26 *The Board may, if it finds that a brewery or wholesaler has frivolously maintained a petition or defense*
27 *to a proceeding pursuant to this chapter, award reasonable costs and attorney fees to the prevailing*
28 *party.*

29 *C. Any petition filed by a brewery or wholesaler pursuant to this section shall be delivered to the*
30 *Secretary of the Board. The Board shall promptly issue a written determination as to whether a*
31 *violation or attempted violation as alleged in the petition has occurred. In addition, the Board shall*
32 *promptly issue a written determination as to whether a violation alleged in the petition would occur if*
33 *the contemplated action identified in the petition were to be carried out.*

34 *D. Prior to filing a petition, a party shall communicate with the party alleged to be considering a*
35 *contemplated action and initiate a good faith attempt to resolve the issue in question. If within 21 days*
36 *of initiating the communication required by this subsection, or such longer period of time if mutually*
37 *agreed upon, there is no resolution, either party may proceed to file a petition in accordance with*
38 *subsection B.*

ENROLLED

HB1587ER