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SENATE BILL NO. 1235

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services
on January 18, 2013)

(Patron Prior to Substitute—Senator Black)

A *BILL to amend and reenact §§ 4.1-119 and 4.1-206 of the Code of Virginia, relating to alcoholic beverage control; operation of government stores.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-119 and 4.1-206 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-119. Operation of government stores.

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, and products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers.

D. Alcoholic beverages at government stores shall be sold by employees of the Board, who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board on the distiller's licensed premises, provided:

1. At least 51 percent of the agricultural products used by such licensee to manufacture the spirits are grown on the licensee's farm or land in Virginia leased by the licensee and no more than 25 percent of the agricultural products are grown or produced outside the Commonwealth. However, upon petition by the Department of Agriculture and Consumer Services, the Board may permit the use of a lesser percentage of products grown on the licensee's farm if unusually severe weather or disease conditions cause a significant reduction in the availability of agricultural products grown on the farm to manufacture the spirits during a given license year;

2. Such licensee is a duly organized nonprofit association holding title to real property, together with improvements thereon that are significant in American history, under a charter from the Commonwealth to preserve such property, and which association accepts no federal, state, or local funds;

3. Such licensee operates a museum whose licensed premises is located on the grounds of a local historic building or site;

4. Such licensee is an independently certified organic distillery, with such certification by a USDA-accredited certification agency; or

5. Such licensee is employing traditional distilling techniques, including the use of authentic copper pot stills to blend or produce spirits in any county with a population of less than 20,000.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Board and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, *except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises*, shall

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be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, and the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304. The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Board shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Board, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Board shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

§ 4.1-206. Alcoholic beverage licenses.

The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. *When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.*

2. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

3. Banquet facility licenses to volunteer fire departments and volunteer rescue squads, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a fire or rescue squad station or both, regularly occupied as such and recognized by the governing body of the county, city or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a fire or rescue squad station, provided such other premises are occupied and under the control of the fire department or rescue squad while the privileges of its license are being exercised.

4. Bed and breakfast licenses, which shall authorize the licensee to serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises.

5. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

6. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

7. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired

alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

8. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

9. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

10. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

11. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.