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**SENATE BILL NO. 104**

Offered January 8, 2014

Prefiled December 27, 2013

*A BILL to amend and reenact § 4.1-209 of the Code of Virginia, relating to alcoholic beverage control; privileges of gift shop licenses.*

Patrons—Ruff and McWaters

Referred to Committee on Rehabilitation and Social Services

**Be it enacted by the General Assembly of Virginia:****1. That § 4.1-209 of the Code of Virginia is amended and reenacted as follows:****§ 4.1-209. Wine and beer licenses; advertising.**

A. The Board may grant the following licenses relating to wine and beer:

1. Retail on-premises wine and beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (i) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license;

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them, for on-premises consumption when carrying passengers;

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding;

e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained;

f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers, during any event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia, racetracks or similar facilities, for on-premises consumption. 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;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which (i) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach, (ii) has capacity for more than 3,500 persons and is located in the Counties of Albemarle, Augusta, Pittsylvania, or Rockingham, or the Cities of Charlottesville, Danville, or Roanoke, or (iii) has capacity for more than 9,500 persons and is located in Henrico County. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. 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; and

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59 h. Persons operating food concessions at exhibition or exposition halls, convention centers or similar  
60 facilities located in any county operating under the urban county executive form of government or any  
61 city which is completely surrounded by such county, which shall authorize the licensee to sell wine and  
62 beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all  
63 seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations  
64 designated by the Board in such facilities, for on-premises consumption. Upon authorization of the  
65 licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the  
66 premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or  
67 exposition hall" and "convention centers" mean facilities conducting private or public trade shows or  
68 exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

69 2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer  
70 in closed containers for off-premises consumption.

71 3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed  
72 containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any  
73 person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed two ounces by  
74 volume or (ii) a sample of beer not to exceed four ounces by volume, for on-premises consumption. The  
75 licensee may also give samples of wine and beer in designated areas at events held by the licensee for  
76 the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.  
77 Additionally, with the consent of the licensee, farm wineries, wineries, breweries, and wholesale  
78 licensees may participate in tastings held by licensees authorized to conduct tastings, including the  
79 pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Notwithstanding  
80 Board regulations relating to food sales, the licensee shall maintain each year an average monthly  
81 inventory and sales volume of at least \$1,000 in products such as cheeses and gourmet food.

82 4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in  
83 closed containers for off-premises consumption.

84 5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which  
85 shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition,  
86 shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

87 6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or  
88 associations in charge of special events, which shall authorize the licensee to sell or give wine and beer  
89 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms  
90 or areas. Except as provided in § 4.1-215, a separate license shall be required for each day of each  
91 banquet or special event. For the purposes of this subdivision, when the location named in the original  
92 application for a license is outdoors, the application may also name an alternative location in the event  
93 of inclement weather. However, no such license shall be required of any hotel, restaurant, or club  
94 holding a retail wine and beer license.

95 7. Gift shop licenses, which shall authorize the licensee to sell wine and beer unchilled, only within  
96 the interior premises of the gift shop in closed containers for off-premises consumption *and, the*  
97 *provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully*  
98 *sold (i) a sample of wine, not to exceed two ounces by volume or (ii) a sample of beer not to exceed*  
99 *four ounces by volume for on-premises consumption. The licensee may also give samples of wine and*  
100 *beer in designated areas at events held by the licensee for the purpose of featuring and educating the*  
101 *consuming public about the alcoholic beverages being tasted.*

102 8. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom  
103 wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging,  
104 and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for  
105 off-premises consumption in accordance with subdivision 6 of § 4.1-200.

106 9. Annual banquet licenses, to duly organized private nonprofit fraternal, patriotic or charitable  
107 membership organizations that are exempt from state and federal taxation and in charge of banquets  
108 conducted exclusively for its members and their guests, which shall authorize the licensee to serve wine  
109 and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such  
110 rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per  
111 calendar year. For the purposes of this subdivision, when the location named in the original application  
112 for a license is outdoors, the application may also name an alternative location in the event of inclement  
113 weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail  
114 wine and beer license.

115 10. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a  
116 place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer  
117 owned by holders of wine or beer shipper's licenses, (ii) store such wine or beer on behalf of the owner,  
118 and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board  
119 regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or  
120 not, or any person under common control of such licensee, shall acquire or hold any financial interest,

121 direct or indirect, in the business for which any fulfillment warehouse license is issued.

122 11. Marketing portal licenses, which shall authorize agricultural cooperative associations organized  
123 under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place  
124 of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive  
125 orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom  
126 wine or beer may be lawfully sold, on behalf of holders of wine or beer shipper's licenses. Upon receipt  
127 of an order for wine or beer, the licensee shall forward it to a holder of a wine or beer shipper's license  
128 for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

129 12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina  
130 and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on  
131 the premises, where the licensee also offers to the public events for the purpose of featuring and  
132 educating the consuming public about local oysters and other seafood products. Such license shall  
133 authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas  
134 approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed  
135 containers for off-premises consumption. Samples of wine shall not exceed two ounces per person.  
136 Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly  
137 food sale requirement of oysters and other seafood for such license. Additionally, with the consent of  
138 the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees  
139 authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic  
140 beverages may be lawfully sold.

141 B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license  
142 pursuant to this section may display within their licensed premises point-of-sale advertising materials  
143 that incorporate the use of any professional athlete or athletic team, provided that such advertising  
144 materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol,  
145 Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior  
146 to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the athlete  
147 is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic  
148 beverage so advertised enhances athletic prowess.

149 C. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this  
150 section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its  
151 customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in  
152 designated areas at events held by the licensee for the purpose of featuring and educating the consuming  
153 public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm  
154 wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct  
155 tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully  
156 sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four  
157 ounces per person.