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SENATE BILL NO. 596

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services
on January 17, 2014)

(Patron Prior to Substitute—Senator Marsden)

A BILL to amend and reenact §§ 4.1-231 and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; state and local license taxes on certain brewery licensees.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-231 and 4.1-233 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-231. Taxes on state licenses.

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:

a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; and if more than 5,000 gallons manufactured during such year, \$3,725;

b. Fruit distiller's license, \$3,725;

c. Banquet facility license or museum license, \$190;

d. Bed and breakfast establishment license, \$35;

e. Tasting license, \$40 per license granted;

f. Equine sporting event license, \$130;

g. Motor car sporting event facility license, \$130;

h. Day spa license, \$100;

i. Delivery permit, \$120 if the permittee holds no other license under this title;

j. Meal-assembly kitchen license, \$100; and

k. Canal boat operator license, \$100.

2. Wine licenses. For each:

a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;

b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;

(2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license;

c. Wine importer's license, \$370;

d. Retail off-premises winery license, \$145, which shall include a delivery permit;

e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;

f. Wine shipper's license, \$95; and

g. Internet wine retailer license, \$150.

3. Beer licenses. For each:

a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;

b. Bottler's license, \$1,430;

c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;

d. Beer importer's license, \$370;

e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;

f. Retail off-premises beer license, \$120, which shall include a delivery permit;

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- 60 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
61 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
62 delivery permit;
- 63 h. Beer shipper's license, \$95; and
- 64 i. Retail off-premises brewery license, \$120, which shall include a delivery permit.
- 65 4. Wine and beer licenses. For each:
- 66 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
67 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
68 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
69 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
70 a common carrier of passengers by airplane, \$750;
- 71 b. Retail on-premises wine and beer license to a hospital, \$145;
- 72 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
73 grocery store license, \$230, which shall include a delivery permit;
- 74 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall
75 include a delivery permit;
- 76 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
77 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be
78 \$100 per license;
- 79 f. Gourmet brewing shop license, \$230;
- 80 g. Wine and beer shipper's license, \$95;
- 81 h. Annual banquet license, \$150;
- 82 i. Fulfillment warehouse license, \$120;
- 83 j. Marketing portal license, \$150; and
- 84 k. Gourmet oyster house license, \$230.
- 85 5. Mixed beverage licenses. For each:
- 86 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
87 located on premises of and operated by hotels or motels, or other persons:
- 88 (i) With a seating capacity at tables for up to 100 persons, \$560;
- 89 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
- 90 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
- 91 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
92 private, nonprofit clubs:
- 93 (i) With an average yearly membership of not more than 200 resident members, \$750;
- 94 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
95 \$1,860; and
- 96 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
- 97 c. Mixed beverage caterer's license, \$1,860;
- 98 d. Mixed beverage limited caterer's license, \$500;
- 99 e. Mixed beverage special events license, \$45 for each day of each event;
- 100 f. Mixed beverage club events licenses, \$35 for each day of each event;
- 101 g. Annual mixed beverage special events license, \$560;
- 102 h. Mixed beverage carrier license:
- 103 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the
104 Commonwealth by a common carrier of passengers by train;
- 105 (ii) \$560 for each common carrier of passengers by boat;
- 106 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
- 107 i. Annual mixed beverage amphitheater license, \$560;
- 108 j. Annual mixed beverage motor sports race track license, \$560;
- 109 k. Annual mixed beverage banquet license, \$500;
- 110 l. Limited mixed beverage restaurant license:
- 111 (i) With a seating capacity at tables for up to 100 persons, \$460;
- 112 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
- 113 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
- 114 m. Annual mixed beverage motor sports facility license, \$560; and
- 115 n. Annual mixed beverage performing arts facility license, \$560.
- 116 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
117 imposed by this section on the license for which the applicant applied.
- 118 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be
119 subject to proration to the following extent: If the license is granted in the second quarter of any year,
120 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be
121 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by

122 three-fourths.

123 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000
124 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license
125 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the
126 number of gallons permitted to be manufactured shall be prorated in the same manner.

127 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000
128 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or
129 winery license, such person shall pay for such unlimited license a license tax equal to the amount that
130 would have been charged had such license been applied for at the time that the license to manufacture
131 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person
132 shall be entitled to a refund of the amount of license tax previously paid on the limited license.

133 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than
134 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest
135 cent, multiplied by the number of months in the license period.

136 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
137 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
138 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
139 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer
140 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license
141 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining
142 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the
143 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases
144 shall be disregarded.

145 **§ 4.1-233. Taxes on local licenses.**

146 A. In addition to the state license taxes, the annual local license taxes which may be collected shall
147 not exceed the following sums:

148 1. Alcoholic beverages. - For each:

- 149 a. Distiller's license, \$1,000; no local license shall be required for any person who manufactures not
- 150 more than 5,000 gallons of alcohol or spirits, or both, during such license year;
- 151 b. Fruit distiller's license, \$1,500;
- 152 c. Bed and breakfast establishment license, \$40;
- 153 d. Museum license, \$10;
- 154 e. Tasting license, \$5 per license granted;
- 155 f. Equine sporting event license, \$10;
- 156 g. Day spa license, \$20;
- 157 h. Motor car sporting event facility license, \$10;
- 158 i. Meal-assembly kitchen license, \$20; and
- 159 j. Canal boat operator license, \$20.

160 2. Beer. - For each:

- 161 a. Brewery license, *if not more than 500 barrels of beer manufactured during the year in which the*
 - 162 *license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which*
 - 163 *the license is granted, \$1,000;*
 - 164 b. Bottler's license, \$500;
 - 165 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
 - 166 d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer
 - 167 license in a city, \$100, and in a county or town, \$25; and
 - 168 e. Beer shipper's license, \$10.
- 169 3. Wine. - For each:
- 170 a. Winery license, \$50;
 - 171 b. Wholesale wine license, \$50;
 - 172 c. Farm winery license, \$50; and
 - 173 d. Wine shipper's license, \$10.

174 4. Wine and beer. - For each:

- 175 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail
- 176 off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery
- 177 store license, in a city, \$150, and in a county or town, \$37.50;
- 178 b. Hospital license, \$10;
- 179 c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board
- 180 pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20
- 181 per license;
- 182 d. Gourmet brewing shop license, \$150;

- 183 e. Wine and beer shipper's license, \$10;
184 f. Annual banquet license, \$15; and
185 g. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
186 5. Mixed beverages. - For each:
187 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
188 by hotels or motels, or other persons:
189 (i) With a seating capacity at tables for up to 100 persons, \$200;
190 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
191 (iii) With a seating capacity at tables for more than 150 persons, \$500.
192 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
193 c. Mixed beverage caterer's license, \$500;
194 d. Mixed beverage limited caterer's license; \$100;
195 e. Mixed beverage special events licenses, \$10 for each day of each event;
196 f. Mixed beverage club events licenses, \$10 for each day of each event;
197 g. Annual mixed beverage amphitheater license, \$300;
198 h. Annual mixed beverage motor sports race track license, \$300;
199 i. Annual mixed beverage banquet license, \$75;
200 j. Limited mixed beverage restaurant license:
201 (i) With a seating capacity at tables for up to 100 persons, \$100;
202 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
203 (iii) With a seating capacity at tables for more than 150 persons, \$400;
204 k. Annual mixed beverage motor sports facility license, \$300; and
205 l. Annual mixed beverage performing arts facility license; \$300.
206 B. Common carriers. - No local license tax shall be either charged or collected for the privilege of
207 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the
208 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises
209 consumption only.
210 C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in
211 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local
212 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,
213 may include alcoholic beverages in the base for measuring such local license taxes the same as if the
214 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter
215 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local
216 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license
217 taxes authorized by this chapter.
218 The governing body of any county, city or town, in adopting an ordinance under this section, shall
219 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation
220 under the ordinance, and in computing the local wholesale merchants' license tax on such beer
221 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be
222 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license
223 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine
224 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale
225 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall
226 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary
227 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax
228 paid by such wholesale wine licensee.
229 D. Delivery. - No county, city or town shall impose any local alcoholic beverages license tax on any
230 wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such
231 wholesaler maintains no place of business in such county, city or town.
232 E. Application of county tax within town. - Any county license tax imposed under this section shall
233 not apply within the limits of any town located in such county, where such town now, or hereafter,
234 imposes a town license tax on the same privilege.