

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 140

An Act to amend and reenact § 4.1-235 of the Code of Virginia, relating to alcoholic beverage control; distribution of liter tax on cider produced by farm wineries.

[S 569]

Approved March 1, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-235 of the Code of Virginia is amended and reenacted as follows:

§ 4.1-235. Collection; computation, distribution of tax on wine and other alcoholic beverages; refunds and adjustments.

A. The Board shall collect the state taxes levied pursuant to §§ 4.1-213 and 4.1-234 as follows:

1. Collection shall be from the purchaser at the time of or prior to sale, except as to sales made to wholesale wine licensees. Wholesale wine licensees shall collect the taxes at the time of or prior to sale to retail licensees, and shall remit such taxes monthly to the Board, along with such reports as may be required by the Board, at the time and in the manner prescribed by the Board.

2. In establishing the prices for items sold by it to persons other than wholesale licensees, the Board shall include a reasonable markup. The liter tax or 20 percent tax, as appropriate, shall then be added to the price of each container of alcoholic beverages. The four percent tax on vermouth and farm winery wines *and ciders* shall then be added for those products. In all cases the final price for each container may be established so as to be a multiple of five or rounded to end with a nine.

In accounting for the state tax on sales the Board shall divide the net sales for the quarter by 1.20 and multiply the result by 20 percent. As to the sale of vermouth and farm winery wine *and cider*, the Board shall divide the net sales for the quarter by 1.04 and multiply the result by four percent.

B. The amount of tax collected under this section during each quarter shall, within 50 days after the close of such quarter, be certified to the Comptroller by the Board and shall be transferred by him from the special fund described in § 4.1-116 to the general fund of the state treasury. The Board shall, not later than June 20 of every year, estimate the yield of the state tax on sales imposed by §§ 4.1-213 and 4.1-234 for the quarter ending June 30 and certify the amount of such estimate to the Comptroller, whereupon the Comptroller shall, before the end of the month, transfer the amount of such estimate from the special fund described in § 4.1-116 to the general fund of the state treasury, subject to such adjustment on account of an overestimate or underestimate as may be indicated within 50 days after the close of the quarter ending on June 30.

Forty-four percent of the amount derived from the liter tax levied pursuant to §§ 4.1-213 and 4.1-234 shall be transferred to the general fund and paid to the several counties, cities, and towns of the Commonwealth in proportion to their respective populations, and is appropriated for such purpose.

The counties, cities, and towns shall in no event receive from the taxes derived from the sale of wines less revenue than was received by such counties, cities, and towns for the year ending June 30, 1976.

The portion of wine liter tax *and cider markup* collected pursuant to §§ 4.1-213 and 4.1-234 that is attributable to the sale of wine *and cider* produced by a farm winery shall be deposited in the Virginia Wine Promotion Fund established pursuant to § 3.2-3005.

Twelve percent of the amount derived from the liter tax levied shall be retained by the Board as operating revenue and distributed as provided in § 4.1-117.

C. As used in this section, the term "net sales" means gross sales less refunds to customers.

D. The Board may make a refund or adjustment of any tax paid to it under this section when (i) the wine upon which such tax has been paid has been condemned and is not permitted to be sold in the Commonwealth, or (ii) wine is returned by a retail licensee to a wholesale wine licensee for refund in accordance with Board regulations or approval. Any claim for such refund or adjustment shall be made to the Board in the report filed with the Board by the wholesale wine licensee for the period in which such return and refund occurs.