

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend the Code of Virginia by adding a section numbered 4.1-225.1, relating to alcoholic beverage control; summary suspension of license in emergency circumstances.

[H 322]

Approved

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 4.1-225.1 as follows:

§ 4.1-225.1. Summary suspension in emergency circumstances; grounds; notice and hearing.

A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act or § 4.1-227 or 4.1-229, the Board may summarily suspend any license or permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises, and the Board finds that there exists a continuing threat to public safety and that summary suspension of the license or permit is justified to protect the health, safety, or welfare of the public.

B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation. Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period, the licensee may petition the Board for a restricted license pending the results of the formal investigation and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the Board shall have discretion to impose appropriate restrictions based on the facts presented.

C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a formal investigation. The formal investigation shall be completed within 10 days of its commencement and the findings reported immediately to the Secretary of the Board. If, following the formal investigation, the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held within five days of the completion of the formal investigation. A decision shall be rendered within 10 days of conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

D. Service of any order of suspension issued pursuant to this section shall be made by a special agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect immediately upon service.

E. This section shall not apply to (i) temporary licenses granted under § 4.1-211 or temporary permits granted under § 4.1-212, either of which may be revoked summarily in accordance with § 4.1-211, or (ii) licenses granted pursuant to subdivision 2 or 3 of § 4.1-207 or subdivision 4 or 5 of § 4.1-208.

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