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## SENATE BILL NO. 488

Offered January 13, 2016

Prefiled January 12, 2016

A BILL to amend and reenact § 4.2-210 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 4.1-225.1, relating to alcoholic beverage control; food-beverage ratio.

Patron—DeSteph

Referred to Committee on Rehabilitation and Social Services

**Be it enacted by the General Assembly of Virginia:**

**1. That § 4.1-210 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-225.1 as follows:**

**§ 4.1-210. Mixed beverage licenses.**

A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to mixed beverages:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant *that serves food during any period of time mixed beverages are served* and (ii) ~~whose who sell, on the basis of gross receipts from the sale, a minimum of 25 cents of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale for every dollar of mixed beverages and food sold. For the purposes of this subdivision, gross receipts shall be calculated on the basis of the price that the licensee paid for the food, nonalcoholic beverages, or mixed beverages sold, rather than the price at which the licensee sells such items to patrons.~~ For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with not less than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms and other private rooms of such hotel or motel, such licensee may (i) sell and serve mixed beverages for consumption in such designated areas, bedrooms and other private rooms and (ii) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit or profit club exclusively for its members and their guests, or members of another private, nonprofit or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. ~~The club's club shall sell, on the basis of gross receipts from the sale, a minimum of 25 cents of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale for every dollar of mixed beverages and food sold. For the purposes of this subdivision, gross receipts shall be calculated on the basis of the price that the licensee paid for the food, nonalcoholic beverages, or mixed beverages sold, rather than the price at which the licensee sells such items to patrons.~~ The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic

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SB488

59 beverages served at gatherings and events referred to in this subdivision shall amount to at least 45  
60 percent of the gross receipts from the sale of mixed beverages and food.

61 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly  
62 engaged in the business of providing food and beverages to others for service at private gatherings or at  
63 special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell  
64 and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of  
65 food cooked and prepared for service and nonalcoholic beverages served at gatherings and events  
66 referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of  
67 mixed beverages and food.

68 4. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in  
69 charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for  
70 on-premises consumption in areas approved by the Board on the premises of the place designated in the  
71 license. A separate license shall be required for each day of each special event.

72 5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or  
73 association operating either a performing arts facility or an art education and exhibition facility, (ii) a  
74 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings and  
75 objects significant in American history and culture, or (iii) persons operating an agricultural event and  
76 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space  
77 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped  
78 with roofs, exterior walls, and open or closed-door access. The operation in all cases shall be upon  
79 premises owned by such licensee or occupied under a bona fide lease the original term of which was for  
80 more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages  
81 during scheduled events and performances for on-premises consumption in areas upon the licensed  
82 premises approved by the Board.

83 6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat  
84 or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the  
85 Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms  
86 of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its  
87 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air  
88 carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes  
89 and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits  
90 will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier  
91 licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits  
92 may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and  
93 any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported,  
94 stored, and delivered by its authorized representative.

95 7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and beer  
96 club license to sell and serve mixed beverages for on-premises consumption by club members and their  
97 guests in areas approved by the Board on the club premises. A separate license shall be required for  
98 each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar  
99 year.

100 8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any  
101 outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000  
102 persons and is located in Prince William County or the City of Virginia Beach. Such license shall  
103 authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic  
104 or similar disposable containers to patrons within all seating areas, concourses, walkways, concession  
105 areas, or similar facilities, for on-premises consumption.

106 9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any  
107 outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000  
108 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize  
109 the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar  
110 disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or  
111 similar facilities, for on-premises consumption.

112 10. Annual mixed beverage motor sports facility license to persons operating food concessions at any  
113 outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on  
114 1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed  
115 beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events  
116 or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing  
117 areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization  
118 of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the  
119 premises in all areas and locations covered by the license.

120 11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic or

charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.

12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages.

13. Annual mixed beverage motor sports facility licenses to persons operating concessions at an outdoor motor sports facility that hosts a NASCAR national touring race, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption.

14. Annual mixed beverage performing arts facility license to corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

15. A combined mixed beverage restaurant and caterer's license, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, or 15 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

**§ 4.1-225.1. Summary suspension for failure to serve food while mixed beverages served.**

*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 mixed beverage restaurant license for a maximum of 24 hours if it has reasonable cause to believe that the licensee failed to serve food during any period of time mixed beverages were served in violation of subdivision A 1 of § 4.1-210.*