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## SENATE BILL NO. 536

Offered January 13, 2016

Prefiled January 13, 2016

A *BILL to amend and reenact §§ 4.1-119, as it is currently effective and as it shall become effective, 4.1-201.1, and 4.1-206 of the Code of Virginia, relating to alcoholic beverage control; distiller's license; tastings.*

Patrons—Deeds and Garrett

Referred to Committee on Rehabilitation and Social Services

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

**1. That §§ 4.1-119, as it is currently effective and as it shall become effective, 4.1-201.1, and 4.1-206 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-119. (Effective until July 1, 2018) Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, and products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers.

D. Alcoholic beverages at government stores shall be sold by employees of the Board, who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board on the distiller's licensed premises *or at one additional location, designated in the license, at which the agents may conduct tastings in accordance with subsection G and sell, in closed containers for off-premises consumption, spirits manufactured by or for, or blended by, such licensee on the licensed premises.*

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Board and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212; ~~and at which~~ the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1 *and, in the case of spirits tastings, a method is used to track the consumption of each consumer.* No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

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59 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed  
60 pursuant to subsection D may give samples of beer, wine, or cider to persons to whom alcoholic  
61 beverages may be lawfully sold for on-premises consumption, provided that (i) the beer, wine, or cider  
62 samples are manufactured within the same licensed premises or on contiguous premises of such agent  
63 licensed as a brewery or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of  
64 wine, or one-half ounce of spirits; and (iii) no more than four total samples of alcoholic beverage  
65 products shall be given or sold to any person per day. Nothing in this paragraph shall prohibit such  
66 agent from serving samples of spirits as a mixed beverage.

67 The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

68 H. With respect to purchases by licensees at government stores, the Board shall (i) accept in payment  
69 for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check  
70 payable to the Board, in the exact amount of any such purchase or series of purchases and (ii) provide  
71 notice to licensees on Board policies relating to the assignment of government stores from which  
72 licensees may purchase products and any procedure for the licensee to elect to make purchases from an  
73 alternative government store.

74 I. With respect to purchases by consumers at government stores, the Board shall accept cash in  
75 payment for any purchase or series of purchases. The Board may adopt regulations which provide for  
76 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where  
77 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by  
78 any consumer.

79 **§ 4.1-119. (Effective July 1, 2018) Operation of government stores.**

80 A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain and  
81 operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by  
82 farm wineries, vermouth, mixers, and products used in connection with distilled spirits, including any  
83 garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the  
84 Board from time to time, in such counties, cities, and towns considered advisable by the Board. The  
85 Board may discontinue any such store.

86 B. With respect to the sale of wine produced by farm wineries, the Board may give preference to  
87 farm wineries that produce 2,500 cases or less of wine per year.

88 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and  
89 brands of alcoholic beverages and other Board-approved products that are sold in government stores.  
90 Differences in the cost of operating stores, and market competition and conditions may be reflected in  
91 the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages  
92 to federal instrumentalities (i) authorized and operating under the laws of the United States and  
93 regulations of the United States Department of Defense and (ii) located within the boundaries of federal  
94 enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be  
95 greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection  
96 shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at  
97 government stores, which retail price may include promotional, volume, or other discounts deemed  
98 appropriate by the Board.

99 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall  
100 carry out the provisions of this title and Board regulations governing the operation of government stores  
101 and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license  
102 or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or  
103 blended by such licensee on the licensed premises, at government stores established by the Board on the  
104 distiller's licensed premises *or one additional location designated in the license, at which the agents may*  
105 *conduct tastings in accordance with subsection G and sell, in closed containers for off-premises*  
106 *consumption, spirits manufactured by or for, or blended by such licensee on the licensed premises.*

107 Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations,  
108 and the terms of the agency agreement between the Authority and the licensed distiller.

109 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries  
110 and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of §  
111 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor  
112 of such alcoholic beverages and (ii) bottled by the receiving distillery.

113 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without  
114 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101  
115 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

116 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to  
117 subsection G sold in government stores established by the Board on a distiller's licensed premises, shall  
118 be in closed containers, sealed and affixed with labels prescribed by the Board.

119 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part  
120 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm

winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212; ~~and at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1 and, in the case of spirits tastings, a method is used to track the consumption of each consumer.~~ No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a brewery or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine, or one-half ounce of spirits; and (iii) no more than four total samples of alcoholic beverage products shall be given or sold to any person per day. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as a mixed beverage.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

**§ 4.1-201.1. Conduct not prohibited by this title; tastings conducted by manufacturers, wine or beer wholesalers, and authorized representatives.**

A. Manufacturers of alcoholic beverages, whether or not licensed in the Commonwealth, and wine or beer wholesalers may conduct tastings of wine, beer, or spirits within hotels, restaurants, and clubs licensed for on-premises consumption provided:

1. The tastings are conducted only by (i) employees of such manufacturers or wholesalers or (ii) authorized representatives of such manufacturers or wholesalers, which authorized representatives have obtained a permit in accordance with subdivision A 15 of § 4.1-212;

2. Such employees or authorized representatives are present while the tastings are being conducted;

3. No category of alcoholic beverage products is offered to consumers unless the retail licensee on whose premises the tasting is conducted is licensed to sell that category of alcoholic beverage product;

4. All alcoholic beverage products used in the tasting are served to the consumer by employees of the retail licensee;

5. The quantity of wine, beer, or spirits provided to any person during the tasting does not exceed 12 ounces of beer, five ounces of wine, or ~~one four~~ and one-half ounces of spirits; however, for any spirits tastings, no single sample shall exceed one-half ounce per spirits product offered and no more than ~~three~~ *nine* spirits products may be offered to any patron. *However, a single sample may contain up to one and one-half ounces of spirits if served as a mixed-beverage. Nothing in this subdivision shall prohibit the offering for one price to any person to whom alcoholic beverages may be lawfully sold a flight of spirits consisting of samples of not more than three different spirits products;* and

6. All alcoholic beverage products used in the tasting are purchased from the retail licensee on whose premises the tasting is conducted; except that no more than \$100 may be expended by or on behalf of any such manufacturer or wholesaler at any retail licensed premises during any 24-hour period. For the purposes of this subdivision, the \$100 limitation shall be exclusive of taxes and gratuities, which gratuities may not exceed 20 percent of the cost of the alcoholic beverages, including taxes, for the alcoholic beverages purchased for the tasting.

B. Manufacturers, wholesalers, and their authorized representatives shall keep complete records of each tasting authorized by this section for a period of not less than two years, which records shall

182 include the date and place of each tasting conducted and the dollar amount expended by the  
183 manufacturer, wholesaler, or his agent or representative in the purchase of the alcoholic beverages used  
184 in the tasting.

185 C. Manufacturers and wholesalers shall be held liable for any violation of this section committed by  
186 their employees or authorized representative in connection with their employment or representation at  
187 any tasting event.

188 **§ 4.1-206. Alcoholic beverage licenses.**

189 The Board may grant the following licenses relating to alcoholic beverages generally:

190 1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other  
191 than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in  
192 closed containers, to the Board and to persons outside the Commonwealth for resale outside the  
193 Commonwealth. When the Board has established a government store on the distiller's licensed premises  
194 *or one additional location designated in the license* pursuant to subsection D of § 4.1-119, such license  
195 shall also authorize the licensee to make a charge to consumers to participate in an organized tasting  
196 event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

197 2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of  
198 alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a  
199 farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its  
200 owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages  
201 are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this  
202 title except as otherwise provided in this subdivision.

203 3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages  
204 made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board  
205 regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale  
206 outside the Commonwealth.

207 4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services  
208 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic  
209 beverages on the premises of the licensee by any person, and bona fide members and guests thereof,  
210 otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be  
211 purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the  
212 premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency  
213 station or both, regularly occupied as such and recognized by the governing body of the county, city, or  
214 town in which it is located. Under conditions as specified by Board regulation, such premises may be  
215 other than a volunteer fire or volunteer emergency medical services agency station, provided such other  
216 premises are occupied and under the control of the volunteer fire department or volunteer emergency  
217 medical services agency while the privileges of its license are being exercised.

218 5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in  
219 dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is  
220 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and  
221 without regard to the amount of gross receipts from the sale of food prepared and consumed on the  
222 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom  
223 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas  
224 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas"  
225 includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more  
226 than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor  
227 dining areas are under the control of the licensee and approved by the Board. Such noncontiguous  
228 designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of  
229 § 4.1-201.

230 6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages  
231 of the type specified in the license in designated areas at events held by the licensee. A tasting license  
232 shall be issued for the purpose of featuring and educating the consuming public about the alcoholic  
233 beverages being tasted. A separate license shall be required for each day of each tasting event. No  
234 tasting license shall be required for conduct authorized by § 4.1-201.1.

235 7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under  
236 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the  
237 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide  
238 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any  
239 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in  
240 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,  
241 regularly occupied and utilized as such.

242 8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and  
243 steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired

alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. 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.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.