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SENATE BILL NO. 488

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services
on February 5, 2016)

(Patron Prior to Substitute—Senator DeSteph)

A BILL to create a pilot project for mixed beverage licensees of the Alcoholic Beverage Control Board; alternative calculation for the 45 percent food-to-beverage ratio based on price paid by the licensee.

Be it enacted by the General Assembly of Virginia:

1. § 1. That there is hereby created a two-year pilot project (the project) for mixed beverage restaurant licensees of the Alcoholic Beverage Control Board (the Board). Any mixed beverage restaurant licensee participating in the project in accordance with this act shall calculate the food-to-beverage ratio set forth in § 4.1-210 of the Code of Virginia both (i) on the basis of the price such licensee paid for the food, nonalcoholic beverages, and mixed beverages and (ii) in accordance with the requirements of § 4.1-210 of the Code of Virginia.

§ 2. The Board shall conduct the project and for each participant in the project may set such additional recordkeeping and reporting requirements as the Board deems necessary to conduct the project. The Board may audit the records of the participants as it deems necessary to carry out the project. The Board may inspect such records in accordance with the provisions of § 4.1-204 of the Code of Virginia.

§ 3. The Board shall advise mixed beverage restaurant licensees of the project through its newsletter and by any other means deemed appropriate by the Board. To participate in the project, a mixed beverage restaurant licensee shall notify the Board on or before August 1, 2016.

§ 4. Any mixed beverage restaurant licensee participating in the project shall be deemed to be in compliance with law if it meets (i) the food-to-beverage ratio required pursuant to § 4.1-210 of the Code of Virginia and Board regulations or (ii) the alternative food-to-beverage ratio calculated according to clause (i) of § 1.

§ 5. Any mixed beverage restaurant licensee participating in the project shall serve food during any period of time mixed beverages are 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 of the Code of Virginia, the Board may summarily suspend the license of any mixed beverage restaurant licensee participating in the project for a maximum of 24 hours if the Board has reasonable cause to believe that the licensee failed to serve food during any period of time mixed beverages were served.

§ 6. The Board shall report its findings and any recommendations based on the results of the project to the Chairmen of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services on or before October 1, 2018.

2. That the provisions of this act shall apply to any successor entity to the Alcoholic Beverage Control Board.

3. That, to the extent that regulations are needed to implement the provisions of this act, such regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Alcoholic Beverage Control Board shall provide an opportunity for public comment on any such regulations prior to adoption.