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SENATE BILL NO. 943

Offered January 11, 2017

Prefiled December 30, 2016

A BILL to amend and reenact § 4.1-103, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to alcoholic beverage control; location of government stores.

Patron—Ebbin

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-103, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 4.1-103. (Effective until July 1, 2018) General powers of Board.

The Board shall have the power to:

1. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;

2. Buy and sell any mixers;

3. Buy and sell products licensed by the Virginia Tourism Corporation that are within international trademark classes 16 (paper goods and printed matter), 18 (leather goods), 21 (housewares and glass), and 25 (clothing);

4. Control the possession, sale, transportation and delivery of alcoholic beverages;

5. Determine, subject to § 4.1-121, the localities within which government stores shall be established or operated and the location of such stores. *Prior to establishing a government store, the Board or its designee shall hold at least one public hearing in the locality in which the government store is to be located to afford citizens an opportunity to submit comments and make their views known regarding the proposed location of the government store. Notice of the public hearing and of the Board's intent to establish a government store shall be posted on the front door of the premises at which the Board seeks to locate such store. No government store shall be located within one-tenth of a mile of any (i) church, synagogue, mosque, or other place of religious worship; (ii) public, private, or parochial school, college, or university; or (iii) child-welfare agency as defined in § 63.2-100. Prior entering into any lease of real property for the purposes of establishing, maintaining, and operating a government store, the Board shall (a) conduct a visual inspection of the property to be leased and (b) consult with the Department of Social Services and the Department of Education or review any databases maintained by such departments regarding the locations of schools and child-welfare agencies to ensure that the property to be leased does not violate the location restrictions of this subdivision;*

6. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic beverages to and from such warehouses;

7. Lease, occupy and improve any land or building required for the purposes of this title;

8. Purchase or otherwise acquire title to any land or building required for the purposes of this title and sell and convey the same by proper deed, with the consent of the Governor;

9. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be considered necessary or useful in carrying into effect the purposes of this title, including rectifying, blending and processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic beverages;

10. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this title, and prescribe the form and content of all labels and seals to be placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline alcohol;

11. Appoint every agent and employee required for its operations; require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts and professionals;

12. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and make summary decisions, subject to final decision by the Board, on application of any party aggrieved;

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59 13. Make a reasonable charge for preparing and furnishing statistical information and compilations to
60 persons other than (i) officials, including court and police officials, of the Commonwealth and of its
61 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
62 interest in obtaining the information requested if such information is not to be used for commercial or
63 trade purposes;

64 14. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
65 and § 4.1-111 of this chapter;

66 15. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and
67 sale of alcoholic beverages;

68 16. Assess and collect civil penalties and civil charges for violations of this title and Board
69 regulations;

70 17. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

71 18. Establish minimum food sale requirements for all retail licensees; and

72 19. Do all acts necessary or advisable to carry out the purposes of this title.

73 **§ 4.1-103. (Effective July 1, 2018) General powers of Board.**

74 The Board shall have the power to:

75 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

76 2. Adopt, use, and alter at will a common seal;

77 3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the
78 sale of products of, or services rendered by the Authority at rates to be determined by the Authority for
79 the purpose of providing for the payment of the expenses of the Authority;

80 4. Make and enter into all contracts and agreements necessary or incidental to the performance of its
81 duties, the furtherance of its purposes, and the execution of its powers under this title, including
82 agreements with any person or federal agency;

83 5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial
84 experts, investment bankers, superintendents, managers, and such other employees and agents as may be
85 necessary and fix their compensation to be payable from funds made available to the Authority. Legal
86 services for the Authority shall be provided by the Attorney General in accordance with Chapter 5
87 (§ 2.2-500 et seq.) of Title 2.2;

88 6. Receive and accept from any federal or private agency, foundation, corporation, association, or
89 person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive
90 and accept from the Commonwealth or any state and any municipality, county, or other political
91 subdivision thereof or from any other source aid or contributions of either money, property, or other
92 things of value, to be held, used, and applied only for the purposes for which such grants and
93 contributions may be made. All federal moneys accepted under this section shall be accepted and
94 expended by the Authority upon such terms and conditions as are prescribed by the United States and as
95 are consistent with state law, and all state moneys accepted under this section shall be expended by the
96 Authority upon such terms and conditions as are prescribed by the Commonwealth;

97 7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business
98 shall be transacted and the manner in which the powers of the Authority shall be exercised and its
99 duties performed;

100 8. Conduct or engage in any lawful business, activity, effort, or project consistent with the
101 Authority's purposes or necessary or convenient to exercise its powers;

102 9. Develop policies and procedures generally applicable to the procurement of goods, services, and
103 construction, based upon competitive principles;

104 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of
105 Title 2.2;

106 11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm
107 wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its
108 possession for sale;

109 12. Buy and sell any mixers;

110 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international
111 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass),
112 and 25 (clothing);

113 14. Control the possession, sale, transportation and delivery of alcoholic beverages;

114 15. Determine, subject to § 4.1-121, the localities within which government stores shall be
115 established or operated and the location of such stores. *Prior to establishing a government store, the*
116 *Board or its designee shall hold at least one public hearing in the locality in which the government*
117 *store is to be located to afford citizens an opportunity to submit comments and make their views known*
118 *regarding the proposed location of the government store. Notice of the public hearing and of the*
119 *Board's intent to establish a government store shall be posted on the front door of the premises at*
120 *which the Board seeks to locate such store. No government store shall be located within one-tenth of a*

mile of any (i) church, synagogue, mosque, or other place of religious worship; (ii) public, private, or parochial school, college, or university; or (iii) child-welfare agency as defined in § 63.2-100. Prior to entering into any lease of real property for the purposes of establishing, maintaining, and operating a government store, the Board shall (a) conduct a visual inspection of the property to be leased and (b) consult with the Department of Social Services and the Department of Education or review any databases maintained by such departments regarding the locations of schools and child-welfare agencies to ensure that the property to be leased does not violate the location restrictions of this subdivision;

16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic beverages to and from such warehouses;

17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this title;

18. Purchase or otherwise acquire title to any land or building required for the purposes of this title and sell and convey the same by proper deed, with the consent of the Governor;

19. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be considered necessary or useful in carrying into effect the purposes of this title, including rectifying, blending and processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic beverages;

20. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this title, and prescribe the form and content of all labels and seals to be placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline alcohol;

21. Appoint every agent and employee required for its operations; require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts and professionals;

22. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and make summary decisions, subject to final decision by the Board, on application of any party aggrieved;

23. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

24. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111;

25. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;

26. Assess and collect civil penalties and civil charges for violations of this title and Board regulations;

27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

28. Establish minimum food sale requirements for all retail licensees;

29. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this title; and

31. Do all acts necessary or advisable to carry out the purposes of this title.

2. That any government store established prior to July 1, 2017, by the Board of Alcoholic Beverage Control pursuant to § 4.1-103 of the Code of Virginia may continue to operate notwithstanding the provisions of this act.