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HOUSE BILL NO. 1484

Offered January 18, 2018

A *BILL to amend and reenact §§ 4.1-119 and 4.1-206 of the Code of Virginia, relating to alcoholic beverage control; distiller's license; remote store location and tasting room.*

Patron—Cline

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 4.1-119 and 4.1-206 of the Code of Virginia are amended and reenacted as follows:****§ 4.1-119. 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, 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, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 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 or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider 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. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority 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 (i) on the distiller's licensed premises ~~or~~, (ii) *at one additional location designated in the license, or* (iii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

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 Authority 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. (Effective until July 1, 2022) 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 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

E. (Effective July 1, 2022) 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

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59 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a
60 permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of
61 alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in
62 subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic
63 beverages may not lawfully be sold pursuant to § 4.1-304.

64 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed
65 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic
66 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or
67 cider samples are ~~manufactured within~~ *provided at* the same licensed premises *at which they are*
68 *manufactured* ~~or~~, on contiguous premises, *at the site of an event licensed by the Board and conducted*
69 *for the purpose of featuring and educating the consuming public about spirits products, or at one*
70 *additional location designated in the license* of such agent licensed as a distillery, brewery, or winery or
71 cider; (ii) no single sample shall exceed four ounces of beer, two ounces of wine, or one-half ounce of
72 spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to
73 one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products
74 or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any
75 person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of
76 each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as
77 part of a mixed beverage.

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

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

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

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

97 **§ 4.1-206. Alcoholic beverage licenses.**

98 A. The Board may grant the following licenses relating to alcoholic beverages generally:

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

106 2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of
107 alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a
108 farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its
109 owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages
110 are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this
111 title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned
112 agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise
113 permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned
114 agricultural" does not include land zoned "residential conservation." Except for the limitation on land
115 zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning
116 authority.

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

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

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining 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.

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

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

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and 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

182 lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer
183 attending either a private gathering or a special event; however, the licensee shall not sell or otherwise
184 charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license
185 shall be limited to the premises of the licensee, including the canal, the canal boats while in operation,
186 and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and
187 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations
188 covered by the license.

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

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

202 15. Commercial lifestyle center license, which may be issued only to a commercial owners'
203 association governing a commercial lifestyle center, which shall authorize any retail on-premises
204 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any
205 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion
206 of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,
207 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant
208 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of
209 such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail
210 on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle
211 center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers
212 with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed.
213 Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center
214 licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of
215 the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall
216 provide adequate security for the licensed premises to ensure compliance with the applicable provisions
217 of this title and Board regulations.

218 B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Board in
219 accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural
220 district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed
221 to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or
222 (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by
223 transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned
224 residential conservation prior to July 1, 2016, may expand any existing building or structure and the
225 uses thereof so long as specifically approved by the locality by special exception. Any such limited
226 distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new
227 building or structure so long as specifically approved by the locality by special exception. All such
228 licensees shall comply with the requirements of this title and Board regulations for renewal of such
229 license or the issuance of a new license in the event of a change in ownership of the limited distillery
230 on or after July 1, 2016.