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HOUSE BILL NO. 422**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on General Laws)

(Patron Prior to Substitute—Delegate Bulova)

House Amendments in [] — February 2, 2018

A BILL to amend and reenact § 4.1-208 of the Code of Virginia, relating to alcoholic beverage control; sales by brewery on licensed premises.

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-208 of the Code of Virginia is amended and reenacted as follows:

§ 4.1-208. Beer licenses.

A. The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption, *provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises.*

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and

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60 (iii) persons outside the Commonwealth for resale outside the Commonwealth.

61 No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth
62 who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's
63 license and purchases beer for resale pursuant to the privileges of such beer importer's license.

64 5. Beer importers' licenses, which shall authorize persons licensed within or outside the
65 Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board
66 regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for
67 the purpose of resale.

68 6. Retail on-premises beer licenses to:

69 a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without
70 meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private
71 guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms
72 and areas. For purposes of this subdivision, "other designated areas" includes outdoor dining areas,
73 whether or not contiguous to the licensed premises, which may have more than one means of ingress
74 and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the
75 control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be
76 approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

77 b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the
78 licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so
79 operated by them for on-premises consumption when carrying passengers.

80 c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee
81 to sell beer, either with or without meals, on such boats operated by them for on-premises consumption
82 when carrying passengers.

83 d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or
84 town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments.
85 No license shall be granted unless it appears affirmatively that a substantial public demand for such
86 licensed establishment exists and that public convenience and the purposes of this title will be promoted
87 by granting the license.

88 e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize
89 the licensee to sell beer, in paper, plastic, or similar disposable containers or in single original metal
90 cans, during the performance of professional sporting exhibitions, events or performances immediately
91 subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and
92 additional locations designated by the Board in such coliseums, stadia, or similar facilities, for
93 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his
94 own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the
95 license.

96 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar
97 facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta,
98 Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer
99 during the performance of any event, in paper, plastic or similar disposable containers or in single
100 original metal cans, to patrons within all seating areas, concourses, walkways, concession areas, or
101 similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep
102 and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations
103 covered by the license.

104 g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar
105 facilities located in any county operating under the urban county executive form of government or any
106 city which is completely surrounded by such county, which shall authorize the licensee to sell beer
107 during the event, in paper, plastic or similar disposable containers or in single original metal cans, to
108 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,
109 and such additional locations designated by the Board in such facilities, for on-premises consumption.
110 Upon authorization of the licensee, any person may keep and consume his own lawfully acquired
111 alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of
112 this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting
113 private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet
114 of floor space.

115 7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed
116 containers for off-premises consumption.

117 8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize
118 the licensee to sell beer at the place of business designated in the brewery license, in closed containers
119 which shall include growlers and other reusable containers, for off-premises consumption.

120 9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which
121 shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall

122 authorize the licensee to sell beer in closed containers for off-premises consumption.

123 B. Any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted
124 by the Board in accordance with this title and (ii) is in compliance with the local zoning ordinance as an
125 agricultural district or classification or as otherwise permitted by a locality for farm winery or limited
126 brewery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the
127 provisions of this section or (b) a subsequent change in ownership of the farm winery or limited
128 brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such
129 farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may
130 expand any existing building or structure and the uses thereof so long as specifically approved by the
131 locality by special exception. Any such farm winery or limited brewery located on land zoned residential
132 conservation prior to July 1, 2016 may construct a new building or structure so long as specifically
133 approved by the locality by special exception. All such licensees shall comply with the requirements of
134 this title and Board regulations for renewal of such license or the issuance of a new license in the event
135 of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

136 **2. That the provisions of this act shall become effective on January 1, 2019.**

137 **[3. The provisions of this act shall become effective on April 30, 2022, for a brewery which has**
138 **entered into: 1) a Performance Agreement with the Commonwealth of Virginia Development**
139 **Opportunity Fund, on or about April 20, 2016; 2) a Performance Agreement entitled "Regarding**
140 **Operation Period Economic Development Grant", on or about April 20, 2016, and 3) a**
141 **commercial lease agreement, on or about April 14, 2017.]**

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