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## SENATE BILL NO. 486

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services  
on February 2, 2018)

(Patron Prior to Substitute—Senator Reeves)

*A BILL to amend and reenact §§ 4.1-119, 4.1-120, and 4.1-215 of the Code of Virginia, relating to alcoholic beverage control; distiller licensee; samples; hours of operation; special events.*

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

**1. That §§ 4.1-119, 4.1-120, and 4.1-215 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 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 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, at which the samples of alcoholic

60 beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision  
61 A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may  
62 not lawfully be sold pursuant to § 4.1-304.

63 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed  
64 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic  
65 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or  
66 cider samples are manufactured within the same licensed premises or on contiguous premises of such  
67 agent licensed as a distillery, brewery, or winery or cider; (ii) no single sample shall exceed four ounces  
68 of beer, two ounces of wine, or one-half ounce of spirits, unless served as a mixed beverage, in which  
69 case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than  
70 four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three  
71 ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a  
72 method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such  
73 agent from serving samples of spirits as part of a mixed beverage. *Such mixed beverage samples may*  
74 *contain spirits or mixers not manufactured on the licensed premises or on contiguous premises of the*  
75 *licensed distillery, provided that at least 75 percent of the spirits used in such samples are manufactured*  
76 *on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board*  
77 *appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of*  
78 *spirits not manufactured on the licensed premises or on contiguous premises of the licensed distillery.*

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

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

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

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

98 **§ 4.1-120. When government stores closed.**

99 A. Except as provided in ~~subsection~~ subsections B and C, no sale or delivery of alcoholic beverages  
100 shall be made at any government store, nor shall any such store be kept open for the sale of alcoholic  
101 beverages:

- 102 1. On Sunday;
- 103 2. On Thanksgiving Day, Christmas Day and New Year's Day; or
- 104 3. During such other periods and on such other days as the Board may direct.

105 B. Certain government stores, as determined by the Board, may be open on Sunday for the sale of  
106 alcoholic beverages after 1:00 p.m.

107 C. *Government stores operated on a distiller's licensed premises pursuant to subsection D of*  
108 *§ 4.1-119 may be open on Sunday for the sale of alcoholic beverages after 10:00 a.m.*

109 **§ 4.1-215. Limitation on manufacturers, bottlers and wholesalers; exemptions.**

110 A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages  
111 shall be granted to any (i) manufacturer, bottler or wholesaler of alcoholic beverages, whether licensed  
112 in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler or wholesaler; (iii)  
113 partnership or corporation, where any partner or stockholder is an officer or director of any such  
114 manufacturer, bottler or wholesaler; (iv) corporation which is a subsidiary of a corporation which owns  
115 or has interest in another subsidiary corporation which is a manufacturer, bottler or wholesaler of  
116 alcoholic beverages; or (v) manufacturer, bottler or wholesaler of alcoholic beverages who has a  
117 financial interest in a corporation which has a retail license as a result of a holding company, which  
118 owns or has an interest in such manufacturer, bottler or wholesaler of alcoholic beverages. Nor shall  
119 such licenses be granted in any instances where such manufacturer, bottler or wholesaler and such  
120 retailer are under common control, by stock ownership or otherwise.

121 2. Notwithstanding any other provision of this title:

a. A manufacturer of malt beverages, whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-209 upon application to the Board, provided that the event for which a banquet license is obtained is ~~(a)~~ (i) at a place approved by the Board and ~~(b)~~ (ii) conducted for the purposes of featuring and educating the consuming public about malt beverage products. Such manufacturer shall be limited to eight banquet licenses for such events per year without regard to the number of breweries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event; or

b. A manufacturer of wine, whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-209 upon application to the Board, provided that the event for which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about wine products. Such manufacturer shall be limited to eight banquet licenses for such events per year without regard to the number of wineries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event.

3. Notwithstanding any other provision of this title, a manufacturer of distilled spirits, whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in subdivision A 4 of § 4.1-210 upon application to the Board, provided that such event is ~~(1)~~ (i) at a place approved by the Board and ~~(2)~~ (ii) conducted for the purposes of featuring and educating the consuming public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than ~~four~~ eight banquet licenses for such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license shall authorize the manufacturer to *sell or* give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas at the special event, provided that ~~(A)~~ (a) no single sample shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits, and ~~(B)~~ (b) no more than three ounces of spirits may be offered to any patron *per day*. Nothing in this paragraph shall prohibit such manufacturer from serving such samples as part of a mixed beverage.

B. This section shall not apply to:

1. Corporations operating dining cars, buffet cars, club cars or boats;  
2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;

3. Farm winery licensees engaging in conduct authorized by subdivision 5 of § 4.1-207;

4. Manufacturers, bottlers or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers or wholesalers;

5. Wineries, farm wineries, or breweries engaging in conduct authorized by § 4.1-209.1 or 4.1-212.1;  
or

6. One out-of-state winery, not under common control or ownership with any other winery, that is under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the restaurant before it is offered for sale to consumers.

C. The General Assembly finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing techniques. The exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition and shall therefore be construed accordingly.