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## HOUSE BILL NO. 2367

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws)

(Patron Prior to Substitute—Delegate Knight)

House Amendments in [ ] — January 29, 2019

A *BILL to amend and reenact §§ 4.1-204 and 4.1-212.1 of the Code of Virginia, relating to alcoholic beverage control; delivery permittees.*

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

**1. That §§ 4.1-204 and 4.1-212.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-204. Records of licensees; inspection of records and places of business.**

A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by § 4.1-234 or 4.1-236, if any.

B. Retailers. — Every retail licensee shall keep complete, accurate and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every retail licensee shall also preserve all invoices showing his purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection D, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding retail licenses which require sales of food to determine their qualifications for such licenses, the records shall also include purchases and sales of food and nonalcoholic beverages.

Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the retail licensee may obtain Board approval, for good cause shown, to permit the retail licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Common carriers. — Common carriers of passengers by train, boat, or airplane shall keep records of purchases and sales of alcoholic beverages and food as required by Board regulation.

D. Wine shippers and beer shippers. — Every wine shipper licensee and every beer shipper licensee shall keep complete, accurate, and separate records in accordance with Board regulations of all shipments of wine or beer to persons in the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether any wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine and beer sold and the total price charged for such wine and beer. Such records shall include the names and addresses of the purchasers to whom the wine and beer is shipped.

E. Delivery permittees. — Every holder of a delivery permit issued pursuant to § 4.1-212.1 shall keep complete, accurate, and separate records *for a period of at least two years* in accordance with Board regulations of all deliveries of wine or beer to persons in the Commonwealth. Such ~~permittees shall also remit on a monthly basis an accurate account that sets forth records shall include~~ (i) *the brands of wine and beer sold*, (ii) *the total quantities of wine and beer sold* and, (iii) *the total price charged for such wine and beer. Such records shall include, and* (iv) *the names and, addresses, and signatures* of the purchasers to whom the wine and beer is delivered. ~~If no wine or beer was sold and delivered in any month, the permittee shall not be required to submit a report to the Board for that month; however, every permittee must submit a report to the Board no less frequently than once every 12 months even if no sales or deliveries have been made in the preceding 12 months. Such purchaser signatures may be in an electronic format. Permittees shall remit such records on a monthly basis for any month during which the permittee makes a delivery for which the permittee is required to collect and remit [ excise ] taxes due to the [ Commonwealth Authority ] pursuant to subsection D of § 4.1-212.1.~~

F. Inspection. — The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of both (i) every wine shipper licensee and beer shipper licensee and (ii) every delivery permittee wherever located where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein. The Board may engage the services of

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60 alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine  
61 shipper licensee, a beer shipper licensee, or delivery permittee, or any applicant for such license or  
62 permit.

63 For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means  
64 the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public  
65 substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee  
66 is open to the public. At any other time of day, if the retail licensee's records are not available for  
67 inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a  
68 request is made to inspect the records.

69 **§ 4.1-212.1. Permits; delivery of wine and beer; regulations of Board.**

70 A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is  
71 authorized to engage in the retail sale of wine or beer for off-premises consumption may apply to the  
72 Board for issuance of a delivery permit that shall authorize the delivery of the brands of beer, wine, and  
73 farm wine produced by the same brewery, winery, or farm winery in closed containers to consumers  
74 within the Commonwealth for personal consumption.

75 B. Any person located within or outside the Commonwealth who is authorized to sell wine or beer at  
76 retail for off-premises consumption in their state of domicile, and who is not a brewery, winery, or farm  
77 winery, may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine,  
78 and farm wine it is authorized to sell in its state of domicile, in closed containers, to consumers within  
79 the Commonwealth for personal consumption.

80 C. All such deliveries shall be to consumers within the Commonwealth for personal consumption  
81 only, and not for resale. All such deliveries of beer, wine, or farm wine shall be performed by the  
82 owner or any agent, officer, director, shareholder or employee of the permittee. No more than four cases  
83 of wine nor more than four cases of beer may be delivered at one time to any person in Virginia to  
84 whom alcoholic beverages may be lawfully sold; except that the permittee may deliver more than four  
85 cases of wine or more than four cases of beer if he notifies the Department in writing at least one  
86 business day in advance of any such delivery, which notice contains the name and address of the  
87 intended recipient. The Board may adopt such regulations as it reasonably deems necessary to implement  
88 the provisions of this section. Such regulations shall include provisions that require (i) the recipient to  
89 demonstrate, upon delivery, that he is at least 21 years of age; and (ii) the recipient to sign an electronic  
90 or paper form or other acknowledgement of receipt as approved by the Board.

91 D. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each  
92 delivery of wine or beer by a permittee shall constitute a sale in Virginia. The permittee shall collect the  
93 taxes due to the Commonwealth and remit any excise taxes monthly to the Authority and any sales taxes  
94 to the Department of Taxation, *if such taxes have not already been paid.*