

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 85

An Act to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 30.1, consisting of sections numbered 3.2-3007 through 3.2-3013, relating to the establishment of the Virginia Spirits Board and the Virginia Spirits Promotion Fund.

[S 583]

Approved March 2, 2020

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 30.1, consisting of sections numbered 3.2-3007 through 3.2-3013 as follows:

CHAPTER 30.1.

VIRGINIA SPIRITS BOARD.

§ 3.2-3007. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Virginia Spirits Board.

"Cooper" means a commercial producer of wooden casks, barrels, and other staved wooden containers who sells at least \$10,000 worth of such wooden containers of a type used for the production of spirits.

"Fund" means the Virginia Spirits Promotion Fund.

"Maltster" means a commercial producer of malt who (i) sells at least \$10,000 worth of malt annually or (ii) has planted and maintains at least three acres of grains of a type used for the production of spirits.

"Spirits" means the same as that term is defined in § 4.1-100.

§ 3.2-3008. Virginia Spirits Board; purpose; composition and appointment of members; quorum; meeting.

A. The Virginia Spirits Board is established within the Department. The purpose of the Board is to foster the development of the Virginia spirits industry by expanding spirits research, increasing education, and promoting the production of ingredients necessary for alcohol distillation and the production of spirits in the Commonwealth.

B. The Board shall consist of 11 members as follows: the Commissioner and the Chief Executive Officer of the Virginia Alcoholic Beverage Control Authority, both of whom shall serve ex officio without voting privileges, or their designees, and nine voting nonlegislative citizen members to be appointed by the Governor, three of whom shall be coopers or maltsters and six of whom shall be owners or operators of a distillery in the Commonwealth. Nonlegislative citizen members shall be citizens of the Commonwealth. The Governor shall make his appointments upon consideration of the recommendations made by any cooper or maltster or any owner or operator of a distillery. Each entity or person shall submit two or more recommendations for each available position at least 90 days before the expiration of the member's term for which the recommendation is being provided. If such entities or persons fail to provide the nominations at least 90 days before the expiration date pursuant to this section, the Governor may appoint other nominees that meet the foregoing criteria.

C. A majority of the members of the Board shall constitute a quorum, but a two-thirds vote of the members present shall be required for passage of items taken up by the Board. The Board shall meet at least four times each year. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

§ 3.2-3009. Board membership terms; vacancies.

Following the initial staggering of terms, nonlegislative citizen members shall serve terms of four years, which shall begin on July 1 of the year of the appointment. The Commissioner shall serve a term coincident with his term of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. No nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

§ 3.2-3010. Board officers and compensation.

A. The Board shall elect a chairman and other officers as deemed necessary from among its membership.

B. Members of the Board shall receive no compensation for the discharge of their duties, but the nonlegislative citizen members shall be reimbursed for reasonable and necessary expenses incurred in the discharge of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for expenses of the nonlegislative citizen members shall be provided from the Virginia Spirits Promotion Fund established

under § 3.2-3012.

§ 3.2-3011. Powers and duties of the Board.

The Board shall have the power and duty to:

1. Receive and dispense funds or donations from the Virginia Spirits Promotion Fund;
2. Enter into contracts for the purpose of developing new or improved markets or marketing methods for spirits products;
3. Contract for research services to improve farming practices related to the growing of ingredients necessary for alcohol distillation in Virginia;
4. Enter into agreements with any local, state, or national organization or agency engaged in education for the purpose of disseminating information on spirits projects;
5. Enter into contracts with private or public entities for the purpose of developing marketing, advertising, and other promotional programs designed to promote the orderly growth of Virginia's spirits industry;
6. Rent or purchase office and laboratory space, land, equipment, and supplies as necessary to carry out its duties;
7. Employ such personnel as may be required to carry out those duties conferred by law;
8. Acquire any licenses or permits necessary for the performance of the powers and duties of the Board;
9. Cooperate with other state, regional, national, and international organizations in research, education, and promotion of the growing of ingredients necessary for alcohol production and the production of spirits in the Commonwealth and expend moneys from the Fund for such purposes;
10. Adopt a general statement of policy and procedures; and
11. Receive from the chairman of the Board an annual report, including a statement of total receipts and disbursements for the year, and file a copy of such report with the Commissioner.

§ 3.2-3012. Virginia Spirits Promotion Fund established.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Spirits Promotion Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of all moneys appropriated to it by the General Assembly, grants of private or government funds designated for specified activities authorized pursuant to this chapter, fees for services rendered pursuant to this chapter, and payments for products, equipment, or material or other goods supplied. All moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the provisions of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the duly authorized officer of the Board.

B. The Board shall meet and evaluate proposals from applicants for funding from the Fund. The Board's final recommendations shall be made by recorded vote.

C. The Auditor of Public Accounts shall audit all accounts as provided in § 30-133.

§ 3.2-3013. Revenue-producing activities of the Board.

To help defray the costs of its program, the Board may (i) publish materials with printed advertisements; (ii) sell printed materials; (iii) rent exhibit space at meetings or other events; (iv) charge entrance or participation fees; and (v) engage in other revenue-producing activities related to research, education, and promotion of the growing of ingredients necessary for alcohol distillation and the production of spirits in Virginia. The Board shall promptly deposit the proceeds of any revenue-producing activities into the Fund. The provisions of Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2 and of Articles 1 (§ 2.2-4300 et seq.), 2 (§ 2.2-4303 et seq.), 3 (§ 2.2-4343 et seq.), and 5 (§ 2.2-4357 et seq.) of Chapter 43 of Title 2.2 shall not apply to contracts for advertising, marketing, or publishing entered into by the Board. The provisions of Articles 4 (§ 2.2-4347 et seq.) and 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 shall apply to such contracts.

2. That initial appointments to the Virginia Spirits Board shall be made by the Governor by July 1, 2020, and shall be staggered as follows: two members, who are owners or operators of distilleries in the Commonwealth, shall be appointed for a term to end June 30, 2021; two members, who are owners or operators of distilleries in the Commonwealth, shall be appointed for a term to end June 30, 2022; two members, who are owners or operators of distilleries in the Commonwealth, shall be appointed for a term to end June 30, 2023; one member, who is a cooper or maltster with no controlling financial interest in a distillery, shall be appointed for a term to end June 30, 2021; one member, who is a cooper or maltster with no controlling financial interest in a distillery, shall be appointed for a term to end June 30, 2022; and one member, who is a cooper or maltster with no controlling financial interest in a distillery, shall be appointed for a term to end June 30, 2023.

3. That on or before October 1, 2020, the Virginia Spirits Board, with assistance from the Virginia Alcoholic Beverage Control Authority, shall submit a report to the Department of Agriculture and

Consumer Services detailing how the Board plans to fund the Virginia Spirits Promotion Fund after July 1, 2021.