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SENATE BILL NO. 196

Offered January 8, 2020

Prefiled December 29, 2019

A BILL to amend and reenact § 4.1-210 of the Code of Virginia, relating to alcoholic beverage control; food-to-beverage ratio.

Patrons—Cosgrove and DeSteph

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-210 of the Code of Virginia is amended and reenacted as follows:

§ 4.1-210. Mixed beverages licenses.

A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to mixed beverages:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least \$10,000 per month or 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such 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.

If the restaurant is located on the premises of a hotel or motel with not less than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms and other private rooms of such hotel or motel, such licensee may (i) sell and serve mixed beverages for consumption in such designated areas, bedrooms and other private rooms and (ii) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit or profit club exclusively for its members and their guests, or members of another private, nonprofit or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least \$10,000 per month or 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least \$10,000 per month or 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption.

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59 The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic  
60 beverages served at gatherings and events referred to in this subdivision shall amount to at least 45  
61 percent of the gross receipts from the sale of mixed beverages and food.

62 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly  
63 engaged in the business of providing food and beverages to others for service at private gatherings or at  
64 special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell  
65 and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of  
66 food cooked and prepared for service and nonalcoholic beverages served at gatherings and events  
67 referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of  
68 mixed beverages and food.

69 4. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in  
70 charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for  
71 on-premises consumption in areas approved by the Board on the premises of the place designated in the  
72 license. A separate license shall be required for each day of each special event.

73 5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or  
74 association operating either a performing arts facility or an art education and exhibition facility; (ii) a  
75 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and  
76 objects significant in American history and culture; (iii) persons operating an agricultural event and  
77 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space  
78 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped  
79 with roofs, exterior walls, and open or closed-door access; or (iv) a locality for special events conducted  
80 on the premises of a museum for historic interpretation that is owned and operated by the locality. The  
81 operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide  
82 lease the original term of which was for more than one year's duration. Such license shall authorize the  
83 licensee to sell alcoholic beverages during scheduled events and performances for on-premises  
84 consumption in areas upon the licensed premises approved by the Board.

85 6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat  
86 or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the  
87 Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms  
88 of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its  
89 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air  
90 carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes  
91 and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits  
92 will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier  
93 licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits  
94 may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and  
95 any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported,  
96 stored, and delivered by its authorized representative.

97 7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and beer  
98 club license to sell and serve mixed beverages for on-premises consumption by club members and their  
99 guests in areas approved by the Board on the club premises. A separate license shall be required for  
100 each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar  
101 year.

102 8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any  
103 outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000  
104 persons and is located in Prince William County or the City of Virginia Beach. Such license shall  
105 authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic  
106 or similar disposable containers or in single original metal cans, to patrons within all seating areas,  
107 concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

108 9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any  
109 outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000  
110 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize  
111 the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar  
112 disposable containers or in single original metal cans, to patrons within all seating areas, concourses,  
113 walkways, concession areas, or similar facilities, for on-premises consumption.

114 10. Annual mixed beverage motor sports facility license to persons operating food concessions at any  
115 outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on  
116 1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed  
117 beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during  
118 scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all  
119 dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for  
120 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his

121 own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the  
122 license.

123 11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic or  
124 charitable membership organizations that are exempt from state and federal taxation and in charge of  
125 banquets conducted exclusively for its members and their guests, which shall authorize the licensee to  
126 serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of  
127 the place designated in the license. Such license shall authorize the licensee to conduct no more than 12  
128 banquets per calendar year.

129 12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve  
130 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs  
131 shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the  
132 restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall  
133 the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages,  
134 exceed 10 percent of the total annual gross sales of all food and alcoholic beverages.

135 13. Annual mixed beverage motor sports facility licenses to persons operating concessions at an  
136 outdoor motor sports facility that hosts a NASCAR national touring race, which shall authorize the  
137 licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original  
138 metal cans, during scheduled events, as well as events or performances immediately subsequent thereto,  
139 to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar  
140 facilities, for on-premises consumption.

141 14. Annual mixed beverage performing arts facility license to corporations or associations operating a  
142 performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii)  
143 is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than  
144 one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards.  
145 Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for  
146 on-premises consumption in areas upon the licensed premises approved by the Board.

147 15. Annual mixed beverage performing arts facility license to persons operating food concessions at  
148 any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the  
149 performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the  
150 original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has  
151 been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts  
152 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages  
153 served on the premises that meet or exceed the monthly minimum established by Board regulations for  
154 mixed beverage restaurants. Such license shall authorize the sale, on the dates of performances or  
155 events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises  
156 approved by the Board.

157 16. Annual mixed beverage performing arts facility license to persons operating food concessions at  
158 any performing arts facility located in the City of Waynesboro, provided that the performing arts facility  
159 (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which  
160 was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been  
161 rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on  
162 the dates of performances or private or special events, of alcoholic beverages for on-premises  
163 consumption in areas upon the licensed premises approved by the Board.

164 17. Annual mixed beverage performing arts facility license to persons operating food concessions at  
165 any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided  
166 that the performing arts facility (i) is occupied under a bona fide long-term lease or concession  
167 agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance  
168 with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or  
169 prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet  
170 or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and  
171 (iv) has a total capacity in excess of 900 patrons. Such license shall authorize the sale, on the dates of  
172 performances or private or special events, of alcoholic beverages for on-premises consumption in areas  
173 upon the licensed premises approved by the Board.

174 18. A combined mixed beverage restaurant and caterer's license, which may be granted to any  
175 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to  
176 subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same business location,  
177 and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed  
178 beverage caterer at the same business premises designated in the license, with a common alcoholic  
179 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the  
180 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision  
181 A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

182 19. Annual mixed beverage performing arts facility license to persons operating food concessions at  
183 any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the  
184 theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100  
185 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic  
186 beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

187 B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18,  
188 or 19 shall automatically include a license to sell and serve wine and beer for on-premises consumption.  
189 The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

190 **2. That the initial adoption of regulations by the Board of Directors of the Alcoholic Beverage**  
191 **Control Authority (the Board) necessary to implement the provisions of this act shall be exempt**  
192 **from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the**  
193 **Board shall provide an opportunity for public comment on the regulations prior to adoption.**