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SENATE BILL NO. 1345

Offered January 13, 2021

Prefiled January 12, 2021

A *BILL to amend and reenact § 4.1-230, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to alcoholic beverage control; license applications; notice requirements.*

Patron—Vogel

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-230, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 4.1-230. (Effective until July 1, 2021) Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food establishment permit from the Department of Health or an inspection by the Department of Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of this title; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial publication of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper ~~published in or having a~~ of general circulation *that is widely circulated* in the county, city, or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication. In the case of wine or beer shipper's licensees, wine and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, and airplanes, the posting and publishing of notice shall not be required.

Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

Except for applicants for wine shipper's, beer shipper's, wine and beer shipper's licenses, and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

The Board shall make available on its website a list of all license applications that have been filed with the Board pursuant to subsection A. Such list shall include information regarding the type of

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59 *license applied for, the proposed location of the licensed premises, a statement that any objections to*
60 *the issuance of the license be submitted to the Board not later than 30 days from the date that notice of*
61 *the license application is posted on the Board's website, and any other information deemed necessary by*
62 *the Board.*

63 C. Each applicant shall pay the required application fee at the time the application is filed. Each
64 license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195,
65 plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or
66 the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of
67 Investigation or the Central Criminal Records Exchange for each criminal history records search required
68 by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the
69 application fee shall be \$15. The application fee for banquet special event and mixed beverage special
70 event licenses shall be \$45. Application fees shall be in addition to the state license fee required
71 pursuant to § 4.1-231 and shall not be refunded.

72 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however,
73 all licensees shall file and maintain with the Board a current, accurate record of the information required
74 by the Board pursuant to subsection A and notify the Board of any changes to such information in
75 accordance with Board regulations.

76 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the
77 Board. In the case of applications to solicit the sale of wine and beer or spirits, each application shall be
78 accompanied by a fee of \$165 and \$390, respectively. The fee for each such permit shall be subject to
79 proration to the following extent: If the permit is granted in the second quarter of any year, the fee shall
80 be decreased by one-fourth; if granted in the third quarter of any year, the fee shall be decreased by
81 one-half; and if granted in the fourth quarter of any year, the fee shall be decreased by three-fourths.
82 Each such permit shall expire on June 30 next succeeding the date of issuance, unless sooner suspended
83 or revoked by the Board. Such permits shall confer upon their holders no authority to make solicitations
84 in the Commonwealth as otherwise provided by law.

85 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for
86 applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied
87 by the number of months for which the permit is granted.

88 The fee for a keg registration permit shall be \$65 annually.

89 The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs bond
90 or internal revenue bond in warehouses located in the Commonwealth shall be \$260 annually.

91 **§ 4.1-230. (Effective July 1, 2021) Applications for licenses; publication; notice to localities; fees;**
92 **permits.**

93 A. Every person intending to apply for any license authorized by this chapter shall file with the
94 Board an application on forms provided by the Board and a statement in writing by the applicant
95 swearing and affirming that all of the information contained therein is true.

96 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a
97 food establishment permit from the Department of Health or an inspection by the Department of
98 Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a
99 pending application for such permit, or proof of a pending request for such inspection. If the applicant
100 provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or
101 proof of a pending request for an inspection, a license may be issued to the applicant. If a license is
102 issued on the basis of a pending application or inspection, such license shall authorize the licensee to
103 purchase alcoholic beverages in accordance with the provisions of this title; however, the licensee shall
104 not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

105 B. In addition, each applicant for a license under the provisions of this chapter, except applicants for
106 annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine and
107 beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of
108 Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application
109 with the Board on the front door of the building, place or room where he proposes to engage in such
110 business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain
111 such information as required by the Board, including a statement that any objections shall be submitted
112 to the Board not more than 30 days following initial publication of the notice required pursuant to this
113 subsection.

114 The applicant shall also cause notice to be published at least once a week for two consecutive weeks
115 in a newspaper ~~published in or having a~~ *of* general circulation ~~that is widely circulated~~ in the county,
116 city, or town wherein such applicant proposes to engage in such business. Such notice shall contain such
117 information as required by the Board, including a statement that any objections to the issuance of the
118 license be submitted to the Board not later than 30 days from the date of the initial newspaper
119 publication. In the case of wine and beer shipper's licensees, delivery permittees or operators of boats,
120 dining cars, buffet cars, club cars, buses, and airplanes, the posting and publishing of notice shall not be

required.

Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

The Board shall make available on its website a list of all license applications that have been filed with the Board pursuant to subsection A. Such list shall include information regarding the type of license applied for, the proposed location of the licensed premises, a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date that notice of the license application is posted on the Board's website, and any other information deemed necessary by the Board.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant to § 4.1-231.1 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the number of months for which the permit is granted.

F. The Board shall have the authority to increase state license fees from the amounts set forth in § 4.1-231.1 as it was in effect on July 1, 2021. The Board shall set the amount of such increases on the basis of the consumer price index and shall not increase fees more than once every three years. Prior to implementing any state license fee increase, the Board shall provide notice to all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any license affected by the Board's proposed fee increases. Such notice shall be provided on or before November 1 in any year in which the Board has decided to increase state license fees, and such increases shall become effective July 1 of the following year.