

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 825

An Act to amend and reenact §§ 4.1-212 and 4.1-230 of the Code of Virginia, relating to alcoholic beverage permit fees.

[S 84]

Approved April 20, 1994

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-212 and 4.1-230 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-212. Permits required in certain instances.

The Board may grant the following permits which shall authorize:

1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.

3. Any person to keep upon his premises alcoholic beverages which he is not authorized by any license to sell and which shall be used for culinary purposes only.

4. Any person to transport lawfully purchased alcoholic beverages within, into or through the Commonwealth.

5. Any person to keep, store or possess any still or distilling apparatus.

6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside of the Commonwealth.

7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery in accordance with subsection B of § 4.1-132.

9. A secured party or any trustee, curator, committee, guardian, receiver or other fiduciary appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal representative, receiver or other officer acting under authority of a court having jurisdiction in the Commonwealth, or by any secured party as defined in § 8.9-105 (m) of the Virginia Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.

11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises. Such permit shall be temporary and shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the Board and (ii) authorize the permittee to continue to operate the establishment to the same extent as a person holding such licenses for a period not to exceed sixty days or for such longer period as determined by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

12. *The sale of wine and beer in kegs by any person licensed to sell wine or beer, or both, at retail for off-premises consumption.*

13. *The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth.*

Nothing in ~~subdivisions~~ subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

§ 4.1-230. 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, under oath, setting forth any information required by the Board. Applications for banquet licenses or mixed beverage special events licenses shall not be required to be under oath, but the information contained therein shall

be certified as true by the applicant.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for banquet licenses or special events licenses issued under the provisions of Chapter 2 of this title, or beer or wine importer's licenses located outside the Commonwealth, 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 thirty days and not less than ten days. Such notice shall be of a size and contain such information as required by the Board.

The applicant shall cause a copy of such notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city or town wherein such applicant proposes to engage in such business. In the case of 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 banquet licenses or mixed beverage special events licenses, the Board shall conduct a background investigation, to include a criminal history records search, on each applicant for a license.

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 thirty days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee shall be \$50, except for banquet licenses or mixed beverage special events licenses, in which case the application fee shall be \$15. Application fees shall be in addition to the state license tax required pursuant to § 4.1-231 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. In the case of applications to solicit the sale of wine and beer or spirits, each application shall be accompanied by a fee of \$125 and \$300, respectively. The fee for each such permit shall be subject to proration to the following extent: If the permit is granted in the second quarter of any year, the fee shall be decreased by one-fourth; if granted in the third quarter of any year, the fee shall be decreased by one-half; and if granted in the fourth quarter of any year, the fee shall be decreased by three-fourths. Each such permit shall expire on June 30 next succeeding the date of issuance, unless sooner suspended or revoked 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.

The fee for a keg registration permit shall be \$50 annually.

The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth shall be \$200 annually.