

LD4393701

## HOUSE BILL NO. 1265

## FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Marye  
on March 8, 1994)

(Patron Prior to Substitute—Delegate DeBoer)

*A BILL to amend and reenact §§ 4.1-126, 4.1-208 and 4.1-209 of the Code of Virginia, relating to alcoholic beverage control; mixed beverage licenses; wine and beer licenses.*

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

**1. That §§ 4.1-126, 4.1-208 and 4.1-209 of the Code of Virginia are amended and reenacted as follows:**

§ 4.1-126. Licenses for certain establishments.

A. Notwithstanding the provisions of § 4.1-124, mixed beverage licenses may be granted to establishments located (i) on property owned by the federal government in Jefferson National Forest, George Washington National Forest or the Blue Ridge Parkway, (ii) at altitudes of 3,800 feet or more above sea level on property adjoining the Jefferson National Forest, (iii) at an altitude of 2,800 feet or more above sea level on property adjoining the Blue Ridge Parkway at Mile Marker No. 189, (iv) on property within one-quarter mile of Mile Marker No. 174 on the Blue Ridge Parkway, (v) on property developed by a nonprofit economic development company or an existing industrial development authority and, (vi) on old Jonesboro Road between Routes 823 and 654, located approximately 5,500 feet from a city having a population between 17,500 and 18,500, and (vii) on navigable waterways of at least 4,400 acres located at an altitude of 1,846 feet or more above sea level.

B. In granting any license under subdivisions (iii) and (iv) of subsection A, the Board shall consider whether the (i) voters of the jurisdiction in which the establishment is located have voted by referendum under the provisions of § 4.1-124 to prohibit the sale of mixed beverages and (ii) granting of a license will give that establishment an unfair business advantage over other establishments in the same jurisdiction. If an unfair business advantage will result, then no license shall be granted.

§ 4.1-208. Beer licenses.

The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale, only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

2. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

3. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship it, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

4. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

5. Retail on-premises beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas;

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so

60 operated by them for on-premises consumption when carrying passengers.

61 c. Persons operating boats for which certificates as a sight-seeing carrier by boat, or a special or  
62 charter party by boat have been issued by the State Corporation Commission pursuant to § 56-457.8,  
63 which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by  
64 them for on-premises consumption when carrying passengers.

65 d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or  
66 town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments.  
67 No license shall be granted unless it appears affirmatively that a substantial public demand for such  
68 licensed establishment exists and that public convenience and the purposes of this title will be promoted  
69 by granting the license.

70 e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize  
71 the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of  
72 professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons  
73 within all seating areas, concourses, walkways, concession areas, and additional locations designated by  
74 the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon  
75 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic  
76 beverages on the premises in all areas and locations covered by the license.

77 f. *Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar*  
78 *facility which has seating for more than 20,000 persons and is located in any county with a population*  
79 *between 210,000 and 216,000. Such license shall authorize the licensee to sell beer during the*  
80 *performance of any event, in paper, plastic or similar disposable containers to patrons within all seating*  
81 *areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon*  
82 *authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic*  
83 *beverages on the premises in all areas and locations covered by the license.*

84 6. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed  
85 containers for off-premises consumption and to deliver or ship the beer to purchasers in accordance with  
86 Board regulations.

87 7. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 5 a and d, which  
88 shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall  
89 authorize the licensee to sell beer in closed containers for off-premises consumption and to deliver or  
90 ship the beer to purchasers in accordance with Board regulations.

91 § 4.1-209. Wine and beer licenses.

92 The Board may grant the following licenses relating to wine and beer:

93 1. Retail on-premises wine and beer licenses to:

94 a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with  
95 or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas,  
96 private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such  
97 rooms and areas. However, with regard to a hotel classified by the Board as a resort complex, the Board  
98 may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex  
99 deemed appropriate by the Board;

100 b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the  
101 licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars  
102 so operated by them, for on-premises consumption when carrying passengers;

103 c. Persons operating boats for which certificates as a sight-seeing carrier by boat, or a special or  
104 charter party by boat have been issued by the State Corporation Commission pursuant to § 56-457.8,  
105 which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats  
106 operated by them for on-premises consumption when carrying passengers;

107 d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or  
108 intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by  
109 passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated  
110 rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding;

111 e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for  
112 their on-premises consumption only in such rooms, provided the consent of the patient's attending  
113 physician is first obtained; and

114 f. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize  
115 the licensee to sell wine and beer in paper, plastic or similar disposable containers, during the  
116 performance of professional sporting exhibitions, events or performances immediately subsequent thereto,  
117 to patrons within all seating areas, concourses, walkways, concession areas and additional locations  
118 designated by the Board in such coliseums, stadia or similar facilities, for on-premises consumption.  
119 Upon authorization of the licensee, any person may keep and consume his own lawfully acquired  
120 alcoholic beverages on the premises in all areas and locations covered by the license.

121 g. *Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar*

facility which has seating for more than 20,000 persons and is located in any county with a population between 210,000 and 216,000. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and to deliver or ship the same to purchasers in accordance with Board regulations.

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed one ounce by volume or (ii) a sample of beer not to exceed two ounces by volume, for on-premises consumption.

4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition, shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and to deliver or ship the same to the purchasers, in accordance with Board regulations.

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. A separate license shall be required for each day of each banquet or special event. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

7. Gift shop licenses, which shall authorize the licensee to sell wine and beer unchilled, only within the interior premises of the gift shop in closed containers for off-premises consumption and to deliver or ship the wine and beer to purchasers in accordance with Board regulations.

§ 4.1-208. Beer licenses.

The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale, only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

2. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

3. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship it, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

4. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

5. Retail on-premises beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas;

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

183 c. Persons operating boats for which certificates as a sight-seeing carrier by boat, or a special or  
184 charter party by boat have been issued by the State Corporation Commission pursuant to § 56-457.8,  
185 which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by  
186 them for on-premises consumption when carrying passengers.

187 d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or  
188 town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments.  
189 No license shall be granted unless it appears affirmatively that a substantial public demand for such  
190 licensed establishment exists and that public convenience and the purposes of this title will be promoted  
191 by granting the license.

192 e. Persons operating food concessions at coliseums, stadia, or similar facilities *and at performing arts*  
193 *amphitheaters or arenas which have permanent seating for more than 10,000 persons*, which shall  
194 authorize the licensee to sell beer, in paper, plastic, or similar disposable containers, during (i) the  
195 performance of professional sporting exhibitions, events or performances immediately subsequent thereto  
196 *at coliseums, stadia, or similar facilities and (ii) events and performances at such performing arts*  
197 *amphitheaters or arenas*, to patrons within all seating areas, concourses, walkways, concession areas,  
198 and additional locations designated by the Board in such coliseums, stadia, or similar facilities, *and*  
199 *performing arts amphitheaters or arenas* for on-premises consumption. Upon authorization of the  
200 licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the  
201 premises in all areas and locations covered by the license.

202 6. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed  
203 containers for off-premises consumption and to deliver or ship the beer to purchasers in accordance with  
204 Board regulations.

205 7. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 5 a and d, which  
206 shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall  
207 authorize the licensee to sell beer in closed containers for off-premises consumption and to deliver or  
208 ship the beer to purchasers in accordance with Board regulations.

209 § 4.1-209. Wine and beer licenses.

210 The Board may grant the following licenses relating to wine and beer:

211 1. Retail on-premises wine and beer licenses to:

212 a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with  
213 or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas,  
214 private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such  
215 rooms and areas. However, with regard to a hotel classified by the Board as a resort complex, the Board  
216 may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex  
217 deemed appropriate by the Board;

218 b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the  
219 licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars  
220 so operated by them, for on-premises consumption when carrying passengers;

221 c. Persons operating boats for which certificates as a sight-seeing carrier by boat, or a special or  
222 charter party by boat have been issued by the State Corporation Commission pursuant to § 56-457.8,  
223 which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats  
224 operated by them for on-premises consumption when carrying passengers;

225 d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or  
226 intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by  
227 passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated  
228 rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding;

229 e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for  
230 their on-premises consumption only in such rooms, provided the consent of the patient's attending  
231 physician is first obtained; and

232 f. Persons operating food concessions at coliseums, stadia, or similar facilities *and at performing arts*  
233 *amphitheaters or arenas which have permanent seating for more than 10,000 persons*, which shall  
234 authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers, during (i)  
235 the performance of professional sporting exhibitions, events or performances immediately subsequent  
236 thereto *at coliseums, stadia, or similar facilities and (ii) events and performances at such performing*  
237 *arts amphitheaters or arenas*, to patrons within all seating areas, concourses, walkways, concession areas  
238 and additional locations designated by the Board in such coliseums, stadia or similar facilities, *and*  
239 *performing arts amphitheaters or arenas* for on-premises consumption. Upon authorization of the  
240 licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the  
241 premises in all areas and locations covered by the license.

242 2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer  
243 in closed containers for off-premises consumption and to deliver or ship the same to purchasers in  
244 accordance with Board regulations.

245 3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed  
246 containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any  
247 person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed one ounce by  
248 volume or (ii) a sample of beer not to exceed two ounces by volume, for on-premises consumption.

249 4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in  
250 closed containers for off-premises consumption.

251 5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which  
252 shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition,  
253 shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and  
254 to deliver or ship the same to the purchasers, in accordance with Board regulations.

255 6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or  
256 associations in charge of special events, which shall authorize the licensee to sell or give wine and beer  
257 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms  
258 or areas. A separate license shall be required for each day of each banquet or special event. However,  
259 no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

260 7. Gift shop licenses, which shall authorize the licensee to sell wine and beer unchilled, only within  
261 the interior premises of the gift shop in closed containers for off-premises consumption and to deliver or  
262 ship the wine and beer to purchasers in accordance with Board regulations.