

LD5362701

HOUSE BILL NO. 1265

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Marye
on March 10, 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 adjacent to Claytor Lake State Park.

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

60 licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so
61 operated by them for on-premises consumption when carrying passengers.

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

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

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

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

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

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

92 § 4.1-209. Wine and beer licenses.

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

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

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

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

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

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

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

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

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.