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## SENATE BILL NO. 84

Senate Amendments in [ ] — January 25, 1994

*A BILL to amend and reenact §§ 4.1-212, 4.1-230, and 4.1-231 of the Code of Virginia, relating to alcoholic beverage license taxes and permit fees.*

\_\_\_\_\_  
Patron—Reasor

\_\_\_\_\_  
Referred to the Committee on Rehabilitation and Social Services

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

**1. That §§ 4.1-212, 4.1-230, and 4.1-231 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 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.

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60 A. Every person intending to apply for any license authorized by this chapter shall file with the  
61 Board an application on forms provided by the Board and a statement in writing, under oath, setting  
62 forth any information required by the Board. Applications for banquet licenses or mixed beverage  
63 special events licenses shall not be required to be under oath, but the information contained therein shall  
64 be certified as true by the applicant.

65 B. In addition, each applicant for a license under the provisions of this chapter, except applicants for  
66 banquet licenses or special events licenses issued under the provisions of Chapter 2 of this title, or beer  
67 or wine importer's licenses located outside the Commonwealth, shall post a notice of his application with  
68 the Board on the front door of the building, place or room where he proposes to engage in such  
69 business for no more than thirty days and not less than ten days. Such notice shall be of a size and  
70 contain such information as required by the Board.

71 The applicant shall cause a copy of such notice to be published at least once a week for two  
72 consecutive weeks in a newspaper published in or having a general circulation in the county, city or  
73 town wherein such applicant proposes to engage in such business. In the case of operators of boats,  
74 dining cars, buffet cars, club cars, and airplanes, the posting and publishing of notice shall not be  
75 required.

76 Except for applicants for banquet licenses or mixed beverage special events licenses, the Board shall  
77 conduct a background investigation, to include a criminal history records search, on each applicant for a  
78 license.

79 The Board shall notify the local governing body of each license application through the county or  
80 city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit  
81 objections to the granting of a license within thirty days of the filing of the application.

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

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

87 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the  
88 Board. In the case of applications to solicit the sale of wine and beer or spirits, each application shall be  
89 accompanied by a fee of \$125 and \$300, respectively. The fee for each such permit shall be subject to  
90 proration to the following extent: If the permit is granted in the second quarter of any year, the fee shall  
91 be decreased by one-fourth; if granted in the third quarter of any year, the fee shall be decreased by  
92 one-half; and if granted in the fourth quarter of any year, the fee shall be decreased by three-fourths.  
93 Each such permit shall expire on June 30 next succeeding the date of issuance, unless sooner suspended  
94 or revoked by the Board. Such permits shall confer upon their holders no authority to make solicitations  
95 in the Commonwealth as otherwise provided by law.

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

99 *The fee for a keg registration permit shall be \$50 [ annually ] .*

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

102 § 4.1-231. Taxes on state licenses.

103 A. The annual taxes on state licenses shall be as follows:

104 1. Alcoholic beverage licenses. - For each:

105 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured  
106 during the year in which the license is granted, \$350; and if more than 5,000 gallons manufactured  
107 during such year, \$2,860;

108 b. Fruit distiller's license, \$2,860;

109 c. Banquet facility license, \$145; and

110 d. Bed and breakfast establishment license, \$25.

111 2. Wine licenses. - For each:

112 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the  
113 license is granted, \$350, and if more than 5,000 gallons manufactured during such year, \$2,860;

114 b. Wholesale wine license, \$715 for any wholesaler who sells 150,000 gallons of wine or less per  
115 year, \$1,100 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine  
116 per year, and \$1,430 for any wholesaler who sells more than 300,000 gallons of wine per year;

117 c. Wine importer's license, \$285;

118 d. Retail off-premises winery license, \$110; and

119 e. Farm winery license, \$145.

120 3. Beer licenses. - For each:

121 a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which

the license is granted, \$1,650, and if more than 10,000 barrels manufactured during such year, \$3,300;

- b. Bottler's license, \$1,100;
- c. Wholesale beer license, \$715 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,100 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,430 for any wholesaler who sells more than 600,000 cases of beer a year;
- d. Beer importer's license, \$285;
- e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$110; for each such license to a common carrier of passengers by train or boat, \$110 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;
- f. Retail off-premises beer license, \$90; and
- g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$230.

4. Wine and beer licenses. - For each:

- a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$230; for each such license to a common carrier of passengers by train or boat, \$230 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$575;
- b. Retail on-premises wine and beer license to a hospital, \$110;
- c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$175;
- d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$460; and
- e. Banquet license, ~~\$30 per license granted by the Board for the first day and \$20 per day for each consecutive day.~~

5. Mixed beverage licenses. - For each:

- a. Mixed beverage restaurant licenses granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:
  - (i) With a seating capacity at tables for up to 100 persons, \$430;
  - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$750; and
  - (iii) With a seating capacity at tables for more than 150 persons, \$1,100.
- b. Mixed beverage restaurant licenses for restaurants located on the premises of and operated by private, nonprofit clubs:
  - (i) With an average yearly membership of not more than 200 resident members, \$575;
  - (ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,430; and
  - (iii) With an average yearly membership of more than 500 resident members, \$2,125.
- c. Mixed beverage caterer's licenses, \$1,430.
- d. Mixed beverage special events licenses, ~~\$35 for each day of each event \$30 for the first day and \$20 per day for each consecutive day.~~
- e. Annual mixed beverage special events licenses, \$430.
- f. Mixed beverage carrier licenses:
  - (i) \$145 per annum for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;
  - (ii) \$430 per annum for each common carrier of passengers by boat; and
  - (iii) \$1,135 for each license granted to a common carrier of passengers by airplane.

6. Temporary licenses. - For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year the tax shall be decreased by one-fourth; if granted in the third quarter of any year the tax shall be decreased by one-half; and if granted in the fourth quarter of any year the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture

183 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person  
184 shall be entitled to a refund of the amount of license tax previously paid on the limited license.

185 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than  
186 twelve months shall be equal to one-twelfth of the taxes required by subsection A computed to the  
187 nearest cent, multiplied by the number of months in the license period.

188 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state  
189 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,  
190 shall be liable to state merchants' license taxation and state restaurant license taxation and other state  
191 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer  
192 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license  
193 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining  
194 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the  
195 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases  
196 shall be disregarded.