

LD6858200

HOUSE BILL NO. 1800

Offered January 19, 1995

A BILL to amend and reenact §§ 4.1-222 and 4.1-223 of the Code of Virginia, relating to alcoholic beverage control; issuance of licenses.

Patron—DeBoer

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-222 and 4.1-223 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-222. Conditions under which Board may refuse to grant licenses.

A. The Board may refuse to grant any license if it has reasonable cause to believe that:

1. The applicant, or if the applicant is a partnership or association, any partner or member thereof, or if the applicant is a corporation, any officer, director, or manager thereof or shareholder owning ten percent or more of its capital stock:

a. Is not twenty-one years of age or older;

b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude under the laws of any state, or of the United States;

c. Has been convicted, within the five years immediately preceding the date of the application for such license, of a violation of any law applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;

d. Is not a person of good moral character and repute;

e. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed;

f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business proposed to be licensed;

g. Has maintained a noisy, lewd, disorderly or unsanitary establishment;

h. Has demonstrated, either by his police record or by his record as a former licensee of the Board, a lack of respect for law and order;

i. Is unable to speak, understand, read and write the English language in a reasonably satisfactory manner;

j. Is a person to whom alcoholic beverages may not be sold under § 4.1-304;

k. Has the general reputation of drinking alcoholic beverages to excess or is addicted to the use of narcotics;

l. Has misrepresented a material fact in applying to the Board for a license;

m. Has defrauded or attempted to defraud the Board, or any federal, state or local government or governmental agency or authority, by making or filing any report, document or tax return required by statute or regulation which is fraudulent or contains a false representation of a material fact; or has willfully deceived or attempted to deceive the Board, or any federal, state or local government, or governmental agency or authority, by making or maintaining business records required by statute or regulation which are false and fraudulent;

n. Is violating or allowing the violation of any provision of this title in his establishment at the time his application for a license is pending;

o. Is a police officer with police authority in the political subdivision within which the establishment designated in the application is located;

p. Is physically unable to carry on the business for which the application for a license is filed or has been adjudicated incompetent; or

q. Is a member, agent or employee of the Board.

2. The place to be occupied by the applicant:

a. Does not conform to the requirements of the governing body of the county, city or town in which such place is located with respect to sanitation, health, construction or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulation;

b. Is so located that granting a license and operation thereunder by the applicant would result in violations of this title, Board regulations, or violation of the laws of the Commonwealth or local ordinances relating to peace and good order;

c. Is so located with respect to any church; synagogue; hospital; public, private or parochial school, college or university; public or private playground or other similar recreational facilities; or any state, local or federal government-operated facility, that the operation of such place under such license will

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60 adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities or
61 institutions;

62 d. Is so located with respect to any residence or residential area that the operation of such place
63 under such license will adversely affect real property values or substantially interfere with the usual
64 quietude and tranquility of such residence or residential area; or

65 e. Under a retail on-premises license is so constructed, arranged or illuminated that law-enforcement
66 officers and special agents of the Board are prevented from ready access to and reasonable observation
67 of any room or area within which alcoholic beverages are to be sold or consumed.

68 3. The number of licenses existent in the locality is such that the granting of a license is detrimental
69 to the interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall
70 consider the (i) character of, population of, the number of similar licenses and the number of all licenses
71 existent in the particular county, city or town and the immediate neighborhood concerned; (ii) effect
72 which a new license may have on such county, city, town or neighborhood in conforming with the
73 purposes of this title; and (iii) objections, if any, which may have been filed by a local governing body.

74 4. There exists any law, ordinance, or regulation of the United States, the Commonwealth or any
75 political subdivision thereof, which warrants refusal by the Board to grant any license; or

76 5. The Board is not authorized under this chapter to grant such license.

77 B. The Board may refuse to grant any retail wine and beer license, retail beer license or retail wine
78 or winery license to any person who has not resided in the Commonwealth for at least one year
79 immediately preceding application therefor, or to any corporation a majority of the stock of which is
80 owned by persons who have not resided in the Commonwealth for at least one year immediately
81 preceding application therefor, unless refusal to grant the license would in the opinion of the Board
82 substantially impair the transferability of the real property upon which the licensed establishment would
83 be located.

84 § 4.1-223. Conditions under which Board shall refuse to grant licenses.

85 A. *The Board shall refuse to grant any license if it has reasonable cause to believe that:*

86 1. *The applicant, or if the applicant is a partnership or association, any partner or member thereof,*
87 *or if the applicant is a corporation, any officer, director, or manager thereof or shareholder owning ten*
88 *percent or more of its capital stock:*

89 a. *Is not twenty-one years of age or older;*

90 b. *Has been convicted in any court of a felony or any crime or offense involving moral turpitude*
91 *under the laws of any state, or of the United States;*

92 c. *Has been convicted, within the five years immediately preceding the date of the application for*
93 *such license, of a violation of any law applicable to the manufacture, transportation, possession, use or*
94 *sale of alcoholic beverages;*

95 d. *Is not a person of good moral character and repute;*

96 e. *Is not the legitimate owner of the business proposed to be licensed, or other persons have*
97 *ownership interests in the business which have not been disclosed;*

98 f. *Has not demonstrated financial responsibility sufficient to meet the requirements of the business*
99 *proposed to be licensed;*

100 g. *Has maintained a noisy, lewd, disorderly or unsanitary establishment;*

101 h. *Has demonstrated, either by his police record or by his record as a former licensee of the Board,*
102 *a lack of respect for law and order;*

103 i. *Is unable to speak, understand, read and write the English language in a reasonably satisfactory*
104 *manner;*

105 j. *Is a person to whom alcoholic beverages may not be sold under § 4.1-304;*

106 k. *Has the general reputation of drinking alcoholic beverages to excess or is addicted to the use of*
107 *narcotics;*

108 l. *Has misrepresented a material fact in applying to the Board for a license;*

109 m. *Has defrauded or attempted to defraud the Board, or any federal, state or local government or*
110 *governmental agency or authority, by making or filing any report, document or tax return required by*
111 *statute or regulation which is fraudulent or contains a false representation of a material fact; or has*
112 *willfully deceived or attempted to deceive the Board, or any federal, state or local government, or*
113 *governmental agency or authority, by making or maintaining business records required by statute or*
114 *regulation which are false and fraudulent;*

115 n. *Is violating or allowing the violation of any provision of this title in his establishment at the time*
116 *his application for a license is pending;*

117 o. *Is a police officer with police authority in the political subdivision within which the establishment*
118 *designated in the application is located;*

119 p. *Is physically unable to carry on the business for which the application for a license is filed or has*
120 *been adjudicated incompetent; or*

121 q. *Is a member, agent or employee of the Board.*

122 2. *The place to be occupied by the applicant:*
123 a. *Does not conform to the requirements of the governing body of the county, city or town in which*
124 *such place is located with respect to sanitation, health, construction or equipment, or to any similar*
125 *requirements established by the laws of the Commonwealth or by Board regulation;*

126 b. *Is so located that granting a license and operation thereunder by the applicant would result in*
127 *violations of this title, Board regulations, or violation of the laws of the Commonwealth or local*
128 *ordinances relating to peace and good order;*

129 c. *Is so located with respect to any church; synagogue; hospital; public, private or parochial school,*
130 *college or university; public or private playground or other similar recreational facilities; or any state,*
131 *local or federal government-operated facility, that the operation of such place under such license will*
132 *adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities or*
133 *institutions;*

134 d. *Is so located with respect to any residence or residential area that the operation of such place*
135 *under such license will adversely affect real property values or substantially interfere with the usual*
136 *quietude and tranquillity of such residence or residential area; or*

137 e. *Under a retail on-premises license is so constructed, arranged or illuminated that law-enforcement*
138 *officers and special agents of the Board are prevented from ready access to and reasonable observation*
139 *of any room or area within which alcoholic beverages are to be sold or consumed.*

140 3. *The number of licenses existent in the locality is such that the granting of a license is detrimental*
141 *to the interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall*
142 *consider the (i) character of, population of, the number of similar licenses and the number of all*
143 *licenses existent in the particular county, city or town and the immediate neighborhood concerned; (ii)*
144 *effect which a new license may have on such county, city, town or neighborhood in conforming with the*
145 *purposes of this title; and (iii) objections, if any, which may have been filed by a local governing body.*

146 4. *There exists any law, ordinance, or regulation of the United States, the Commonwealth or any*
147 *political subdivision thereof, which warrants refusal by the Board to grant any license; or*

148 5. *The Board is not authorized under this chapter to grant such license.*

149 ~~The~~ B. *In addition, the Board shall refuse to grant any:*

150 1. Wholesale beer or wine license to any person, unless such person has established or will establish
151 a place or places of business within the Commonwealth at which will be received and from which will
152 be distributed all alcoholic beverages sold by such person in the Commonwealth. However, in special
153 circumstances, the Board, subject to any regulations it may adopt, may permit alcoholic beverages to be
154 received into or distributed from places other than established places of business.

155 2. Wholesale beer license or wholesale wine license to any person who has not resided in the
156 Commonwealth for at least one year immediately preceding application therefor, or to any corporation a
157 majority of the stock of which is owned by persons who have not resided in the Commonwealth for at
158 least one year immediately preceding application therefor. Nothing in the foregoing provision shall affect
159 the validity of any license granted prior to June 29, 1954, nor prohibit the granting of a new license
160 after such date to such person now licensed as a wholesale distributor of beer or wine, whether the new
161 license is for the same, different or additional establishments.

162 3. Mixed beverage license if the Board determines that in the licensed establishment there (i) is
163 entertainment of a lewd, obscene or lustful nature including what is commonly called strip teasing,
164 topless entertaining, and the like, or which has employees who are not clad both above and below the
165 waist, or who uncommonly expose the body or (ii) are employees who solicit the sale of alcoholic
166 beverages.

167 4. Wholesale wine license until the applicant has filed with the Board a bond payable to the
168 Commonwealth, in a sum not to exceed \$10,000, upon a form approved by the Board, signed by the
169 applicant or licensee and a surety company authorized to do business in the Commonwealth as surety,
170 and conditioned upon such person's (i) securing wine only in a manner provided by law, (ii) remitting to
171 the Board the proper tax thereon, (iii) keeping such records as may be required by law or Board
172 regulations, and (iv) abiding by such other laws or Board regulations relative to the handling of wine by
173 wholesale wine licensees. The Board may waive the requirement of both the surety and the bond in
174 cases where the wholesaler has previously demonstrated his financial responsibility.

175 5. Mixed beverage license to any member, agent or employee of the Board or to any corporation or
176 other business entity in which such member, agent or employee is a stockholder or has any other
177 economic interest.

178 Whenever any other elective or appointive official of the Commonwealth or any political subdivision
179 thereof applies for such a license or continuance thereof, he shall state on the application the official
180 position he holds, and whenever a corporation or other business entity in which any such official is a
181 stockholder or has any other economic interests applies for such a license, it shall state on the
182 application the full economic interest of each such official in such corporation or other business entity.

183 6. License authorized by this chapter until the license tax required by § 4.1-231 is paid to the Board.