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## HOUSE BILL NO. 702

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice  
on March 8, 1998)

(Patron Prior to Substitute-Delegate Davies)

*A BILL to amend and reenact § 4.1-305 of the Code of Virginia, relating to unlawful purchase or possession of alcoholic beverages; penalty for first offense.***Be it enacted by the General Assembly of Virginia:****1. That § 4.1-305 of the Code of Virginia is amended and reenacted as follows:**

§ 4.1-305. Purchasing or possessing alcoholic beverages unlawful in certain cases; exceptions; penalty; forfeiture.

A. No person to whom an alcoholic beverage may not lawfully be sold under § 4.1-304 shall purchase or possess, or attempt to purchase or possess, any alcoholic beverage, except (i) pursuant to subdivisions 1 through 7 of § 4.1-200; (ii) where possession of the alcoholic beverages by a person less than twenty-one years of age is due to such person's making a delivery of alcoholic beverages in pursuance of his employment or an order of his parent; or (iii) by any state, federal, or local law-enforcement officer when possession of an alcoholic beverage is necessary in the performance of his duties.

B. No person under the age of twenty-one years shall use or attempt to use any (i) altered, fictitious, facsimile or simulated license to operate a motor vehicle, (ii) altered, fictitious, facsimile or simulated document, including, but not limited to a birth certificate or student identification card, or (iii) motor vehicle operator's license, birth certificate or student identification card of another person in order to establish a false identification or false age for himself to purchase or attempt to purchase an alcoholic beverage.

C. Any person found guilty of a violation of this section shall be guilty of a Class 1 misdemeanor; and upon conviction, (i) such person shall be ordered to pay a fine of at least \$500 or ordered to perform a minimum of fifty hours of community service and (ii) such person's license to operate a motor vehicle in the Commonwealth may be suspended for a period of not more than one year.

The court, in its discretion and upon a demonstration of hardship, may authorize any person convicted of a violation of this section the use of a restricted permit to operate a motor vehicle in accordance with the provisions of subsection D of § 16.1-278.9 or subsection E of § 18.2-271.1. However, the sentence imposed pursuant to clause (i) of this subsection shall not be suspended.

*D. When a person less than twenty-one years of age charged with possession of an alcoholic beverage under subsection A of this section who has not previously been convicted under this section or has not previously had a proceeding against him for violation of this section dismissed as provided in this section, pleads guilty or enters a plea of not guilty, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions.*

*The court shall, unless done at arrest, order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.*

*Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.*

*Whenever a court places an individual on probation upon terms and conditions pursuant to this section, if such individual is an adult, his license to operate a motor vehicle in the Commonwealth may be suspended for a period of not more than one year and if such individual is a juvenile, the provisions of § 16.1-278.9 shall apply and the court may order the person to pay court costs.*

**DE.** Any alcoholic beverage purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-338.

**EF.** Any retail licensee who in good faith promptly notifies the Board or any state or local law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from an administrative penalty for a violation of § 4.1-304.