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HOUSE BILL NO. 2249

Offered January 21, 1999

A BILL to amend and reenact § 4.1-111 and 4.1-119 of the Code of Virginia, relating to alcoholic beverage control; regulations of the ABC Board; credit card purchases by licensees.

Patrons—Reid, Abbitt, Albo, Croshaw, Davies, Joannou, Wagner and Wardrup; Senators: Barry, Bolling, Lucas, Marsh, Trumbo, Watkins and Williams

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-111 and 4.1-119 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-111. Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations which:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within thirty days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, ~~returned~~ *return* receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. *Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.*

C. The Board may promulgate regulations which provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

§ 4.1-119. Operation of government stores.

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, and mixers, in such counties, cities, and towns considered advisable by the

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60 Board. The Board may discontinue any such store.

61 B. The Board shall fix the wholesale and retail prices at which the various classes, varieties and
62 brands of alcoholic beverages are sold in government stores. Differences in the cost of operating stores,
63 and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at
64 government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and
65 operating under the laws of the United States and regulations of the United States Department of
66 Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United
67 States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged
68 other authorized purchasers.

69 C. Alcoholic beverages at government stores shall be sold by employees of the Board, who shall
70 carry out the provisions of this title and Board regulations governing the operation of government stores
71 and the sale of alcoholic beverages.

72 D. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without
73 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101
74 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

75 E. All alcoholic beverages sold in government stores shall be in closed containers, sealed and affixed
76 with labels prescribed by the Board.

77 F. No alcoholic beverages shall be consumed in a government store by any person.

78 G. With respect to purchases by licensees at government stores, the Board shall accept in payment
79 for any purchase or series of purchases cash, electronic fund transfer, *credit or debit card*, or check
80 payable to the Board, in the exact amount of any such purchase or series of purchases.

81 H. With respect to purchases by consumers at government stores, the Board shall accept cash in
82 payment for any purchase or series of purchases. The Board may adopt regulations which provide for
83 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where
84 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by
85 any consumer.

86 **2. That an emergency exists and this act is in force from its passage.**

87 **3. That the Alcoholic Beverage Control Board shall promulgate emergency regulations to**
88 **implement the provisions of this act on or before July 1, 1999.**

89 **4. That the Alcoholic Beverage Control Board shall adopt final regulations in accordance with the**
90 **provisions of this act on or before June 30, 2000.**