

1999 SESSION

LEGISLATION NOT PREPARED BY DLS
INTRODUCED

999826825

SENATE BILL NO. 849

Offered January 13, 1999

A BILL to amend and reenact § 4.1-225 of the Code of Virginia, to amend the Code of Virginia by adding in Chapter 6 of Title 18.2 an article numbered 9, consisting of sections numbered 18.2-246.1 through 18.2-246.5, and to repeal §§ 18.2-248.6 and 18.2-248.7, relating to money laundering; penalties.

Patrons—Stolle, Forbes, Norment and Trumbo; Delegates: Almand and Moran

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-225 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 6 of Title 18.2 an article numbered 9, consisting of sections numbered 18.2-246.1 through 18.2-246.5, as follows:

§ 4.1-225. Grounds for which Board may suspend or revoke licenses.

The Board may suspend or revoke any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

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

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

b. 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 or fraudulent;

c. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth, of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-300 et seq.) of this title; (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

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

e. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business which have not been disclosed;

f. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;

g. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;

h. Has allowed noisy, lewd or disorderly conduct upon the licensed premises, or has maintained such premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

i. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other than a busboy, cook or other kitchen help, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;

j. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect for law and order;

k. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he knew or had reason to believe was (i) less than twenty-one years of age, (ii) interdicted, or (iii) intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

l. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as

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- 60 provided under this title;
- 61 m. Is physically unable to carry on the business conducted under such license or has been
- 62 adjudicated incapacitated;
- 63 n. Has allowed any lewd, obscene or indecent literature, pictures or materials upon the licensed
- 64 premises;
- 65 o. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises; or
- 66 p. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly
- 67 allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use
- 68 marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled
- 69 paraphernalia as those terms are defined in Articles 1 and 1.1 (§ 18.2-247 et seq.) of Chapter 7 of Title
- 70 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of ~~§ 18.2-248.7~~
- 71 *the Virginia Comprehensive Money Laundering Act (§ 18.2-246.1 et seq.)*; or (iii) conspired to commit
- 72 any drug-related offense in violation of Articles 1 and 1.1 of Chapter 7 (§ 18.2-247 et seq.) of Title 18.2
- 73 or the Drug Control Act (§ 54.1-3400 et seq.). The provisions of this subdivision shall also apply to any
- 74 conduct related to the operation of the licensed business which facilitates the commission of any of the
- 75 offenses set forth herein.
- 76 2. The place occupied by the licensee:
- 77 a. Does not conform to the requirements of the governing body of the county, city or town in which
- 78 such establishment is located, with respect to sanitation, health, construction or equipment, or to any
- 79 similar requirements established by the laws of the Commonwealth or by Board regulations;
- 80 b. Has been adjudicated a common nuisance under the provisions of this title or § 18.2-258; or
- 81 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,
- 82 prostitutes, pimps, panderers or habitual law violators. The Board may consider the general reputation in
- 83 the community of such establishment, in addition to any other competent evidence, in making such
- 84 determination.
- 85 3. The licensee or any employee of the licensee discriminated against any member of the armed
- 86 forces of the United States by prices charged or otherwise.
- 87 4. Any cause exists for which the Board would have been entitled to refuse to grant such license had
- 88 the facts been known.
- 89 5. Any other cause authorized by this title.

90 *Article 9.*

91 *Virginia Comprehensive Money Laundering Act.*

92 *§ 18.2-246.1. Title.*

93 *This article shall be known and may be cited as the "Virginia Comprehensive Money Laundering*

94 *Act."*

95 *§ 18.2-246.2. Definitions.*

96 *"Conduct" or "conducts" includes initiating, concluding, participating in initiating or concluding, or*

97 *assisting in a transaction.*

98 *"Financial transaction" means any purchase, sale, trade, loan, pledge, investment, gift, transfer,*

99 *transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency,*

100 *extension of credit, purchase or sale of monetary instruments, use of a safe-deposit box, or any other*

101 *acquisition or disposition of monetary instruments by any means and includes the movement of funds by*

102 *wire or other electronic means.*

103 *"Monetary instruments" means (i) coin or currency of the United States or of any other country,*

104 *travelers' checks, personal checks, bank checks, cashier's checks, and money orders or (ii) investment*

105 *securities or other negotiable instruments, in bearer form or otherwise.*

106 *"Proceeds" means property acquired or derived, directly or indirectly, from, produced through,*

107 *realized through, or caused by an activity punishable as a felony under Article 1 (§ 18.2-247 et seq.) of*

108 *Chapter 7 of Title 18.2 and includes property, real or personal, of any kind.*

109 *"Property" means anything of value, and includes any interest therein, including any benefit,*

110 *privilege, claim or right with respect to anything of value, whether real or personal, tangible or*

111 *intangible.*

112 *§ 18.2-246.3. Money laundering; penalty.*

113 *It shall be unlawful for any person to conduct or attempt to conduct a financial transaction,*

114 *designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of*

115 *the proceeds of such transaction, where the property of the transaction represents the proceeds of some*

116 *form of activity which is punishable as a felony under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of*

117 *Title 18.2. A violation of this section is punishable by imprisonment of not more than forty years or a*

118 *fine of not more than \$500,000 or twice the value of the property, whichever is greater, or by both*

119 *imprisonment and a fine.*

120 *§ 18.2-246.4. Seizure of property used in connection with money laundering.*

121 *The following property shall be subject to lawful seizure by any officer charged with enforcing the*

provisions of this article: (i) all money, equipment, motor vehicles, and all other personal and real property of any kind or character used in substantial connection with the laundering of proceeds of some form of activity punishable as a felony under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, and (ii) all money or other property, real or personal, traceable to the proceeds of some form of activity punishable as a felony under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, together with any interest or profits derived from the investment of such proceeds or other property. Real property shall not be subject to seizure unless the minimum prescribed punishment for the violation under this article is a term of imprisonment of not less than five years. All seizures and forfeitures under this section shall be governed by Chapter 22.1 (§19.2-386.1 et seq.) of Title 19.2, and the procedures specified therein shall apply, mutatis mutandis, to all forfeitures under this article.

§ 18.2-246.5. Forfeiture of business license upon conviction of sale or distribution of imitation controlled substance; money laundering.

Any person, firm or corporation holding a license to operate any business as required by either state or local law shall forfeit such license upon conviction of a violation of (i) §18.2-248 relating to an imitation controlled substance or (ii) Article 9 (§18.2-246.1 et seq.) of Chapter 6 of this title relating to money laundering. Upon a conviction under this section the attorney for the Commonwealth shall notify any appropriate licensing agency.

2. That §§ 18.2-248.6 and 18.2-248.7 of the Code of Virginia are repealed.

3. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 in FY 2009.