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SENATE BILL NO. 310

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 4, 2004)

(Patron Prior to Substitute—Senator Hawkins)

A BILL to amend and reenact § 3.1-6.1 of the Code of Virginia, to amend the Code of Virginia by adding in Title 3.1 a chapter numbered 42.1, consisting of sections numbered 3.1-1064.1 through 3.1-1064.7, and to repeal Chapter 42 (§§ 3.1-1057 through 3.1-1064) of Title 3.1 of the Code of Virginia, relating to establishment of the Virginia Wine Board and the Virginia Wine Promotion Fund.

Be it enacted by the General Assembly of Virginia:

1. That § 3.1-6.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 3.1 a chapter numbered 42.1, consisting of sections numbered 3.1-1064.1 through 3.1-1064.7, as follows:

§ 3.1-6.1. Diversion of dedicated revenues.

Notwithstanding any provisions of the general appropriations act, the unexpended balances of the following special funds shall not be diverted or expended for any purpose other than each fund's intended purpose unless authorized by a specific act of Assembly. The special funds are:

1. Virginia Dark-Fired Tobacco Promotion Fund (§ 3.1-315);
2. Virginia Bright Flue-Cured Tobacco Promotion Fund (§ 3.1-332);
3. Apple Merchandising Fund (§ 3.1-626);
4. Peanut Fund (§ 3.1-662);
5. Sweet Potato Fund (§ 3.1-682);
6. Virginia Soy Bean Fund (§ 3.1-684.17);
7. Virginia Pork Industry Fund (§ 3.1-763.11);
8. Virginia Egg Fund (§ 3.1-796.11:8);
9. Virginia Cattle Industry Fund (§ 3.1-796.26);
10. Virginia Corn Fund (§ 3.1-1047);
11. ~~Winegrowers Productivity~~ Virginia Wine Promotion Fund (~~§ 3.1-1063~~) (§ 3.1-1064.6);
12. Virginia Marine Products Fund (§ 3.1-684.63);
13. Virginia Agricultural Foundation Fund (§ 3.1-22.5); and
14. Virginia Milk Commission (§ 3.1-426).

CHAPTER 42.1.

VIRGINIA WINE BOARD.

§ 3.1-1064.1. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Commissioner" means the Commissioner of Agriculture and Consumer Services.

"Enology" means those practices and that body of knowledge involved in the production, aging, storing and packaging of wine.

"Farm winery" or "winery" means an "establishment" as defined in § 4.1-100.

"Grape grower" means a commercial grower who (i) sells at least \$10,000 worth of grapes annually or (ii) has planted and maintains at least three acres of vines of a type used for the production of wine.

"Viticulture" means the cultivation and study of grapes and grapevines.

"Wine" means an alcoholic beverage as defined in § 4.1-100.

"Winegrower" means any person or entity producing wine from approved products grown by that individual.

§ 3.1-1064.2. The Virginia Wine Board; purpose.

The Virginia Wine Board is established within the Department of Agriculture and Consumer Services. The purpose of the Virginia Wine Board is to allocate funds to projects that expand viticultural and enological research, education, and promotion of the growing of grapes and the production of wine in the Commonwealth.

§ 3.1-1064.3. Membership; terms; vacancies; chairman and vice chairman; quorum; meetings.

The Virginia Wine Board shall consist of 10 members, nine of whom shall be voting nonlegislative citizen members, to be appointed by the Governor, and the Commissioner of Agriculture and Consumer Services, who shall serve as a nonvoting ex officio member. Nonlegislative citizen members shall be citizens of the Commonwealth of Virginia and shall be either grape growers or owners or operators of a winery or farm winery in the Commonwealth. The Governor shall make his appointments upon consideration of the recommendations made by any grape grower, or an owner or operator of a winery or farm winery, or the following agricultural organizations or their successor organizations: the

60 Virginia Wineries Association, Inc., the Virginia Vineyards Association, Inc., the Virginia Farm Bureau,
61 and the Virginia Agribusiness Council.

62 The Commissioner of Agriculture and Consumer Services shall serve a term coincident with his term
63 of office. Initial appointments of nonlegislative citizen members shall be staggered as follows: six
64 nonlegislative citizen members shall be owners or operators of wineries or farm wineries in Virginia,
65 two of whom shall serve for terms of three years, two shall serve for terms of two years, and two shall
66 serve a term of one year; and three nonlegislative citizen members shall be grape growers with no
67 controlling financial interest in a winery or farm winery, one of whom shall serve a term of three years,
68 one shall serve a term of two years, and one shall serve a term of one year. Thereafter, nonlegislative
69 citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than
70 by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no
71 nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of
72 any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the
73 member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original
74 appointments.

75 The Virginia Wine Board shall elect a chairman and vice chairman from among its membership. A
76 majority of the members shall constitute a quorum, but a two-thirds vote of the members present shall
77 be required for passage of items taken up by the Board. The Virginia Wine Board shall meet at least
78 four times each year. The meetings of the Virginia Wine Board shall be held at the call of the chairman
79 or whenever the majority of the members so request.

80 § 3.1-1064.4. Compensation; expenses.

81 Members shall receive no compensation for the discharge of their duties but the nonlegislative citizen
82 members shall be reimbursed for reasonable and necessary expenses incurred in the discharge of their
83 duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for expenses of the nonlegislative citizen
84 members shall be provided from the Virginia Wine Promotion Fund established under § 3.1-1064.6.

85 § 3.1-1064.5. Powers and duties of the Virginia Wine Board.

86 The Virginia Wine Board shall have the following powers and duties:

- 87 1. To receive and dispense funds or donations from the Virginia Wine Promotional Fund;
- 88 2. To enter into contracts for the purpose of developing new or improved markets or marketing
89 methods for wine and grape products;
- 90 3. To contract for research services to improve viticultural and enological practices in Virginia;
- 91 4. To enter into agreements with any local, state or national organization or agency engaged in
92 education for the purpose of disseminating information on wine or other viticultural projects;
- 93 5. To enter into contracts with private or public entities for the purpose of developing marketing,
94 advertising and other promotional programs designed to promote the orderly growth of Virginia's wine
95 industry;
- 96 6. To rent or purchase office and laboratory space, land, equipment, and supplies as necessary to
97 carry out its duties;
- 98 7. To employ such personnel as may be required to carry out those duties conferred by law;
- 99 8. To acquire any licenses or permits necessary for the performance of the powers and duties of the
100 Virginia Wine Board;
- 101 9. To cooperate with other state, regional, national, and international organizations in research,
102 education, and promotion of the growing of grapes and the production of wine in Virginia and to
103 expend moneys from the Fund for such purposes;
- 104 10. To adopt a general statement of policy and procedures; and
- 105 11. To receive from the Chairman of the Virginia Wine Board an annual report, including a
106 statement of total receipts and disbursements for the year, and file a copy of such report with the
107 Commissioner.

108 § 3.1-1064.6. Virginia Wine Promotion Fund established.

109 A. There is hereby created in the state treasury a special nonreverting fund to be known as the
110 Virginia Wine Promotion Fund, hereafter referred to as "the Fund." The Fund shall be established on
111 the books of the Comptroller. The Fund shall consist of all moneys appropriated to it by the General
112 Assembly, grants of private or government funds designated for specified activities authorized pursuant
113 to this chapter, fees for services rendered pursuant to this chapter, payments for products, equipment, or
114 material or other goods supplied. All moneys shall be paid into the state treasury and credited to the
115 Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any
116 moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert
117 to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the
118 purposes of carrying out the provisions of this chapter. Expenditures and disbursements from the Fund
119 shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed
120 by the duly authorized officer of the Virginia Wine Board.

121 B. The Virginia Wine Board shall meet and evaluate proposals from applicants for funding from the

Fund. The Virginia Wine Board's final recommendations shall be made by recorded vote. Not less than one-third of the funding allocated by the Virginia Wine Board annually, excluding revenue-producing activities engaged in pursuant to § 3.1-1064.7, shall be expended for projects that advance viticultural and enological research concerning the growing of grapes and the production of wine in Virginia.

C. The Auditor of Public Accounts shall audit all accounts as provided in § 30-133.

§ 3.1-1064.7. Revenue-producing activities of the Virginia Wine Board.

To help defray the costs of its program, the Virginia Wine Board may (i) publish materials with printed advertisements, (ii) sell printed materials, (iii) rent exhibit space at meetings or other events, (iv) charge entrance or participation fees, and (v) engage in other revenue-producing activities related to research, education and promotion of the growing of grapes and the production of wine in Virginia. The Virginia Wine Board shall promptly deposit the proceeds of any revenue-producing activities into the Fund.

The provisions of Article 3, Division of Purchases and Supply, (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2 and of Articles 1 (§ 2.2-4300 et seq.), 2 (§ 2.2-4303 et seq.), 3 (§ 2.2-4343 et seq.), and 5 (§ 2.2-4357 et seq.) of Chapter 43, Virginia Public Procurement Act, of Title 2.2 shall not apply to contracts for advertising or publishing entered into by the Board. The provisions of Articles 4 (§ 2.2-4347 et seq.) and 6 (§ 2.2-4367 et seq.) of Chapter 43, Virginia Public Procurement Act, of Title 2.2 shall apply to such contracts.

2. That initial appointments to the Virginia Wine Board shall be made by the Governor by July 1, 2004, and all initial appointments made by the Governor shall be from members serving on the Virginia Winegrowers Advisory Board as of June 1, 2004, but excluding the Commissioner and the Chairman of the Alcoholic Beverage Control Board or their designees.

3. That, upon the effective date of this act, any moneys remaining in the Winegrowers Productivity Fund shall be transferred to the Virginia Wine Promotion Fund established pursuant to § 3.1-1064.6.

4. That Chapter 42 (§§ 3.1-1057 through 3.1-1064) of Title 3.1 of the Code of Virginia is repealed.