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## SENATE BILL NO. 1371

Offered January 17, 2007

A *BILL to amend and reenact §§ 4.1-119 and 4.1-201 of the Code of Virginia, relating to alcoholic beverage control; operation of government stores; preference for small farm wineries.*

Patron—Bell

Referred to Committee on Rehabilitation and Social Services

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-119 and 4.1-201 of the Code of Virginia are amended and reenacted as follows:**

§ 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 Board. The Board may discontinue any such store.

B. *With respect to the sale of wine produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine per year.*

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

~~C.D.~~ Alcoholic beverages at government stores shall be sold by employees of the Board, who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits manufactured by such licensee at government stores established by the Board on the distiller's licensed premises; provided at least 51% of the agricultural products used by such licensee to manufacture the spirits are grown on the licensee's farm and no more than 25% of the agricultural products are grown or produced outside the Commonwealth. However, upon petition by the Department of Agriculture and Consumer Services, the Board may permit the use of a lesser percentage of products grown on the licensee's farm if unusually severe weather or disease conditions cause a significant reduction in the availability of agricultural products grown on the farm to manufacture the spirits during a given license year. Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Board and the licensed distiller.

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

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

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

~~G.H.~~ With respect to purchases by licensees at government stores, the Board shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Board, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

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

§ 4.1-201. Conduct not prohibited by this title; limitation.

A. Nothing in this title or any Board regulation adopted pursuant thereto shall prohibit:

1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic

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59 beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed  
60 or given away in violation of this title.

61 2. Any person from having grain, fruit or fruit products and any other substance, when grown or  
62 lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic  
63 beverages to the Board or selling or shipping them to any person outside of the Commonwealth in  
64 accordance with Board regulations. However, no alcoholic beverages so distilled shall be withdrawn  
65 from the place where distilled except in accordance with Board regulations.

66 3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere,  
67 alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such  
68 alcoholic beverages.

69 4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed  
70 containers from other breweries owned by such person or the sale, delivery or shipment of such beer, in  
71 accordance with Board regulations to (i) persons licensed to sell beer at wholesale, (ii) persons licensed  
72 to sell beer at retail for the purpose of resale only as provided in subdivision B 4 of § 4.1-216, (iii)  
73 owners of boats registered under the laws of the United States sailing for ports of call of a foreign  
74 country or another state, and (iv) persons outside the Commonwealth for resale outside the  
75 Commonwealth.

76 5. The granting of any retail license to a brewery or winery licensee, or to an applicant for such  
77 license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided  
78 the places of business or establishments for which the retail licenses are desired are located upon the  
79 premises occupied or to be occupied by such winery or brewery, or upon property of such person  
80 contiguous to such premises, or in a development contiguous to such premises owned and operated by  
81 such person or a wholly owned subsidiary.

82 6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than  
83 wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such  
84 alcoholic beverages, in accordance with Board regulations, to the Board and to persons outside the  
85 Commonwealth for resale outside the Commonwealth.

86 7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed  
87 containers from other wineries or farm wineries located inside or outside the Commonwealth, or the  
88 receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from  
89 fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to  
90 be used only for the fortification of wine produced by the licensee in accordance with Board regulations,  
91 or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed  
92 to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale  
93 outside the Commonwealth.

94 8. The receipt by a fruit distillery licensee of deliveries and shipments of alcoholic beverages made  
95 from fruit or fruit juices in closed containers from other fruit distilleries owned by such licensee, or the  
96 sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to persons  
97 outside of the Commonwealth for resale outside of the Commonwealth.

98 9. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to  
99 another farm winery or winery licensee for the purpose of additional bottling in accordance with Board  
100 regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

101 10. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed  
102 containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be  
103 used by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall  
104 be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the  
105 extent it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth.  
106 The selling licensee shall provide to the receiving licensee, and both shall maintain complete and  
107 accurate records of, the source of the fresh fruits or agricultural products used to produce the wine so  
108 transferred.

109 11. Any distiller licensed under this title from serving as an agent of the Board for the sale of  
110 alcoholic beverages, other than beer and wine, at a government store established by the Board on the  
111 licensed premises of the distiller in accordance with subsection E D of § 4.1-119.

112 12. Any retail on-premises beer licensee, his agent or employee, from giving a sample of beer to  
113 persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or retail  
114 on-premises wine or beer licensee, his agent or employee, from giving a sample of wine or beer to  
115 persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed  
116 beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to  
117 whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall  
118 not exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not  
119 exceed one-half ounce. No more than two product samples shall be given to any person per visit.

120 13. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not

121 licensed in the Commonwealth, from selling service items bearing alcoholic brand references to  
122 on-premises retail licensees or prohibit any such retail licensee from displaying the service items on the  
123 premises of his licensed establishment. Each such retail licensee purchasing such service items shall  
124 retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of  
125 not less than two years from the date of each sale of the service items. As used in this subdivision,  
126 "service items" mean articles of tangible personal property normally used by the employees of  
127 on-premises retail licensees to serve alcoholic beverages to customers including, but not limited to,  
128 glasses, napkins, buckets, and coasters.

129 14. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in  
130 the Commonwealth, from distributing to retail licensees and their employees novelties and specialties,  
131 including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage  
132 advertising. Such items may be distributed to retail licensees in quantities equal to the number of  
133 employees of the retail establishment present at the time the items are delivered. Thereafter, such  
134 employees may wear or display the items on the licensed premises.

135 15. Any retail on-premises wine or beer licensee, his agent or employee from offering for sale or  
136 selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines  
137 or beers consisting of samples of not more than five different wines or beers.

138 B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale  
139 outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from  
140 receiving or selling the same.