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HOUSE BILL NO. 1416

Offered January 11, 2008

A BILL to amend and reenact §§ 2.2-2696, 4.1-116, 4.1-234, and 4.1-236 of the Code of Virginia and to amend the Code of Virginia by adding in Article 6 of Chapter 2 of Title 2.2 a section numbered 2.2-214.2, relating to alcoholic beverage control; tax increases; substance abuse treatment fund.

Patron—Ware, O.

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2696, 4.1-116, 4.1-234, and 4.1-236 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 6 of Chapter 2 of Title 2.2 a section numbered 2.2-214.2 as follows:

2.2-214.2. Substance Abuse Treatment Fund established.

A. The Secretary shall administer the Substance Abuse Treatment Fund created pursuant to subsection B. The Secretary, in consultation with the Department of Mental Health, Mental Retardation and Substance Abuse Services, shall (i) develop criteria for eligible programs to receive disbursements from the Substance Abuse Treatment Fund and (ii) determine the appropriate allocation of such funds to eligible programs.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Substance Abuse Treatment Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys received pursuant to subsection C of § 4.1-116 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to support the array of prevention, education, assessment, and treatment services that address problems associated with substance abuse in the Commonwealth. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of Health and Human Resources or his designee.

§ 2.2-2696. Substance Abuse Services Council.

A. The Substance Abuse Services Council (the Council) is established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council is to advise and make recommendations to the Governor; and the General Assembly; and the State Mental Health, Mental Retardation and Substance Abuse Services Board on (i) broad policies and goals relating to substance abuse problems in the Commonwealth; and (ii) on the coordination of the Commonwealth's public and private efforts to control substance abuse, as defined in § 37.2-100; and (iii) funding opportunities, utilizing moneys available in the Substance Abuse Treatment Fund established pursuant to § 2.2-214.2, that would help provide an array of services to support substance abuse prevention, education, assessment, and treatment programs throughout the Commonwealth.

B. The Council shall consist of 30 members. Four members of the House of Delegates shall be appointed by the Speaker of the House of Delegates, in accordance with the principles of proportional representation contained in the Rules of the House of Delegates, and two members of the Senate shall be appointed by the Senate Committee on Rules. The Governor shall appoint one member representing the Virginia Sheriffs' Association, one member representing the Virginia Drug Courts Association, one member representing the Substance Abuse Certification Alliance of Virginia, two members representing the Virginia Association of Community Services Boards, and two members representing statewide consumer and advocacy organizations. The Council shall also include the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services; the Commissioner of Health; the Commissioner of the Department of Motor Vehicles; the Superintendent of Public Instruction; the Directors of the Departments of Juvenile Justice, Corrections, Criminal Justice Services, Medical Assistance Services, and Social Services; the Chief Operating Officer of the Department of Alcoholic Beverage Control; the Executive Director of the Governor's Office for Substance Abuse Prevention or his designee; the Executive Director of the Virginia Tobacco Settlement Foundation or his designee; the Executive Director of the Commission on the Virginia Alcohol Safety Action Program or his designee; and the chairs or their designees of the Virginia Association of Drug and Alcohol Programs, the Virginia Association of Alcoholism and Drug Abuse Counselors, and the Substance Abuse Council and the Prevention Task Force of the Virginia Association of Community Services Boards.

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HB1416

59 C. Appointments of legislative members and heads of agencies or representatives of organizations
60 shall be for terms consistent with their terms of office. All other appointments of nonlegislative
61 members shall be for terms of three years, except an appointment to fill a vacancy, which shall be for
62 the unexpired term. The Governor shall appoint a chairman from among the members.

63 No person shall be eligible to serve more than two successive terms, provided that a person
64 appointed to fill a vacancy may serve two full successive terms.

65 D. The Council shall meet at least four times annually and more often if deemed necessary or
66 advisable by the chairman.

67 E. Members of the Council shall receive no compensation for their services but shall be reimbursed
68 for all reasonable and necessary expenses incurred in the performance of their duties as provided in
69 §§ 2.2-2813 and 2.2-2825. Funding for the cost of expenses shall be provided by the Department of
70 Mental Health, Mental Retardation and Substance Abuse Services.

71 F. The duties of the Council shall be:

72 1. To recommend policies and goals to the Governor, the General Assembly, and the State Mental
73 Health, Mental Retardation and Substance Abuse Services Board;

74 2. To coordinate agency programs and activities, to prevent duplication of functions, and to combine
75 all agency plans into a comprehensive interagency state plan for substance abuse services;

76 3. To review and comment on annual state agency budget requests regarding substance abuse and on
77 all applications for state or federal funds or services to be used in substance abuse programs;

78 4. To define responsibilities among state agencies for various programs for persons with substance
79 abuse and to encourage cooperation among agencies; and

80 5. To make investigations, issue annual reports to the Governor and the General Assembly, and make
81 recommendations relevant to substance abuse upon the request of the Governor.

82 6. *To recommend funding opportunities, utilizing moneys available in the Substance Abuse Treatment*
83 *Fund established pursuant to § 2.2-214.2, that would help provide an array of services to support*
84 *substance abuse prevention, education, assessment, and treatment programs throughout the*
85 *Commonwealth.*

86 G. Staff assistance shall be provided to the Council by the Office of Substance Abuse Services of the
87 Department of Mental Health, Mental Retardation and Substance Abuse Services.

88 § 4.1-116. Disposition of moneys collected by Board; creation of Enterprise Fund; reserve fund;
89 substance abuse treatment programs.

90 A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or
91 shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on
92 account of salaries, fees, costs, charges, expenses, refunds or claims of any description whatever, as
93 required by § 2.2-1802.

94 All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, D,
95 shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i)
96 the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and
97 expenses incurred in establishing and maintaining government stores and in the administration of the
98 provisions of this title, including the purchasing, building, leasing and operation of distilleries and the
99 manufacture of alcoholic beverages.

100 B. The net profits derived under the provisions of this title shall be transferred by the Comptroller to
101 the general fund of the state treasury quarterly, within fifty days after the close of each quarter or as
102 otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from
103 the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million
104 in connection with the administration of this title and to provide for the depreciation on the buildings,
105 plants and equipment owned, held or operated by the Board.

106 C. *The Board shall deduct quarterly five percent from the net profits to be paid into the Substance*
107 *Abuse Treatment Fund created pursuant to § 2.2-214.2.*

108 D. The term "net profits" as used in this section means the total of all moneys collected by the
109 Board less all costs, expenses, *deductions*, and charges authorized by this section.

110 § 4.1-234. Tax on wine and other alcoholic beverages; exceptions.

111 A. In addition to the taxes imposed pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, a tax of
112 forty-five cents is levied on each liter of wine sold in the Commonwealth. Additionally, on vermouth
113 and on farm winery wines sold to consumers by the Board the state tax shall be four percent of the
114 price charged.

115 B. There is levied on other alcoholic beverages sold by the Board a tax of twenty percent of the
116 price charged. This subsection shall also apply to all alcoholic beverages purchased from the Board by
117 any mixed beverage licensee.

118 C. The provisions of this section shall not apply to (i) beer, (ii) wine coolers, (iii) sales of wine by
119 manufacturers to wholesale wine licensees for resale to retail licensees, (iv) sales, other than by or
120 through government stores, of alcoholic beverages for manufacturing and industrial purposes, or either,

(v) sales, other than by or through government stores, of alcohol for hospital and laboratory purposes, or either, (vi) alcoholic beverages shipped from the Commonwealth to points outside the Commonwealth for resale outside the Commonwealth and (vii) sales to any instrumentality of the federal government.

§ 4.1-236. Excise tax on beer and wine coolers; payment of tax; exceptions.

A. There is levied on all beer and wine coolers sold in the Commonwealth an excise tax at the rate of:

1. ~~Twenty-five and sixty-five~~ *Seventy-six and ninety-five* hundredths cents per gallon per barrel;
2. ~~Two~~ *Six* cents per bottle on bottles of not more than seven ounces each;
3. ~~Two and sixty-five~~ *Seven and ninety-five* hundredths cents per bottle on bottles of more than seven ounces each but not more than twelve ounces each; and
4. ~~Two and twenty-two~~ *Six and sixty-six* one hundredths mills per ounce per bottle on bottles of more than twelve ounces each.

B. The tax herein levied shall be paid by the manufacturer, bottler or wholesaler selling beer or wine coolers to licensed retailers.

C. Any person selling or offering for sale in the Commonwealth any beer or wine coolers purchased or obtained from any person not licensed either as a manufacturer, bottler or wholesaler under this chapter, and on which the excise tax levied has not been paid, shall pay the tax.

D. This section shall not apply to any manufacturer, bottler or wholesaler of any beer or wine coolers, which are:

1. Shipped out of the Commonwealth by such manufacturer, bottler or wholesaler for resale outside of the Commonwealth;
2. Sold to the United States or to any instrumentality thereof for resale to or for the use or consumption by members of the armed forces of the United States;
3. Sold to the Veterans Administration for resale to veterans of the armed services of the United States who are hospitalized or domiciled in hospitals and homes of the Veterans Administration within the geographical confines of the Commonwealth;
4. Shipped to a post exchange of the armed forces of the United States for resale by such post exchange, whether such post exchange is located on a United States military reservation or not;
5. Shipped to any instrumentality of the United States which is exempt on constitutional grounds from the excise tax levied by this section; or
6. Sold and delivered to foreign boats or aircraft actually engaged in foreign commerce or commerce between any ports of the United States or commerce between the United States and any of its possessions outside of the several states and the District of Columbia.

The exceptions allowed in subdivisions 1, 4, and 5 of this subsection shall be applicable only if, in each case, evidence satisfactory to the Board is submitted in writing that such beer or wine coolers were so shipped.