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HOUSE BILL NO. 463

Offered January 9, 2008

Prefiled January 4, 2008

A BILL to amend and reenact § 15.2-2288.3 of the Code of Virginia, relating to farm wineries.

Patrons—Albo and Moran

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-2288.3 of the Code of Virginia is amended and reenacted as follows:**

§ 15.2-2288.3. Licensed farm wineries; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. *Usual and customary activities shall include at a minimum, but not be limited to, the following activities where such activities are for fewer than 200 people:*

1. *Activities related to agritourism, which include but shall not be limited to:*a. *Picnics, either self provided or available to be purchased at a farm winery;*b. *Small- to medium-size festivals, wine fairs, and hayrides;*c. *Wine tastings as part of a special promotion, such as Oktoberfest and Valentine's Day;*d. *Public wine tastings;*e. *Industry, media and trade wine tastings;*f. *Wine tasting educational seminars;*g. *Agritourism promotions;*h. *Vineyard tours;*i. *Prearranged or unannounced winery visitation and tourism;*j. *Guest winemakers and trade accommodations of invited guests at a winery's private home;*k. *Barrel tastings, wine clubs, club members' activities;*l. *Outdoor music where such music is not audible beyond the winery's boundaries;*m. *Fundraisers and charity events; and*n. *Exhibits, museum, and historical segments related to wine or to the winery.*2. *Activities related to production, which include but shall not be limited to:*a. *Growing and planting;*b. *Harvesting; and*c. *Tractors, generators, trailers, light booms, and other equipment used to harvest or otherwise produce wine.*3. *Activities related to sales, which include but shall not be limited to:*a. *Weddings;*b. *Receptions where wineries sell or serve wine with the purpose of promoting sales at the winery;*c. *Winemakers' dinners (pairing wine with food);*d. *Wine tasting luncheons, business meetings, and corporate luncheons, with a focus on selling wines;*e. *Gatherings with the purpose of promoting sales to the trade, such as restaurants, distributors, and local chamber of commerce activities;*f. *Soups, finger foods, and appetizers for visitors;*g. *On-site retail sales and incidental gifts such as cork screws and t-shirts; and*h. *Kitchen and catering activities for wine dinners and lunches or educational food and wine activities.*

No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. —Expired.]

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59 D. No locality may treat private personal gatherings held by the owner of a licensed farm winery
60 who resides at the farm winery or on property adjacent thereto that is owned or controlled by such
61 owner at which gatherings wine is not sold or marketed and for which no consideration is received by
62 the farm winery or its agents differently from private personal gatherings by other citizens.

63 E. No locality shall regulate any of the following activities of a farm winery licensed in accordance
64 with subdivision 5 of § 4.1-207:

65 1. The production and harvesting of fruit and other agricultural products and the manufacturing of
66 wine;

67 2. The on-premises sale, tasting, or consumption of wine during regular business hours within the
68 normal course of business of the licensed farm winery;

69 3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title
70 4.1 and regulations of the Alcoholic Beverage Control Board;

71 4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and
72 out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control
73 Board, and federal law;

74 5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the
75 Alcoholic Beverage Control Board, and federal law; or

76 6. The sale of wine-related items that are incidental to the sale of wine.

77 *Any winery that receives a judgment from a court of competent jurisdiction in a suit against any*
78 *local government to enforce the provisions of this section, shall be entitled to receive its attorney fees*
79 *and costs expended in such suit.*