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SENATE BILL NO. 430

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on February 19, 2014)

(Patron Prior to Substitute—Senator Watkins)

A BILL to amend and reenact § 4.1-208 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2288.3:1, relating to breweries located on farms; local regulation of certain activities.

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-208 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2288.3:1 as follows:

§ 4.1-208. Beer licenses.

The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. *Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises.*

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

3- 4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

4- 5. Beer importers' licenses, which shall authorize persons licensed within or outside the

60 Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board
61 regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for
62 the purpose of resale.

63 ~~5.~~ 6. Retail on-premises beer licenses to:

64 a. Hotels, restaurants and clubs, which shall authorize the licensee to sell beer, either with or without
65 meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private
66 guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms
67 and areas.

68 b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the
69 licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so
70 operated by them for on-premises consumption when carrying passengers.

71 c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee
72 to sell beer, either with or without meals, on such boats operated by them for on-premises consumption
73 when carrying passengers.

74 d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or
75 town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments.
76 No license shall be granted unless it appears affirmatively that a substantial public demand for such
77 licensed establishment exists and that public convenience and the purposes of this title will be promoted
78 by granting the license.

79 e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize
80 the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of
81 professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons
82 within all seating areas, concourses, walkways, concession areas, and additional locations designated by
83 the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon
84 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic
85 beverages on the premises in all areas and locations covered by the license.

86 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar
87 facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta,
88 Pittsylvania, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the
89 performance of any event, in paper, plastic or similar disposable containers to patrons within all seating
90 areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon
91 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic
92 beverages on the premises in all areas and locations covered by the license.

93 g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar
94 facilities located in any county operating under the urban county executive form of government or any
95 city which is completely surrounded by such county, which shall authorize the licensee to sell beer
96 during the event, in paper, plastic or similar disposable containers to patrons or attendees within all
97 seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations
98 designated by the Board in such facilities, for on-premises consumption. Upon authorization of the
99 licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
100 premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or
101 exposition halls" and "convention centers" mean facilities conducting private or public trade shows or
102 exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

103 ~~6.~~ 7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed
104 containers for off-premises consumption.

105 ~~7.~~ 8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize
106 the licensee to sell beer at the place of business designated in the brewery license, in closed containers
107 which shall include growlers and other reusable containers, for off-premises consumption.

108 ~~8.~~ 9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions ~~§ 6 a~~ and ~~§ 6 d~~,
109 which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall
110 authorize the licensee to sell beer in closed containers for off-premises consumption.

111 **§ 15.2-2288.3:1. Limited brewery license; local regulation of certain activities.**

112 A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia beer
113 industry while maintaining appropriate land use authority to protect the health, safety, and welfare of
114 the citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning
115 categories. Local restriction upon such activities and public events of breweries licensed pursuant to
116 subdivision 2 of § 4.1-208 to market and sell their products shall be reasonable and shall take into
117 account the economic impact on such licensed brewery of such restriction, the agricultural nature of
118 such activities and events, and whether such activities and events are usual and customary for such
119 licensed breweries. Usual and customary activities and events at such licensed breweries shall be
120 permitted unless there is a substantial impact on the health, safety, or welfare of the public. No local
121 ordinance regulating noise, other than outdoor amplified music, arising from activities and events at

such licensed breweries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at such licensed brewery, the locality shall consider the effect on adjacent property owners and nearby residents.

B. No locality shall regulate any of the following activities of a brewery licensed under subdivision 2 of § 4.1-208:

1. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products and the manufacturing of beer;

2. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery;

3. The direct sale and shipment of beer in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;

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

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

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

C. Any locality may exempt any brewery licensed in accordance with subdivision 2 of § 4.1-208 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.