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SENATE BILL NO. 971

Offered January 11, 2017

Prefiled January 3, 2017

A BILL to amend and reenact § 4.1-201 of the Code of Virginia, relating to alcoholic beverage control; purchase of wine by restaurant from retailer.

Patron—DeSteph

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:**1. That § 4.1-201 of the Code of Virginia is amended and reenacted as follows:****§ 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 beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or given away in violation of this title.

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 However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in accordance with Board regulations.

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

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

5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the places of business or establishments for which the retail licenses are desired are located upon the premises occupied or to be occupied by such distillery, winery, or 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.

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

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

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

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

10. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall

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59 be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the
60 extent it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth.
61 The selling licensee shall provide to the receiving licensee, and both shall maintain complete and
62 accurate records of, the source of the fresh fruits or agricultural products used to produce the wine so
63 transferred.

64 11. Any retail on-premises beer licensee, his agent or employee, from giving a sample of beer to
65 persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or retail
66 on-premises wine or beer licensee, his agent or employee, from giving a sample of wine or beer to
67 persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed
68 beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to
69 whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall
70 not exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not
71 exceed one-half ounce. No more than two product samples shall be given to any person per visit.

72 12. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not
73 licensed in the Commonwealth, from selling service items bearing alcoholic brand references to
74 on-premises retail licensees or prohibit any such retail licensee from displaying the service items on the
75 premises of his licensed establishment. Each such retail licensee purchasing such service items shall
76 retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of
77 not less than two years from the date of each sale of the service items. As used in this subdivision,
78 "service items" mean articles of tangible personal property normally used by the employees of
79 on-premises retail licensees to serve alcoholic beverages to customers including, but not limited to,
80 glasses, napkins, buckets, and coasters.

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

87 14. Any (i) retail on-premises wine or beer licensee, his agent or employee from offering for sale or
88 selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines
89 or beers consisting of samples of not more than five different wines or beers and (ii) mixed beverage
90 licensee, his agent or employee from offering for sale or selling for one price to any person to whom
91 alcoholic beverages may be lawfully sold a flight of distilled spirits consisting of samples of not more
92 than five different spirits products.

93 15. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired
94 wine, beer, or cider by bona fide customers on the premises in all areas and locations covered by the
95 license, provided that (i) all such wine, beer, or cider shall have been acquired by the customer from a
96 retailer licensed to sell such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought
97 onto the licensed premises by the customer except in sealed, nonresealable bottles or cans. The licensee
98 may charge a corkage fee to such customer for the wine, beer, or cider so consumed; however, the
99 licensee shall not charge any other fee to such customer.

100 16. Any winery, farm winery, wine importer, or wine wholesaler licensee from providing to adult
101 customers of licensed retail establishments information about wine being consumed on such premises.

102 17. *Notwithstanding the provisions of § 4.1-326, any restaurant licensed under this chapter to sell*
103 *wine or beer for on-premises consumption from purchasing for resale or selling wine purchased from a*
104 *retailer licensed to sell such wine for off-premises consumption.*

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