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SENATE BILL NO. 756

Offered January 10, 2018

Prefiled January 10, 2018

A BILL to amend and reenact §§ 4.1-201 and 4.1-320 of the Code of Virginia, relating to alcoholic beverage control; conduct not prohibited; donations of beer by brewery licensees to charitable nonprofit mixed beverage special event licensees or banquet licensees.

Patron—Sturtevant (By Request)

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:**1. That §§ 4.1-201 and 4.1-320 of the Code of Virginia are 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 However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in accordance with Board regulations.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

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

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

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

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

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

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

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

103 17. *Any brewery licensee from donating beer that it has manufactured and any (i) mixed beverage
104 special events licensee or (ii) banquet licensee that is a charitable nonprofit corporation or association
105 that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code from accepting and
106 serving such beer for on-premises consumption at the licensed charitable special event. Any donation
107 permitted by this subsection shall be subject to the taxes imposed by this title on sales of alcoholic
108 beverages. The brewery licensee shall keep complete and accurate records of donations given in
109 accordance with this subdivision.*

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

113 **§ 4.1-320. Illegal advertising; penalty; exception.**

114 A. Except in accordance with this title and Board regulations, no person shall advertise in or send
115 any advertising matter into the Commonwealth about or concerning alcoholic beverages other than those
116 which may legally be manufactured or sold without a license.

117 B. Manufacturers, wholesalers, and retailers may engage in the display of outdoor alcoholic beverage
118 advertising on lawfully erected signs provided such display is done in accordance with § 4.1-112.2 and
119 Board regulations.

120 C. Except as provided in subsection D, any person convicted of a violation of this section shall be

121 guilty of a Class 1 misdemeanor.

122 D. For violations of § 4.1-112.2 relating to distance and zoning restrictions on outdoor advertising,
123 the Board shall give the advertiser written notice to take corrective action to either bring the
124 advertisement into compliance with this title and Board regulations or to remove such advertisement. If
125 corrective action is not taken within 30 days, the advertiser shall be guilty of a Class 4 misdemeanor.

126 E. Neither this section nor any Board regulation shall prohibit (i) the awarding of watches of a
127 wholesale value of less than \$100 by a licensed distillery, winery or brewery, to participants in athletic
128 contests; (ii) the exhibition or display of automobiles, boats, or aircraft regularly and normally used in
129 racing or other competitive events and the sponsorship of an automobile, boat or aircraft racing team by
130 a licensed distillery, winery or brewery and the display on the automobile, boat or aircraft and uniforms
131 of the members of the racing team, the trademark or brand name of an alcoholic beverage manufactured
132 by such distillery, winery or brewery; (iii) the sponsorship of a professional athletic event, including, but
133 not limited to, golf, auto racing or tennis, by a licensed distillery, winery or brewery or the use of any
134 trademark or brand name of any alcoholic beverage in connection with such sponsorship; (iv) the
135 advertisement of beer by the display of such product's name on any airship, which advertising is paid
136 for by the manufacturer of such product; (v) the advertisement of beer or any alcoholic beverage by the
137 display of such product's name on any scale model, reproduction or replica of any motor vehicle, aircraft
138 or watercraft offered for sale; (vi) the placement of billboard advertising within stadia, coliseums, or
139 racetracks that are used primarily for professional or semiprofessional athletic or sporting events; ~~or~~ (vii)
140 the sponsorship of an entertainment or cultural event; *or (viii) brewery licensees from sponsoring a*
141 *charitable event.*