

LD6193180

HOUSE BILL NO. 1843

Offered January 19, 1995

A BILL to amend and reenact § 4.1-100 of the Code of Virginia, relating to alcoholic beverage control; low alcohol beverage coolers.

Patrons—Croshaw, Albo, Barlow, Callahan, Copeland, DeBoer, Diamonstein, Fisher, Hamilton, Harris, Heilig, Jones, J.C., Mayer, Melvin, Moore, Reid, Robinson, Spruill, Tata, Wagner and Wardrup; Senators: Holland, C.A., Lambert, Lucas, Saslaw and Stolle

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-100 of the Code of Virginia is amended and reenacted as follows:

§ 4.1-100. Definitions.

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition.

"Barrel" means any container or vessel having a capacity of more than forty-three ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than fifteen bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than forty-three ounces.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of bingo games or raffles conducted pursuant to Article 1.1 (§ 18.2-340.1 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such bingo games or raffles are being conducted while such games or raffles are being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

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60 "Farm winery" means an establishment located on a farm in the Commonwealth with a producing
61 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the
62 premises where the owner or lessee manufactures wine that contains not more than fourteen percent
63 alcohol by volume. As used in this definition, the terms "owner" and "lessee" shall include a cooperative
64 formed by an association of individuals for the purpose of manufacturing wine. In the event such
65 cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the
66 land owned or leased by the individual members of the cooperative as long as such land is located in
67 the Commonwealth.

68 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty
69 items relating to history, original and handmade arts and products, collectibles, crafts, and floral
70 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure
71 where stock is displayed and offered for sale and which has facilities to properly secure any stock of
72 wine or beer. Such shop may be located (i) on the premises or grounds of a government registered
73 national, state or local historic building or site or (ii) within the premises of a museum. The Board shall
74 consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be
75 considered a gift shop.

76 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
77 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
78 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
79 furnished to persons.

80 "Government store" means a store established by the Board for the sale of alcoholic beverages.

81 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
82 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
83 four or more bedrooms. It shall also mean the person who operates such hotel.

84 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
85 pursuant to this title.

86 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
87 observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

88 "Licensee" means any person to whom a license has been granted by the Board.

89 "Licensed" means the holding of a valid license issued by the Board.

90 *"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol*
91 *by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits*
92 *mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit*
93 *juices, fruit adjuncts, sugar, carbon dioxide, or preservatives. It shall also include other similar products*
94 *manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine*
95 *for all purposes of this title.*

96 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona
97 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments
98 specializing in full course meals with a single substantial entree.

99 "Member of a club" means a person who maintains his membership in the club by the payment of
100 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof. It shall
101 also mean a lifetime member whose financial contribution is not less than ten times the annual dues of
102 resident members of the club, the full amount of such contribution being paid in advance in a lump
103 sum.

104 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of
105 spirits.

106 "Place or premises" means the real estate, together with any buildings or other improvements thereon,
107 designated in the application for a license as the place at which the manufacture, bottling, distribution,
108 use or sale of alcoholic beverages shall be performed, except that portion of any such building or other
109 improvement actually and exclusively used as a private residence.

110 "Public place" means any place, building, or conveyance to which the public has, or is permitted to
111 have, access, including restaurants, soda fountains, hotel dining areas, lobbies, and corridors of hotels,
112 and any highway, street, lane, park, or place of public resort or amusement.

113 The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private
114 meetings or private parties limited in attendance to members and guests of a particular group,
115 association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or
116 similar facilities while such restaurant is closed to the public and in use for private meetings or parties
117 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such
118 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in
119 use for private meetings or parties limited in attendance to employees and nonpaying guests of the
120 owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats
121 which are not licensed by the Board and on which alcoholic beverages are not sold.

122 "Residence" means any building or part of a building or structure where a person resides, but does
123 not include any part of a building which is not actually and exclusively used as a private residence, nor
124 any part of a hotel or club other than a private guest room thereof.

125 "Resort complex" means a facility with a hotel owning year-round sports and recreational facilities
126 located contiguously on the same property. The hotel must have a minimum of 250 private guest rooms
127 contained on not less than 100 acres. The Board may consider the purpose, characteristics, and operation
128 of the applicant establishment in determining whether it shall be considered as a resort complex. All
129 other pertinent qualifications established by the Board for a hotel operation shall be observed by such
130 licensee.

131 "Restaurant" means, for a beer, or wine and beer license, any establishment provided with special
132 space and accommodation, where, in consideration of payment, meals or other foods prepared on the
133 premises are regularly sold.

134 "Restaurant" means, for a mixed beverage license, an established place of business (i) where meals
135 with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees
136 for cooking, preparing, and serving such meals for consumption at tables in dining areas on the
137 premises, and includes establishments specializing in full course meals with a single substantial entree.

138 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;
139 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
140 beverages.

141 "Special agent" means an employee of the Department of Alcoholic Beverage Control whom the
142 Board has designated as a law-enforcement officer pursuant to § 4.1-105.

143 "Special event" means an event sponsored by a duly organized nonprofit corporation or association
144 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

145 "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable
146 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and
147 gin, or any one or more of the last four named ingredients; but shall not include any such liquors
148 completely denatured in accordance with formulas approved by the United States government.

149 "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of
150 fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
151 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product
152 of distillation. The term includes any wine to which wine spirits have been added, as provided in the
153 Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an
154 alcohol content of twenty-one percent by volume.

155 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and
156 not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of
157 wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain
158 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
159 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
160 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

161 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for
162 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
163 required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by
164 such retail licensee.