

LD2899432

SENATE BILL NO. 844

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 20, 1995)

(Patron Prior to Substitute—Senator Holland, C. A.)

A BILL to amend and reenact §§ 4.1-111, 4.1-208 and 4.1-209 of the Code of Virginia, relating to alcoholic beverage control; regulations of the Board; wine and beer licenses.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-111, 4.1-208 and 4.1-209 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-111. Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations which:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

C. The Board may promulgate regulations which provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

D. *The Board shall not limit the number of events in any calendar year which may be permitted on premises owned by a licensed club which leases such premises for use by other organizations or associations if such organizations or associations obtain a banquet or banquet special events license.*

E. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

F. Courts shall take judicial notice of Board regulations.

G. The Board's power to regulate shall be broadly construed.

§ 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, 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.

2. 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. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and

60 shipments of beer and to sell and deliver or ship it, in accordance with Board regulations, in closed
61 containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the
62 purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of
63 call of a foreign country or another state and (iii) persons outside the Commonwealth for resale outside
64 the Commonwealth.

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

68 4. Beer importers' licenses, which shall authorize persons licensed within or outside the
69 Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board
70 regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for
71 the purpose of resale.

72 5. Retail on-premises beer licenses to:

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

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

80 c. Persons operating boats for which certificates as a sight-seeing carrier by boat, or a special or
81 charter party by boat have been issued by the State Corporation Commission pursuant to § 56-457.8,
82 which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by
83 them for on-premises consumption when carrying passengers.

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

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

96 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar
97 facility which has seating for more than 20,000 persons and is located in any county with a population
98 between 210,000 and 216,000 *or in any city with a population between 392,000 and 394,000*. Such
99 license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or
100 similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas,
101 or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may
102 keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and
103 locations covered by the license.

104 6. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed
105 containers for off-premises consumption and to deliver or ship the beer to purchasers in accordance with
106 Board regulations.

107 7. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 5 a and d, which
108 shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall
109 authorize the licensee to sell beer in closed containers for off-premises consumption and to deliver or
110 ship the beer to purchasers in accordance with Board regulations.

111 § 4.1-209. Wine and beer licenses.

112 The Board may grant the following licenses relating to wine and beer:

113 1. Retail on-premises wine and beer licenses to:

114 a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with
115 or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas,
116 private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such
117 rooms and areas. However, with regard to a hotel classified by the Board as a resort complex, the Board
118 may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex
119 deemed appropriate by the Board;

120 b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the
121 licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars

so operated by them, for on-premises consumption when carrying passengers;

c. Persons operating boats for which certificates as a sight-seeing carrier by boat, or a special or charter party by boat have been issued by the State Corporation Commission pursuant to § 56-457.8, which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding;

e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained;

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

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 20,000 persons and is located in any county with a population between 210,000 and 216,000 *or in any city with a population between 392,000 and 394,000*. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and to deliver or ship the same to purchasers in accordance with Board regulations.

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed one ounce by volume or (ii) a sample of beer not to exceed two ounces by volume, for on-premises consumption.

4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition, shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and to deliver or ship the same to the purchasers, in accordance with Board regulations.

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. A separate license shall be required for each day of each banquet or special event. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

7. Gift shop licenses, which shall authorize the licensee to sell wine and beer unchilled, only within the interior premises of the gift shop in closed containers for off-premises consumption and to deliver or ship the wine and beer to purchasers in accordance with Board regulations.