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## HOUSE BILL NO. 691

## FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Earley  
on February 28, 1996)

(Patron Prior to Substitute—Delegate Hall)

A BILL to amend and reenact § 4.1-225 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 4.1-220.1, relating to alcoholic beverage control; limitation of certain wine and beer licenses; grounds for suspension or revocation of licenses.

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-225 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-220.1 as follows:

§ 4.1-220.1. Limitation on certain wine and beer licenses.

No person holding a license which authorizes the licensee to sell wine or beer at retail for off-premises consumption shall sell wine or beer at a "drive-through" establishment. "Drive-through" establishment means an establishment which is so constructed to allow vehicles to enter the building or to allow such sale or delivery through a window or similar aperture in an exterior wall.

§ 4.1-225. Grounds for which Board may suspend or revoke licenses.

The Board may suspend or revoke any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership or association, any partner or member thereof, or if the licensee is a corporation, any officer, director, or manager thereof or shareholder owning ten percent or more of its capital stock:

a. Has misrepresented a material fact in applying to the Board for such license;

b. Has defrauded or attempted to defraud the Board, or any federal, state or local government or governmental agency or authority, by making or filing any report, document or tax return required by statute or regulation which is fraudulent or contains a false representation of a material fact; or has willfully deceived or attempted to deceive the Board, or any federal, state or local government, or governmental agency or authority, by making or maintaining business records required by statute or regulation which are false or fraudulent;

c. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth, of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-300 et seq.) of this title; (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

d. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;

e. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business which have not been disclosed;

f. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;

g. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;

h. Has allowed noisy, lewd or disorderly conduct upon the licensed premises, or has maintained such premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

i. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other than a busboy, cook or other kitchen help, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;

j. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect for law and order;

k. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he knew or had reason to believe was (i) less than twenty-one years of age, (ii) interdicted, or (iii) intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

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60 1. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as  
61 provided under this title;  
62 m. Is physically unable to carry on the business conducted under such license or has been  
63 adjudicated incompetent;  
64 n. Has allowed any lewd, obscene or indecent literature, pictures or materials upon the licensed  
65 premises;  
66 o. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises; or  
67 p. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly  
68 allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use  
69 marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled  
70 paraphernalia as those terms are defined in Articles 1 and 1.1 (§ 18.2-247 et seq.) of Chapter 7 of Title  
71 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-248.7;  
72 or (iii) conspired to commit any drug-related offense in violation of Articles 1 and 1.1 of Chapter 7  
73 (§ 18.2-247 et seq.) of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.). The provisions of this  
74 subdivision shall also apply to any conduct related to the operation of the licensed business which  
75 facilitates the commission of any of the offenses set forth herein.  
76 2. The place occupied by the licensee:  
77 a. Does not conform to the requirements of the governing body of the county, city or town in which  
78 such establishment is located, with respect to sanitation, health, construction or equipment, or to any  
79 similar requirements established by the laws of the Commonwealth or by Board regulations;  
80 b. Has been adjudicated a common nuisance under the provisions of this title or § 18.2-258; or  
81 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,  
82 prostitutes, pimps, panderers or habitual law violators. The Board may consider the general reputation in  
83 the community of such establishment in addition to any other competent evidence in making such  
84 determination.  
85 3. The licensee or any employee of the licensee discriminated against any member of the armed  
86 forces of the United States by prices charged or otherwise.  
87 4. Any cause exists for which the Board would have been entitled to refuse to grant such license had  
88 the facts been known.  
89 5. Any other cause authorized by this title.  
90 **2. That the provisions of § 4.1-220.1 of this act shall not apply to any retail establishment which is**  
91 **licensed by the Alcoholic Beverage Control Board to sell wine or beer for off-premises**  
92 **consumption and operating as a "drive-through" establishment, as defined in this act, on or before**  
93 **January 1, 1996.**