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SENATE BILL NO. 442

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services
on February 2, 1996)

(Patron Prior to Substitute—Senator Benedetti)

A BILL to amend and reenact §§ 4.1-206, 4.1-230, 4.1-231, and 4.1-233 of the Code of Virginia and to amend the Code of Virginia by adding a section number 4.1-221.1, relating to alcoholic beverage control; tasting licenses.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-206, 4.1-230, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-221.1 as follows:

§ 4.1-206. Alcoholic beverage licenses.

The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

2. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

3. Banquet facility licenses to volunteer fire departments and volunteer rescue squads, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a fire or rescue squad station or both, regularly occupied as such and recognized by the governing body of the county, city or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a fire or rescue squad station, provided such other premises are occupied and under the control of the fire department or rescue squad while the privileges of its license are being exercised.

4. Bed and breakfast licenses, which shall authorize the licensee to serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises.

5. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event.

§ 4.1-221.1. Limitation of tasting licenses.

Samples of alcoholic beverages given or sold by a licensee shall not exceed two ounces per person of each product tasted, provided that (i) in the case of wine or beer, no more than four products shall be offered or (ii) in the case of spirits, no more than two products shall be offered. Tasting licenses for mixed beverages shall only be issued for events to be held in localities which have approved the sale of mixed beverages pursuant to § 4.1-124. No license shall be issued to any person to whom issuance of a retail license is prohibited. No more than four tasting licenses annually shall be issued to any person.

§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing, under oath, setting forth any information required by the Board. Applications for banquet licenses, tasting, or mixed beverage special events licenses shall not be required to be under oath, but the information contained therein shall be certified as true by the applicant.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for banquet licenses, tasting, or special events licenses issued under the provisions of Chapter 2 of this title, or beer or wine importer's licenses located outside the Commonwealth, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than thirty days and not less than ten days. Such notice shall be of a size

60 and contain such information as required by the Board.

61 The applicant shall cause a copy of such notice to be published at least once a week for two
62 consecutive weeks in a newspaper published in or having a general circulation in the county, city or
63 town wherein such applicant proposes to engage in such business. In the case of operators of boats,
64 dining cars, buffet cars, club cars, and airplanes, the posting and publishing of notice shall not be
65 required.

66 Except for applicants for banquet licenses, *tasting*, or mixed beverage special events licenses, the
67 Board shall conduct a background investigation, to include a criminal history records search, on each
68 applicant for a license.

69 The Board shall notify the local governing body of each license application through the county or
70 city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit
71 objections to the granting of a license within thirty days of the filing of the application.

72 C. Each applicant shall pay the required application fee at the time the application is filed. Each
73 license application fee shall be \$50, except for banquet licenses, *tasting*, or mixed beverage special
74 events licenses, in which case the application fee shall be \$15. Application fees shall be in addition to
75 the state license tax required pursuant to § 4.1-231 and shall not be refunded.

76 D. Subsection A shall not apply to the continuance of licenses granted under this chapter.

77 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the
78 Board. In the case of applications to solicit the sale of wine and beer or spirits, each application shall be
79 accompanied by a fee of \$125 and \$300, respectively. The fee for each such permit shall be subject to
80 proration to the following extent: If the permit is granted in the second quarter of any year, the fee shall
81 be decreased by one-fourth; if granted in the third quarter of any year, the fee shall be decreased by
82 one-half; and if granted in the fourth quarter of any year, the fee shall be decreased by three-fourths.
83 Each such permit shall expire on June 30 next succeeding the date of issuance, unless sooner suspended
84 or revoked by the Board. Such permits shall confer upon their holders no authority to make solicitations
85 in the Commonwealth as otherwise provided by law.

86 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for
87 applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied
88 by the number of months for which the permit is granted.

89 The fee for a keg registration permit shall be \$50 annually.

90 The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs bond
91 or internal revenue bond in warehouses located in the Commonwealth shall be \$200 annually.

92 § 4.1-231. Taxes on state licenses.

93 A. The annual taxes on state licenses shall be as follows:

94 1. Alcoholic beverage licenses. - For each:

95 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured
96 during the year in which the license is granted, \$350; and if more than 5,000 gallons manufactured
97 during such year, \$2,860;

98 b. Fruit distiller's license, \$2,860;

99 c. Banquet facility license, \$145; and

100 d. Bed and breakfast establishment license, \$25; and

101 e. *Tasting license, \$30 per license granted.*

102 2. Wine licenses. - For each:

103 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the
104 license is granted, \$350, and if more than 5,000 gallons manufactured during such year, \$2,860;

105 b. Wholesale wine license, \$715 for any wholesaler who sells 150,000 gallons of wine or less per
106 year, \$1,100 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine
107 per year, and \$1,430 for any wholesaler who sells more than 300,000 gallons of wine per year;

108 c. Wine importer's license, \$285;

109 d. Retail off-premises winery license, \$110; and

110 e. Farm winery license, \$145.

111 3. Beer licenses. - For each:

112 a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which
113 the license is granted, \$1,650, and if more than 10,000 barrels manufactured during such year, \$3,300;

114 b. Bottler's license, \$1,100;

115 c. Wholesale beer license, \$715 for any wholesaler who sells 300,000 cases of beer a year or less,
116 and \$1,100 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a
117 year, and \$1,430 for any wholesaler who sells more than 600,000 cases of beer a year;

118 d. Beer importer's license, \$285;

119 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
120 carrier of passengers by train or boat, \$110; for each such license to a common carrier of passengers by
121 train or boat, \$110 per annum for each of the average number of boats, dining cars, buffet cars or club

cars operated daily in the Commonwealth;

f. Retail off-premises beer license, \$90;

g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$230; and

h. Gourmet brewing shop, \$175.

4. Wine and beer licenses. - For each:

a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$230; for each such license to a common carrier of passengers by train or boat, \$230 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$575;

b. Retail on-premises wine and beer license to a hospital, \$110;

c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$175;

d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$460; and

e. Banquet license, \$30 per license granted by the Board.

5. Mixed beverage licenses. - For each:

a. Mixed beverage restaurant ~~licenses~~ license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, \$430;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$750; and

(iii) With a seating capacity at tables for more than 150 persons, \$1,100.

b. Mixed beverage restaurant ~~licenses~~ license for restaurants located on the premises of and operated by private, nonprofit clubs:

(i) With an average yearly membership of not more than 200 resident members, \$575;

(ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,430; and

(iii) With an average yearly membership of more than 500 resident members, \$2,125.

c. Mixed beverage caterer's ~~licenses~~ license, \$1,430.

d. Mixed beverage special events ~~licenses~~ license, \$35 for each day of each event.

e. Annual mixed beverage special events ~~licenses~~ license, \$430.

f. Mixed beverage carrier ~~licenses~~ license:

(i) \$145 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(ii) \$430 for each common carrier of passengers by boat; and

(iii) \$1,135 for each license granted to a common carrier of passengers by airplane.

6. Temporary licenses. - For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than twelve months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license

183 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining
184 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the
185 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases
186 shall be disregarded.

187 § 4.1-233. Taxes on local licenses.

188 A. In addition to the state license taxes, the annual local license taxes which may be collected shall
189 not exceed the following sums:

190 1. Alcoholic beverages. - For each:

191 a. Distiller's license, \$1,000; no local license shall be required for any person who manufactures not
192 more than 5,000 gallons of alcohol or spirits, or both, during such license year;

193 b. Fruit distiller's license, \$1,500; ~~and~~

194 c. Bed and breakfast establishment license, \$40; *and*

195 d. *Tasting license, \$5 per license granted.*

196 2. Beer. - For each:

197 a. Brewery license, \$1,000;

198 b. Bottler's license, \$500;

199 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;

200 d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer
201 license in a city, \$100, and in a county or town, \$25; and

202 e. Gourmet brewing shop, \$150.

203 3. Wine. - For each:

204 a. Winery license, \$1,000; and

205 b. Wholesale wine license, \$50.

206 4. Wine and beer. - For each:

207 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail
208 off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery
209 store license, in a city, \$150, and in a county or town, \$37.50;

210 b. Hospital license, \$10; and

211 c. Banquet license, \$5 for each license granted.

212 5. Mixed beverages. - For each:

213 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
214 by hotels or motels, or other persons:

215 (i) With a seating capacity at tables for up to 100 persons, \$200;

216 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and

217 (iii) With a seating capacity at tables for more than 150 persons, \$500.

218 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;

219 c. Mixed beverage caterer's license, \$500; and

220 d. Mixed beverage special events licenses, \$10 for each day of each event.

221 B. Common carriers. - No local license tax shall be either charged or collected for the privilege of
222 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the
223 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises
224 consumption only.

225 C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in
226 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local
227 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,
228 may include alcoholic beverages in the base for measuring such local license taxes the same as if the
229 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter
230 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local
231 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license
232 taxes authorized by this chapter.

233 The governing body of any county, city or town, in adopting an ordinance under this section, shall
234 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation
235 under the ordinance, and in computing the local wholesale merchants' license tax on such beer
236 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be
237 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license
238 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine
239 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale
240 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall
241 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary
242 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax
243 paid by such wholesale wine licensee.

244 D. Delivery. - No county, city or town shall impose any local alcoholic beverages license tax on any

245 wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such
246 wholesaler maintains no place of business in such county, city or town.
247 E. Application of county tax within town. - Any county license tax imposed under this section shall
248 not apply within the limits of any town located in such county, where such town now, or hereafter,
249 imposes a town license tax on the same privilege.