

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 4.1-325 of the Code of Virginia, relating to alcoholic beverage control; mixed*
 3 *beverage licensees; prohibition on delivery to consumer of original bottle of alcoholic beverage;*
 4 *exception.*

5 [S 868]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 4.1-325 of the Code of Virginia is amended and reenacted as follows:**9 **§ 4.1-325. Prohibited acts by mixed beverage licensees; penalty.**

10 A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

11 1. Sell or serve any alcoholic beverage other than as authorized by law;

12 2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;

13 3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this
14 subtitle;15 4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to
16 sell;

17 5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

18 6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him
19 except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser
20 of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board
21 pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation.
22 Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee from premixing
23 containers of sangria, to which spirits may be added, to be served and sold for consumption on the licensed
24 premises;25 7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the
26 contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted
27 pursuant to subdivision B 11 of § 4.1-111;28 8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser
29 without first advising such purchaser of the difference;30 9. Remove or obliterate any label, mark, or stamp affixed to any container of alcoholic beverages offered
31 for sale;32 10. Deliver or sell the contents of any container if the label, mark, or stamp has been removed or
33 obliterated;34 11. Allow any obscene conduct, language, literature, pictures, performance, or materials on the licensed
35 premises;

36 12. Allow any striptease act on the licensed premises;

37 13. Allow persons connected with the licensed business to appear nude or partially nude;

38 14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a
39 position that is involved in the selling or serving of alcoholic beverages to customers.40 The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from
41 (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a
42 licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board
43 who represents a distiller, if such samples are provided in accordance with Board regulations and the retail
44 licensee or his designated employee does not violate the provisions of subdivision A 1 f of § 4.1-225 or (ii)
45 tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;46 15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license
47 whether the closure is broken or unbroken except in accordance with § 4.1-206.3.

48 The provisions of this subdivision shall not apply to the delivery of:

49 a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage
50 distilled from rice, barley or sweet potatoes; ~~or~~51 b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no
52 greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable; *or*53 *c. The entire contents of an original container of spirits for on-premises or off-premises consumption*
54 *provided that the (i) container is 16 ounces or less and (ii) alcohol content is no greater than 15 percent by*
55 *volume.*

56 16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

- 57 17. Conceal any sale or consumption of any alcoholic beverages;
- 58 18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or
- 59 obstruct special agents of the Board in the discharge of their duties;
- 60 19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such
- 61 alcoholic beverages from the premises;
- 62 20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute,
- 63 panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to
- 64 excess or engages in illegal gambling;
- 65 21. Keep on the licensed premises, except for the premises of a mixed beverage casino licensee, a slot
- 66 machine or any prohibited gambling or gaming device, machine, or apparatus;
- 67 22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of
- 68 normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in
- 69 this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference,
- 70 convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in
- 71 the course of usual and customary business entertainment and is in no way a shift or device to evade the
- 72 restriction set forth in this subdivision; (iii) pursuant to subsection C of § 4.1-209; (iv) pursuant to
- 73 subdivision A 10 of § 4.1-201; (v) by a mixed beverage casino licensee to a patron of such licensee in
- 74 accordance with the provisions of subdivision A 14 of § 4.1-206.3; or (vi) pursuant to any Board regulation.
- 75 Any gift permitted by this subdivision shall be subject to the taxes imposed by this subtitle on sales of
- 76 alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with
- 77 this subdivision; or
- 78 23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or
- 79 device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the
- 80 volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or
- 81 customary price charged for the same alcoholic beverage.
- 82 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.
- 83 C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert
- 84 halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical
- 85 performances, when the performances that are presented are expressing matters of serious literary, artistic,
- 86 scientific, or political value.