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1 SENATE BILL NO. 833

2 Offered January 23, 2026

3 A BILL to amend and reenact §§ 4.1-212.1 and 18.2-323.1 of the Code of Virginia relating to open
4 containers.

5 Patron—Roem

6 Referred to Committee on Rehabilitation and Social Services

7 Be it enacted by the General Assembly of Virginia:

8 1. That §§ 4.1-212.1 and 18.2-323.1 of the Code of Virginia are amended and reenacted as follows:

9 § 4.1-212.1. Delivery of wine and beer; kegs; regulations of Board.

10 A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is authorized
11 to engage in the retail sale of wine or beer for off-premises consumption may deliver the brands of beer,
12 wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers to
13 consumers within the Commonwealth for personal off-premises consumption.14 B. Any person licensed to sell wine and beer at retail for off-premises consumption in the Commonwealth,
15 and who is not a brewery, winery, or farm winery, may deliver the brands of beer, wine, and farm wine it is
16 authorized to sell in closed containers to consumers within the Commonwealth for personal off-premises
17 consumption. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a
18 person's vehicle if located in a designated parking area of the licensee's premises where such person has
19 electronically ordered beer, wine, or farm wine in advance of the delivery or (ii) such other locations as may
20 be permitted by Board regulation.21 C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail for off-
22 premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery, may apply
23 for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm wine it is
24 authorized to sell in its state of domicile, in closed containers, to consumers within the Commonwealth for
25 personal off-premises consumption.26 D. Any person licensed to sell mixed beverages at retail for off-premises consumption in the
27 Commonwealth may deliver any mixed beverages it is authorized to sell in closed containers to consumers
28 within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law to
29 the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of
30 the licensee's premises where such person has electronically ordered mixed beverages in advance of the
31 delivery or (ii) such other locations as may be permitted by Board regulation.32 E. Any distiller that has been appointed as an agent of the Board pursuant to subsection D of § 4.1-119
33 may deliver to consumers within the Commonwealth for personal consumption any alcoholic beverages the
34 distiller is authorized to sell through organized tasting events in accordance with subsection G of § 4.1-119
35 and Board regulations. Notwithstanding any provision of law to the contrary, such deliveries may be made to
36 (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has
37 electronically ordered mixed beverages in advance of the delivery or (ii) such other locations as may be
38 permitted by Board regulation.39 F. All deliveries made pursuant to this section shall be to consumers within the Commonwealth for
40 personal consumption only and not for resale. Such deliveries shall be performed by either (i) the owner or
41 any officer, director, shareholder, or employee of the licensee or permittee or (ii) a third-party delivery
42 licensee pursuant to § 4.1-212.2. The licensee performing the delivery shall be liable for any administrative
43 violations of this section or § 4.1-304 committed during transport through completion of the delivery.
44 Alcoholic beverages shall not be delivered after 11:00 p.m. or before 6:00 a.m. Only one individual may take
45 possession of the alcoholic beverages during the course of the delivery. No more than four cases of wine nor
46 more than four cases of beer may be delivered at one time to any person in Virginia to whom alcoholic
47 beverages may be lawfully sold, except that the licensee or permittee may deliver more than four cases of
48 wine or more than four cases of beer if he notifies the Authority in writing at least one business day in
49 advance of any such delivery, which notice contains the name and address of the intended recipient. Except
50 as otherwise provided in this subtitle, alcoholic beverages sold for off-premises consumption or delivered
51 pursuant to this section that are not in the manufacturer's original sealed container shall (a) be enclosed in a
52 container that has no straw holes or other openings and is sealed in a manner that allows a person to readily
53 discern whether the container has been opened or tampered with subsequent to its original closure; (b) display
54 the name of the licensee from which the alcoholic beverages were purchased; (c) be clearly marked with the
55 phrase "contains alcoholic beverages"; (d) in the case of wine, beer, or, if purchased from a mixed beverage
56 restaurant or limited mixed beverage restaurant licensee, mixed beverages, have a maximum volume of 16
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59 ounces per beverage; and (e) during delivery, *may not be stored (1) in the trunk of the vehicle, (2) in an area*
60 *that is rear of the driver's seat, (3) in a locked container or compartment, or (4) in the case of delivery by*
61 *bicycle, in a compartment behind the bicyclist in the "passenger area" as defined 23 U.S.C. § 154(a)(4) and*
62 *(b)(2) and 20 C.F.R. 1270(g).*

63 The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of
64 this section. Such regulations shall include provisions that require (A) the recipient to demonstrate, upon
65 delivery, that he is at least 21 years of age and (B) the recipient to sign an electronic or paper form or other
66 acknowledgement of receipt as approved by the Board.

67 G. In addition to other applicable requirements set forth in this section, the following provisions shall
68 apply to the sale of mixed beverages for off-premises consumption and the delivery of mixed beverages
69 pursuant to this section:

70 1. No distiller shall sell for off-premises consumption or deliver more than two mixed beverages at any
71 one time;

72 2. All mixed beverages sold for off-premises consumption or delivered by a mixed beverage restaurant or
73 limited mixed beverage restaurant licensee shall contain at least one mixer; and

74 3. Mixed beverage restaurant and limited mixed beverage restaurant licensees shall serve at least one
75 meal, as defined pursuant to this subtitle and Board regulations, with every off-premises mixed beverage sale.
76 Each meal shall permit up to two mixed beverages to be sold for off-premises consumption or delivered. In
77 any event, no mixed beverage restaurant or limited mixed beverage restaurant licensee may sell for off-
78 premises consumption or deliver more than four mixed beverages at any one time.

79 The Board may summarily revoke a licensee's privileges to sell or deliver mixed beverages for
80 off-premises consumption for noncompliance with the provisions of this section or § 4.1-225 or 4.1-325. Any
81 summary revocation by the Board pursuant to this paragraph (i) shall not be subject to the provisions of
82 § 4.1-227, (ii) shall not be subject to appeal, and (iii) shall become effective upon personal service of the
83 notice of summary revocation to the licensee or upon the fourth business day after such notice is mailed to the
84 licensee's residence or the address listed for the licensed premises on the initial license application.

85 H. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each delivery
86 of wine, beer, or mixed beverages by a licensee or permittee shall constitute a sale in Virginia. The licensee
87 or permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the
88 Authority and any sales taxes to the Department of Taxation, if such taxes have not already been paid.

89 I. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises consumption
90 may sell such wine or beer in kegs, subject to any limitations imposed by Board regulation. The Board may
91 impose a fee for keg registration seals. For purposes of this subsection, "keg registration seal" means any
92 document, stamp, declaration, seal, decal, sticker, or device that is approved by the Board, designed to be
93 affixed to kegs, and displays a registration number and such other information as may be prescribed by the
94 Board.

95 **§ 18.2-323.1. Drinking while operating a motor vehicle; possession of open container in a motor
96 vehicle and presumption; penalty.**

97 A. It is unlawful for any person to (i) consume an alcoholic beverage while driving a motor vehicle or (ii)
98 *knowingly or intentionally possess any alcoholic beverage other than in the manufacturer's unopened*
99 *original container in a motor vehicle in the "passenger area" as defined 23 U.S.C. § 154(a)(4) and (b)(2) and*
100 *20 C.F.R. 1270(g), upon a public highway of the Commonwealth, including the shoulder thereof, as defined*
101 *in § 46.2-100. If the seal on a container of an alcoholic beverage is broken or some of the contents have been*
102 *removed, the container shall be presumed to be open.*

103 B. Unless the driver is delivering alcoholic beverages in accordance with the provisions of § 4.1-212.1, a
104 rebuttable presumption that the driver has consumed an alcoholic beverage in violation of this section shall be
105 created if (i) an open container is located within the passenger area of the motor vehicle, (ii) the alcoholic
106 beverage in the open container has been at least partially removed, and (iii) the appearance, conduct, odor of
107 alcohol, speech, or other physical characteristic of the driver of the motor vehicle may be reasonably
108 associated with the consumption of an alcoholic beverage.

109 C. For the purposes of this section:

110 "Open container" means any vessel containing an alcoholic beverage, except the originally sealed
111 manufacturer's container.

112 "Passenger area" means the area designed to seat the driver of any motor vehicle, any area within the
113 reach of the driver, including an unlocked glove compartment, and the area designed to seat passengers.
114 "Passenger area" does not include the trunk of any passenger vehicle, the area behind the last upright seat of a
115 passenger van, station wagon, hatchback, sport utility vehicle, or any similar vehicle, the living quarters of a
116 motor home, or the passenger area of a motor vehicle designed, maintained, or used primarily for the
117 transportation of persons for compensation, including a bus, taxi, or limousine, while engaged in the
118 transportation of such persons.

119 "Public highway" shall not include any motor vehicle parking lot.

120 D. A violation of this section is punishable as a Class 4 misdemeanor.

121 2. That the amount reserved equal to 2.5 percent of Federal-aid funds apportioned under 23 U.S.C.
122 104(b)(1) and (b)(2) for the National Highway Performance Program (NHPP) and the Surface
123 Transportation Block Grant Program (STBG) shall be deposited in the to the Virginia Highway Safety
124 Improvement Program (HSIP) established pursuant to § 33.2-373.

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