

HOUSE BILL NO. 980
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on General Laws
on _____)
(Patron Prior to Substitute—Delegate Garrett)

A BILL to amend and reenact § 4.1-103 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 4.1-334.1, relating to alcoholic beverage control; voluntary no-buy program; court-ordered inclusion on list of excluded persons.

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-103 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-334.1 as follows:

§ 4.1-103. General powers of Board.

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
2. Adopt, use, and alter at will a common seal;
3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;
4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including agreements with any person or federal agency;
5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;
6. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held,

used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;

8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;

9. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;

10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;

11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;

12. Buy and sell any mixers;

13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25 (clothing);

14. Control the possession, sale, transportation, and delivery of alcoholic beverages;

15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or operated and the location of such stores;

16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic

60 beverages to and from such warehouses;

61 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
62 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
63 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,
64 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to
65 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
66 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms
67 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or
68 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such
69 terms and conditions as may be determined by the Board; and occupy and improve any land or building
70 required for the purposes of this subtitle;

71 18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered
72 necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and
73 processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic
74 beverages;

75 19. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be
76 kept or sold under this subtitle, and prescribe the form and content of all labels and seals to be placed thereon;
77 however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline
78 alcohol;

79 20. Appoint every agent and employee required for its operations; require any or all of them to give bonds
80 payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of
81 experts and professionals;

82 21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production
83 of records, memoranda, papers and other documents before the Board or any agent of the Board; and
84 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the
85 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and
86 decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may
87 enter into consent agreements and may request and accept from any applicant or licensee a consent agreement
88 in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such
89 consent agreement shall include findings of fact and may include an admission or a finding of a violation. A

consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

22. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111;

24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;

25. Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

26. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

27. Establish minimum food sale requirements for all retail licensees;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this subtitle;

30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with applications for such permits;

31. Impose a requirement that a mixed beverage casino licensee pursuant to subdivision A 14 of § 4.1-206.3 pay for any cost incurred by the Board to enforce such license in excess of the applicable state license fee; ~~and~~

32. *Establish and implement the voluntary no-buy program as provided in § 4.1-334.1; and*

33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

§ 4.1-334.1. Voluntary no-buy program; court-ordered inclusion on list of excluded persons.

A. The Board shall adopt regulations to establish and implement a voluntary no-buy program.

B. The regulations shall include the following provisions:

1. Except as provided by regulation of the Board, a person who participates in the voluntary no-buy

program agrees to refrain from purchasing any alcoholic beverage. Any state agency, at the request of the Board, shall assist in administering the voluntary no-buy program pursuant to the provisions of this section. Nothing in this section shall be construed to require a private entity to assist in the implementation or administration of the voluntary no-buy program.

2. A person who participates in the voluntary no-buy program may choose an exclusion period of two years, five years, or a lifetime.

3. A person who participates in the voluntary no-buy program may petition the Board for removal from the program, subject to a seven-day waiting period.

4. The name of a person participating in the program shall be included on a list of excluded persons. The list of persons entering the voluntary no-buy program and the personal information of the participants shall be confidential, with dissemination by the Board limited to persons authorized under this subtitle to sell alcoholic beverages, law-enforcement officers acting in the performance of their official duties, and any other parties the Board deems necessary for purposes of enforcement. The list and the personal information of participants in the voluntary no-buy program shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). In addition, the Board may disseminate the list to other parties upon request by the participant and agreement by the Board. No person shall be liable for any civil damages arising from any acts or omissions resulting from the good faith reliance on the list of excluded persons, unless such acts or omissions were the result of gross negligence or willful misconduct.

5. The Board shall make reasonable attempts to cease all direct marketing efforts to a person participating in the program.

C. A court may order any person be placed on the list of excluded persons pursuant to this section as a condition of probation or suspension of sentence or upon a conviction of § 18.2-36.1 (involuntary manslaughter resulting from driving while intoxicated), § 18.2-36.2 (involuntary manslaughter resulting from boating while intoxicated), § 18.2-51.4 (maiming resulting from driving while intoxicated), § 18.2-51.5 (maiming resulting from boating while intoxicated), § 18.2-266 (driving while intoxicated) or a substantially similar local ordinance, § 29.1-738 (boating while intoxicated), or § 46.2-341.24 (driving a commercial vehicle while intoxicated).