

SENATE BILL NO. 424

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services

on _____)

(Patron Prior to Substitute—Senator Perry)

A BILL to amend and reenact §§ 4.1-119 and 4.1-206.1 of the Code of Virginia, relating to alcoholic beverage control; government stores; distiller's licensees as agents of the Board; sale of alcoholic beverages.

Be it enacted by the General Assembly of Virginia:**1. That §§ 4.1-119 and 4.1-206.1 of the Code of Virginia are amended and reenacted as follows:****§ 4.1-119. Operation of government stores.**

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of spirits, nonalcoholic spirit alternatives, wine produced by farm wineries, low alcohol beverage coolers produced by licensed distillers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this subtitle and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this subtitle, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision A 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for ~~tasting samples~~ *products sold for on-premises consumption* pursuant to subsection G ~~sold~~ in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to

any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may ~~give samples of~~ sell spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises or off premises consumption, provided that (i) the spirits, beer, wine, or cider ~~samples~~ are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single ~~sample~~ *serving size* shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or ~~three~~ six ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits ~~samples~~, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving ~~samples of~~ spirits as part of a mixed beverage. Such mixed ~~beverage samples~~ *beverages* may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such ~~samples~~ *mixed beverages* is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such ~~samples~~ *mixed beverages* that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board. *An agent of the Board appointed pursuant to subsection D shall have food reasonably available at all times when spirits are served. Such food may be provided by food trucks, patrons providing their own food, or the agent of the Board. In no event shall spirits be served by any such agent of the Board when food is not reasonably available. Failure of an agent of the Board to have food reasonably available as required by this subsection may result in the Board's reconsideration of the agency agreement appointing such holder of a distiller's license or its officers and employees as agents of the Board. For the purpose of this subsection, "food" means prepared or assembled food items requiring minimal preparation or handling, including items prepared off site, that are sufficiently substantial to provide nourishment, and does not include solely prepackaged snack foods such as chips, pretzels, nuts, popcorn, or candy. "Food" includes sandwiches, wraps, pizza, pasta, salads with protein, and cold vegetable plates such as chicken salad or tuna salad.*

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties, and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

§ 4.1-206.1. Manufacturer licenses.

The Board may grant the following manufacturer licenses:

1. Distiller's 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. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to ~~make a charge to consumers to participate in an organized tasting event conducted~~ *sell spirits at retail for on-premises consumption or in closed containers*

for off-premises consumption in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-premises consumption.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for

152 the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or
153 affect local zoning authority.

154 Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise
155 provided in this subdivision.

156 5. Winery licenses, which shall authorize the licensee to (i) manufacture wine and to sell and deliver or
157 ship such wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the
158 wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for
159 resale outside the Commonwealth; (ii) operate distilling equipment on the premises of the licensee in the
160 manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine
161 produced by the licensee; (iii) operate a contract winemaking facility on the premises of the licensee in
162 accordance with Board regulations; (iv) store wine in bonded warehouses on or off the licensed premises
163 upon permit issued by the Board; and (v) sell wine at retail at the place of business designated in the winery
164 license for on-premises consumption or in closed containers for off-premises consumption, provided that any
165 brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and no less than
166 20 percent of the wine sold for on-premises consumption is manufactured on the licensed premises.

167 6. Farm winery licenses, which shall authorize the licensee to (i) manufacture wine containing 21 percent
168 or less of alcohol by volume and to sell, deliver, or ship such wine, in accordance with Board regulations, in
169 closed containers, to the Board, persons licensed to sell the wine so manufactured at wholesale for the
170 purpose of resale, or persons outside the Commonwealth; (ii) acquire and receive deliveries and shipments of
171 wine and sell and deliver or ship such wine, in accordance with Board regulations, to the Board, persons
172 licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (iii)
173 operate a contract winemaking facility on the premises of the licensee in accordance with the provisions of
174 this subtitle and Board regulations; (iv) enter into an agreement with a contract winemaking facility in
175 accordance with the provisions of this subtitle and Board regulations; and (v) store wine in bonded
176 warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this
177 title, a farm winery license shall be designated either as a Class I, Class II, Class III, or Class IV farm winery
178 license in accordance with the limitations set forth in § 4.1-219.

179 Such licenses shall also authorize the licensee to sell wine at retail for on-premises consumptions or in
180 closed containers for off-premises consumption at the places of business designated in the licenses, which
181 may include no more than five additional retail establishments of the licensee. The licensee may sell at these

places of business wine manufactured by such licensee, wine manufactured by a contract winemaking facility with which the licensee has entered into an agreement pursuant to the provisions of this subtitle and Board regulations, and wine purchased from a wholesale wine licensee. In addition, the licensee may pre-mix wine and sell such wine at these places of business.

7. Wine importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Beer importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to persons outside the Commonwealth for resale outside the Commonwealth.

2. That the provisions of this act shall expire on July 1, 2028.

3. That the Virginia Alcoholic Beverage Control Authority shall collect data regarding the compliance of distiller's licensees with the provisions of this act and report such data to the Chairs of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services by November 1, 2026 and again by November 1, 2027.

4. That the Virginia Alcoholic Beverage Control Authority (the Authority) shall convene a stakeholders group to review the manufacturer event licenses and off-site sales privileges granted to manufacturing licensees pursuant to Title 4.1 of the Code of Virginia. The Authority shall evaluate the regulatory, enforcement, and compliance impacts of such licenses and privileges and shall report its findings and any recommendations for statutory or regulatory changes to the Chairs of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services no later than December 1, 2026.