

ABC Related Legislation as of February 28, 2009

General Assembly Wrap-up

HB 1693 Driving under influence; mandatory punishment when concentration is elevated above certain amount.

A BILL to amend and reenact § 18.2-270 of the Code of Virginia, relating to mandatory minimum penalty for DUI; blood alcohol above a certain amount.

090542404

Summary as passed House:

Mandatory minimum punishment for DUI; elevated blood alcohol. Adds an additional qualifier in DUI punishment provisions that allows use of blood alcohol testing on whole blood to be admitted into evidence in a DUI prosecution, thus allowing mandatory punishments to be imposed when the blood alcohol concentration is elevated but the test may have been performed in another, e.g., hospital, setting.

Patrons: Albo and Rust

HB 1868 Driving under influence of alcohol; eliminates sunset date that provides zero tolerance.

A BILL to amend and reenact § 18.2-266.1 of the Code of Virginia, as it is currently effective, and to repeal the second enactment of Chapter 729 of the Acts of Assembly of 2008, relating to penalties for underage drunk driving.

090302568

Summary as passed:

Underage DUI; penalties. Clarifies that punishment for underage drinking includes, but is not limited to, the license forfeiture and either a mandatory minimum fine of \$500 or 50 hours of community service.

Patron: Janis

HB 2293 Alcoholic Beverage Control Board; creates 2-year pilot project for certain mixed beverage licensees.

An Act to create a pilot project for certain mixed beverage licensees of the Alcoholic Beverage Control Board; alternative calculation for the food-to-beverage ratio based on volume.

Summary as introduced:

Alcoholic Beverage Control; pilot project. Creates a two-year pilot project for certain mixed beverage licensees of the Alcoholic Beverage Control Board. The bill allows a participating mixed beverage restaurant licensee to use alternative calculation for the food-to-beverage ratio based on volume by proof gallon. The bill sets out the parameters of the pilot project and requires the ABC Board to report its findings and any recommendations based on the results of the project to the chairs of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services on or before July 1, 2011. The bill defines proof gallon.

Patron: Albo

HB 2523 Alcoholic beverage control; grounds for suspension or revocation of a license.

An Act to amend and reenact § 4.1-225 of the Code of Virginia, relating to alcoholic beverage control; grounds for suspension or revocation of a license.

Summary as passed:

Alcoholic beverage control; grounds for suspension or revocation of a license. Adds a new ground for which the ABC Board may suspend or revoke a license. Under the bill, a license may be suspended if the licensee fails to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that are owned or leased by the

licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit certain criminal violations and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety.

Patron: Wright

HB 2627 Alcoholic beverage control; unlawful possession, affirmative defense.

A BILL to amend and reenact § 4.1-305 of the Code of Virginia, relating to alcoholic beverage control; unlawful possession; affirmative defense.

095869520

Summary as passed:

Alcoholic beverage control; unlawful possession; affirmative defense. Establishes an affirmative defense to a charge of underage consumption or possession of alcoholic beverages if the defendant shows that such consumption or possession was allowed under current exceptions in ABC law (i.e., drank it at home with his parents or spouse, etc.).

Patron: Griffith

SB 889 Ignition interlock; operation of motor vehicle without, penalty.

An Act to amend and reenact § 18.2-272 of the Code of Virginia, relating to penalty for driving without an ignition interlock.

Summary as passed Senate:

Operation of a motor vehicle without an ignition interlock; penalty. Provides that operation of a motor vehicle without an ignition interlock when such operation is prohibited is a Class 1 misdemeanor and that the person's operator's license shall be revoked for one year. This bill is identical to HB 1805.

Patron: McDougle

SB 1035 Concealed handguns; prohibited in restaurants, etc when consuming alcohol.

An Act to amend and reenact § 18.2-308 of the Code of Virginia, relating to concealed handguns; restaurants; penalty.

Summary as passed:

Concealed handguns; restaurants; penalty. Allows a person with a concealed handgun permit to carry a concealed handgun onto the premises of a restaurant or club and prohibits such person from consuming alcoholic beverages while on the premises. A person who consumes alcohol in violation of the provisions of the bill is guilty of a Class 2 misdemeanor and a person who becomes intoxicated in violation of the provisions of the bill is guilty of a Class 1 misdemeanor.

Patron: Hanger

SB 1213 Alcoholic beverage control; designates as agents any licensed distiller who blends alcoholic bev.

An Act to amend and reenact § 4.1-119 of the Code of Virginia, relating to alcoholic beverage control; operation of government stores; agents of the Alcoholic Beverage Control Board.

Summary as introduced:

Alcoholic beverage control; operation of government stores; agents of the Alcoholic Beverage Control Board. Designates as agents of the ABC Board any licensed distiller who blends alcoholic beverages on his licensed premises and meets other existing statutory requirements. The bill defines the term "blended."

Patrons: Deeds; Delegate: Abbitt

SB 1258 Alcoholic beverage control; requires ABC Board to establish a schedule of offenses.

An Act to amend and reenact § 4.1-227 of the Code of Virginia, relating to alcoholic beverage control; suspension and revocation; penalty waivers.

Summary as passed:

Alcoholic beverage control; suspension and revocation; penalty waivers.

Alcoholic beverage control; suspension and revocation; penalty waivers.

Requires the ABC Board, by regulation, to establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years. The bill provides, however, that no waiver shall be granted by the Board, for a licensee's willful and knowing violation of this title or Board regulations.

Patron: McDougle

SB 1302 Master Settlement Agreement; makes several changes to enhance criminal enforcement activities.

A BILL to amend and reenact §§ 2.2-511, 3.2-4212, 18.2-246.11, 18.2-246.13, 18.2-246.15, 18.2-513, and 18.2-514 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 42 of Title 3.2 a section numbered 3.2-4219 and by adding sections numbered 19.2-245.01 and 58.1-1008.2, relating to the Master Settlement Agreement; criminal enforcement activities; penalty.

090545250

Summary as passed:

Master Settlement Agreement; criminal enforcement activities; penalty. Makes several changes to enhance criminal enforcement activities. The bill provides that any tobacco product manufacturer, stamping agent, or importer of cigarettes, or any officer, employee, or agent of any such entity, who knowingly and with the intent to defraud, mislead, or deceive, makes any materially false statement in reports, documents, and tax returns required to be filed or kept under the Master Settlement Agreement or other substantive law is guilty of misrepresentation in a commercial dealing with the Commonwealth, a Class 6 felony. The Attorney

General is authorized to prosecute such cases. The bill also requires persons to file cigarette delivery sales information with the Attorney General in addition to the current requirement that such information be filed with the Virginia Alcoholic Beverage Control Board. The bill adds criminal penalties for failure to file the required information; under current law all penalties are civil. The Attorney General is authorized to assess the civil penalties and prosecute criminal violations. In addition, the bill includes within the definition of "racketeering activity" the filing of false reports under the Tobacco Product Manufacturers Act, of false reports of cigarette delivery sales, and of false tobacco tax reports.

Patron: Hurt

SB 1414 Alcoholic beverage control; exemption for those owning rural event and entertainment park, etc.

A BILL to amend and reenact §§ 4.1-210 and 4.1-320 of the Code of Virginia, relating to alcoholic beverage control; annual mixed beverage special events licenses.

091861584

Summary as passed:

Alcoholic beverage control; annual mixed beverage special events. Expands the annual mixed beverage special events license to include licenses to persons operating food and beverage services at any rural event and entertainment park or similar facility owned by a duly organized nonprofit corporation that has been granted an exemption from federal taxation under § 501 (c) (3) of the U.S. Internal Revenue Code of 1986 (the Virginia State Fair) and has a minimum of 60,000 square feet of indoor exhibit space, equine and other livestock show areas and is located in Caroline County. The bill also restricts the Board from prohibiting the sponsorship of an entertainment or cultural event.

Patron: Puller

SB 1445 Alcoholic beverage control; location of sale for shipper's license.

An Act to amend and reenact § 4.1-209.1 of the Code of Virginia, relating to alcoholic beverage control; shippers' licenses; solicitation of sale permitted in certain instances.

Summary as passed Senate:

Alcoholic beverage control; authorizes certain activities of wine-of-the-month and beer-of-the-month clubs. Clarifies that the holder of a wine shipper license or beer shipper license may solicit and receive applications for subscription to a at in-state or out-of-state locations for which a license for on-premises consumption has been issued, other than the place where the licensee carries on the business for which the license is granted. The bill defines "wine-of-the-month club" or "beer-of-the-month club" to mean an agreement between an in-state or out-of-state holder of a wine shipper license or beer shipper license and a consumer in Virginia to whom alcoholic beverages may be lawfully sold that the shipper will sell and ship to the consumer and the consumer will purchase a lawful amount of wine or beer each month for an agreed term of months.

Patron: Deeds

SB 1463 DUI; installation of ignition interlock as condition of license restoration for second conviction.

An Act to amend and reenact § 18.2-271.1 of the Code of Virginia, relating to DUI; ignition interlock.

Summary as passed Senate:

DUI; ignition interlock. Requires installation of an ignition interlock as a condition of license restoration (after the three-year revocation) for a second conviction committed within ten years after a first offense, rather than five years.

Patron: McDougle