

VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

CHAPTER 85

An Act to amend and reenact §§ 3.2-3011, 3.2-3012, and 4.1-235 of the Code of Virginia, relating to alcoholic beverage control; Virginia Spirits Promotion Fund; funding; tax allocation; report.

[H 20]

Approved April 5, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-3011, 3.2-3012, and 4.1-235 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-3011. Powers and duties of the Board.

The Board shall have the power and duty to:

1. Receive and dispense funds or donations from the Virginia Spirits Promotion Fund;
2. Enter into contracts for the purpose of developing new or improved markets or marketing methods for spirits products;
3. Contract for research services to improve farming practices related to the growing of ingredients necessary for alcohol distillation in Virginia;
4. Enter into agreements with any local, state, or national organization or agency engaged in education for the purpose of disseminating information on spirits projects;
5. Enter into contracts with private or public entities for the purpose of developing marketing, advertising, and other promotional programs designed to promote the orderly growth of Virginia's spirits industry;
6. Rent or purchase office and laboratory space, land, equipment, and supplies as necessary to carry out its duties;
7. Employ such personnel as may be required to carry out those duties conferred by law;
8. Acquire any licenses or permits necessary for the performance of the powers and duties of the Board;
9. Cooperate with other state, regional, national, and international organizations in research, education, and promotion of the growing of ingredients necessary for alcohol production and the production of spirits in the Commonwealth and expend moneys from the Fund for such purposes;
10. Adopt a general statement of policy and procedures; ~~and~~
11. Receive from the chairman of the Board an annual report, including a statement of total receipts and disbursements for the year, and file a copy of such report with the Commissioner; ~~and~~
12. *Submit an annual report to the Governor and General Assembly by October 1 of each year regarding the Board's activities and use of moneys in the Virginia Spirits Promotion Fund, including statistics regarding the extent to which use of moneys in the Virginia Spirits Promotion Fund has impacted spirits sales in the Commonwealth, which shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.*

§ 3.2-3012. Virginia Spirits Promotion Fund established.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Spirits Promotion Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of all moneys appropriated to it by the General Assembly, *moneys received pursuant to § 4.1-235*, grants of private or government funds designated for specified activities authorized pursuant to this chapter, fees for services rendered pursuant to this chapter, and payments for products, equipment, or material or other goods supplied. All moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the provisions of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the duly authorized officer of the Board.

B. The Board shall meet and evaluate proposals from applicants for funding from the Fund. The Board's final recommendations shall be made by recorded vote.

C. The Auditor of Public Accounts shall audit all accounts as provided in § 30-133.

§ 4.1-235. Collection; computation, distribution of tax on wine and other alcoholic beverages; refunds and adjustments.

A. The Board shall collect the state taxes levied pursuant to §§ 4.1-213 and 4.1-234 as follows:

1. Collection shall be from the purchaser at the time of or prior to sale, except as to sales made to wholesale wine licensees. Wholesale wine licensees shall collect the taxes at the time of or prior to sale

to retail licensees, and shall remit such taxes monthly to the Board, along with such reports as may be required by the Board, at the time and in the manner prescribed by the Board.

2. In establishing the prices for items sold by it to persons other than wholesale licensees, the Board shall include a reasonable markup. The liter tax or 20 percent tax, as appropriate, shall then be added to the price of each container of alcoholic beverages. The four percent tax on vermouth and farm winery wines and ciders shall then be added for those products. In all cases the final price for each container may be established so as to be a multiple of five or rounded to end with a nine.

In accounting for the state tax on sales the Board shall divide the net sales for the quarter by 1.20 and multiply the result by 20 percent. As to the sale of vermouth and farm winery wine and cider, the Board shall divide the net sales for the quarter by 1.04 and multiply the result by four percent.

B. The amount of tax collected under this section during each quarter shall, within 50 days after the close of such quarter, be certified to the Comptroller by the Board and shall be transferred by him from the special fund described in § 4.1-116 to the general fund of the state treasury. The Board shall, not later than June 20 of every year, estimate the yield of the state tax on sales imposed by §§ 4.1-213 and 4.1-234 for the quarter ending June 30 and certify the amount of such estimate to the Comptroller, whereupon the Comptroller shall, before the end of the month, transfer the amount of such estimate from the special fund described in § 4.1-116 to the general fund of the state treasury, subject to such adjustment on account of an overestimate or underestimate as may be indicated within 50 days after the close of the quarter ending on June 30.

Forty-four percent of the amount derived from the liter tax levied pursuant to §§ 4.1-213 and 4.1-234 shall be transferred to the general fund and paid to the several counties, cities, and towns of the Commonwealth in proportion to their respective populations, and is appropriated for such purpose.

The counties, cities, and towns shall in no event receive from the taxes derived from the sale of wines less revenue than was received by such counties, cities, and towns for the year ending June 30, 1976.

The portion of wine liter tax and cider markup collected pursuant to §§ 4.1-213 and 4.1-234 that is attributable to the sale of wine and cider produced by a farm winery shall be deposited in the Virginia Wine Promotion Fund established pursuant to § 3.2-3005.

Twelve percent of the amount derived from the liter tax levied shall be retained by the Board as operating revenue and distributed as provided in § 4.1-117.

Twenty percent of the portion of tax collected pursuant to subsection B of § 4.1-234 that is attributable to the sale of spirits produced by a distiller licensee shall be deposited in the Virginia Spirits Promotion Fund established pursuant to § 3.2-3012.

C. As used in this section, the term "net sales" means gross sales less refunds to customers.

D. The Board may make a refund or adjustment of any tax paid to it under this section when (i) the wine upon which such tax has been paid has been condemned and is not permitted to be sold in the Commonwealth, or (ii) wine is returned by a retail licensee to a wholesale wine licensee for refund in accordance with Board regulations or approval. Any claim for such refund or adjustment shall be made to the Board in the report filed with the Board by the wholesale wine licensee for the period in which such return and refund occurs.