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Virginia bill links lewd conduct, loss of liquor license

08:22 PM EST on Friday, February 29, 2008

Associated Press

RICHMOND, Va. (AP) -- Hang a Virginia flag and its breast-baring image in your restaurant and you could lose your liquor license.

That's the warning of a Virginia Beach attorney opposed to a bill that more clearly defines what noisy, lewd or disorderly conduct could result in an establishment losing its license.

Chesapeake Del. John Cosgrove's bill cleared a Senate committee 13-1 Friday and will be heard in the full Senate next week. It was passed unanimously out of the House.

The Alcoholic Beverage Control Board can suspend or revoke an establishment's liquor license for anything from serving minors drinks to allowing illegal gambling on the premises. When it comes to determining if an establishment is allowing noisy, lewd or disorderly conduct, however, ABC agents are left to make the call.

Cosgrove's bill outlines specific violations, such as real or simulated sexual intercourse, display of certain body parts or allowing obscene literature, pictures or materials on the premises.

Holding a Virginia flag, attorney Kevin Martingayle pointed to the image of the woman's bared breast -- Virtue represents Virginia -- and said even it could be cause for losing a license.

"That's how broad this is, and frankly I think that's how ridiculous some of the language is," said Martingayle, adding that even hotels that allow guests to purchase X-rated movies could lose their liquor license.

Martingayle represented four Virginia Beach bars that challenged the law, a similar version of which already had been deemed constitutionally vague by a Fourth Circuit Court of Appeals ruling in 2002 in a case in North Carolina.

The federal judge in the Virginia case granted a temporary injunction, prompting Cosgrove's bill.

"Without this bill passing, it would be Katie bar the door," Cosgrove said. "Anything would go because ABC would be enjoined from enforcing any of the laws that are on the books."

The law would not apply to establishments devoted to arts or theatrical performances.

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