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Testimony from:

Robert Melvin, Senior Manager, State Government Affairs for the Northeast Region, R Street Institute

Testimony in Support of HB 688: “Alcoholic beverage control; sale and delivery of mixed beverages and pre-mixed wine for off-premise.”

January 23, 2024

Virginia House Committee on General Laws, ABC Subcommittee

Chairman Krizek and members of the committee,

My name is Robert Melvin, and I am the senior manager of state government affairs for the Northeast region with the R Street Institute. The R Street Institute is a nonprofit, nonpartisan public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas. Our work includes analysis and promotion of sensible alcohol policies that consider consumer choice, free enterprise, and public safety. We are also one of the only independent think tanks in the country that analyzes alcohol laws and regulations. That is why House Bill 688 is of special interest to us.

As the COVID-19 pandemic posed many challenges, it also pressed states and localities to consider making significant changes to many long-held regulations, including those related to alcohol policy. Prior to March, 2020, no state permitted restaurants to deliver or serve cocktails to-go; however, by the fall of 2022, 38 states had adopted temporary measures permitting restaurants to sell alcohol to-go or for delivery.<sup>1</sup>

As states lifted COVID-19 pandemic restrictions, lawmakers found that relaxing archaic alcohol rules was tremendously popular with the public.<sup>2</sup> In Virginia, 78% of polled residents expressed support for making permanent the ability to purchase alcohol with their takeout and delivery food orders.<sup>3</sup> As a result of

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<sup>1</sup> C. Jarrett Dieterle, R Street Institute, “The Data Is In: Alcohol Delivery and Consumption During COVID-19.” April 18, 2023: <https://www.rstreet.org/research/the-data-is-in-alcohol-delivery-and-consumption-during-covid-19/>

<sup>2</sup> Carl Campanile, “New Yorkers want to keep booze flowing in post-coronavirus food delivery,” New York Post, July 7, 2020. <https://nypost.com/2020/07/07/newyorkers-want-to-keep-booze-in-post-coronavirus-food-delivery>  
Tim Keenan, “Survey: Michigan Consumers Say Yes to Take-out Cocktails,” DBusiness, May 29, 2020. <https://www.dbusiness.com/daily-news/survey-michigan-consumers-say-yes-to-take-out-cocktails>.

<sup>3</sup> Vernon Miles, “New Poll Finds Widespread Support for To-Go Drinks Post Pandemic,” ARLNow News, June 12, 2020. <https://www.arlnow.com/2020/06/12/new-poll-finds-widespread-support-for-to-go-drinks-post-pandemic/>

this favorable response, 24 states and the District of Columbia adopted cocktails to-go as a permanent standard.<sup>4</sup>

Cocktails to-go has been permissible—albeit not as a permanent rule—in the Commonwealth since 2020, with several legislative extensions occurring over that timeframe.<sup>5</sup> The most recent came in 2022, which also established a third-party alcohol delivery license. It additionally required the Virginia Alcoholic Beverage Control Authority (VABC) to collect data on restaurants and third-party delivery services' compliance with underage drinking laws and report their findings to the Virginia General Assembly. In November 2023, the VABC released its first such report.<sup>6</sup> It revealed that compliance for cocktails to-go in licensed restaurants was similar to that of ABC brick-and-mortar stores, while third-party delivery services' compliance rates were lower.

If passed, HB 688 would bring uniformity to the sale of alcohol by restaurants in Virginia by adding cocktails to the forms of alcohol beverages that can be sold to-go on a continuing basis, and it would provide additional time to examine and provide guidance to third-party delivery companies on their processes related to preventing underage access.

In addition, HB 688 helps bolster restaurant's bottom lines with some restaurants reporting annual alcohol to-go revenues of "just under a million dollars."<sup>7</sup> In fact, restaurants that offer alcohol normally receive over 20% of their revenue from such sales, which makes cocktails to-go a potentially lucrative revenue generator.<sup>8</sup> So, it's no surprise that approximately 90% of restaurant operators plan to continue to sell alcohol with carryout orders if state law continues to allow such sales.<sup>9</sup>

While there may be concerns that permitting alcohol to-go might cause an increase in underage drinking or increase in drunk driving, reports have not found a connection.<sup>10</sup> In fact, the R Street Institute has

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<sup>4</sup> Distilled Spirits Council of the United States, State Map of the Economic Impacts of the Distilled Spirits Industry, Last accessed January 12, 2024: <https://www.distilledspirits.org/state-data/>

<sup>5</sup> Virginia General Assembly, 2021 Legislative Session, Special Session I, House Bill 1879, Last accessed January 16, 2024: <https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+HB1879>

Virginia General Assembly, 2021 Legislative Session, Special Session I, Senate Bill 1299, Last accessed January 16, 2024: <https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+SB1299>

Virginia General Assembly, 2022 Legislative Session, House Bill 426, Last accessed January 16, 2024: <https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+HB426>

Virginia General Assembly, 2022 Legislative Session, Senate Bill 254, Last accessed January 16, 2024: <https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+SB254>

<sup>6</sup> Thomas Kirby, Interim Chief Executive Officer, Virginia Alcoholic Beverage Control Authority, Letter to Virginia House General Laws Committee and Senate Rehabilitation and Social Services Committee re Compliance of Cocktails To-Go Law, October 31, 2023.

<sup>7</sup> Steve Maugeri, Spectrum News 1, "Restaurants Capitalize on Popularity of Alcohol, Food To-Go and Catering," May 19, 2023: <https://spectrumnews1.com/oh/columbus/news/2023/05/12/alcohol-and-food-to-go>

<sup>8</sup> Alicia Kelso, Nations Restaurant News, "National Restaurant Association: Alcohol To-Go is Here to Stay," June 9, 2023: <https://www.nrn.com/consumer-trends/national-restaurant-association-alcohol-go-here-stay>

<sup>9</sup> National Restaurant Association, "On The Menu: Trends in On- and Off-Premises Beverage Alcohol," June 7, 2023: <https://go.restaurant.org/rs/078-ZLA-461/images/National-Restaurant-Association-Alcohol-Trends.pdf>

<sup>10</sup> C. Jarrett Dieterle, R Street Institute, "The Facts About To-Go Alcohol and Drunk Driving: The COVID-19 Experience," June 2022. [https://www.rstreet.org/wp-content/uploads/2022/06/ULTIMATE\\_policy-short-no-114-REVD.pdf](https://www.rstreet.org/wp-content/uploads/2022/06/ULTIMATE_policy-short-no-114-REVD.pdf)

conducted research on this topic, and found that almost every state that permitted alcohol to-go during COVID-19 didn't witness increased rates of youth drinking.<sup>11</sup>

There are many benefits to the proposal, including giving greater choice to consumers who strongly support making cocktails to-go permanent and helping restaurants generate revenue through off-premise sales. For these reasons, I hope you consider the benefits of HB 688 and strongly urge you to pass this legislation.

Thank you,

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<sup>11</sup> C. Jarrett Dieterle, R Street Institute, "Alcohol Delivery and Underage Drinking: A COVID-19 Case Study," July 2023: <https://www.rstreet.org/wp-content/uploads/2023/07/policy-short-no-128-R5-1.pdf>