

VIRGINIA ACTS OF ASSEMBLY -- 2003 RECONVENED SESSION

CHAPTER 1030

An Act to amend and reenact §§ 4.1-204, 4.1-207, 4.1-208, 4.1-209, 4.1-215, 4.1-230, 4.1-231 and 4.1-310 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 4.1-112.1, relating to alcoholic beverage control; wine and beer shippers' licenses.

[H 1652]

Approved April 9, 2003

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-204, 4.1-207, 4.1-208, 4.1-209, 4.1-215, 4.1-230, 4.1-231 and 4.1-310 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 4.1-112.1 as follows:

§ 4.1-112.1. Direct shipments of beer and wine authorized; regulations of the Board.

A. Holders of wine shippers' licenses and beer shippers' licenses issued pursuant to this section may sell and ship not more than two cases of wine per month nor more than two cases of beer per month to any person in Virginia to whom alcoholic beverages may be lawfully sold. All such sales and shipments must be for personal consumption only and not for resale. A case of wine shall mean any combination of packages containing not more than nine liters of wine. A case of beer shall mean any combination of packages containing not more than 288 ounces of beer. Any winery or farm winery located within or outside the Commonwealth may apply to the Board for issuance of a wine shipper's license that shall authorize the shipment of brands of wine and farm wine identified in such application. Any brewery located within or outside the Commonwealth may apply to the Board for issuance of a beer shipper's license that shall authorize the shipment of brands of beer identified in such application. Any person located within or outside the Commonwealth who is authorized to sell wine or beer at retail in their state of domicile and who is not a winery, farm winery, or brewery may nevertheless apply for a wine or beer shipper's license, or both, if such person satisfies the requirements of subsection B. Any brewery, winery or farm winery that applies for a shipper's license or authorizes any other person, other than a retail off-premises licensee, to apply for a license to ship such brewery's, winery's or farm winery's brands of wine or beer shall notify any wholesale licensees that have been authorized to distribute such brands that an application has been filed for a shipper's license. The notice shall be in writing and in a form prescribed by the Board. The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this section, including regulations that permit the holder of a shipper's license to amend the same by, among other things, adding or deleting any brands of wine, farm wine, or beer identified in such shipper's license.

B. Any applicant for a wine or beer shipper's license that does not own or have the right to control the distribution of the brands of wine, farm wine, or beer identified in such person's application may be issued a shipper's license for wine or beer or both, if the applicant has obtained and filed with its application for a shipper's license, and with any subsequent application for renewal thereof, the written consent of the winery, farm winery, or brewery whose brands of wine, farm wine, or beer are identified therein. Any retail off-premises licensee that purchases wine or beer from anyone authorized to sell wine or beer at wholesale for resale in Virginia shall be presumed to have the authorization of such winery, farm winery, or brewery to ship its brands. Any winery, farm winery, or brewery that has provided written authorization to a shipper licensed pursuant to this section to sell and ship its brand or brands of wine, farm wine, or beer shall not be restricted by any provision of this section from withdrawing such authorization at any time. If such authorization is withdrawn, the winery, farm winery, or brewery shall promptly notify such shipper licensee and the Board in writing of its decision to withdraw from such shipper licensee the authority to sell and ship any of its brands, whereupon such shipper licensee shall promptly file with the Board an amendment to its license eliminating any such withdrawn brand or brands from the shipper's license.

C. The direct shipment of beer and wine by holders of licenses issued pursuant to this section shall be by approved common carrier only. The Board shall develop regulations pursuant to which common carriers may apply for approval to provide common carriage of wine or beer, or both, shipped by holders of licenses issued pursuant to this section. Such regulations shall include provisions that require (i) the recipient to demonstrate, upon delivery, that he is at least 21 years of age; (ii) the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board; and (iii) the Board-approved common carrier to submit to the Board such information as the Board may prescribe. The Board-approved common carrier shall refuse delivery when the proposed recipient appears to be under the age of 21 years and refuses to present valid identification. All licensees shipping wine or beer pursuant to this section shall affix a conspicuous notice in 16-point type or larger to the outside of each package of wine or beer shipped within or into the Commonwealth, in a

conspicuous location stating: "CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY." Any delivery of alcoholic beverages to a minor by a common carrier shall constitute a violation by the common carrier. The common carrier and the shipper licensee shall be liable only for their independent acts.

D. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each shipment of wine or beer by a wine shipper licensee or a beer shipper licensee shall constitute a sale in Virginia. The licensee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the Department of Alcoholic Beverage Control and any sales taxes to the Department of Taxation.

§ 4.1-204. Records of licensees; inspection of records and places of business.

A. Manufacturers, bottlers or wholesalers. - Every licensed manufacturer, bottler or wholesaler shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by § 4.1-234 or § 4.1-236, if any.

B. Retailers. - Every retail licensee shall keep complete, accurate and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every retail licensee shall also preserve all invoices showing his purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor. *Except as otherwise provided in subsection D*, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding retail licenses which require sales of food to determine their qualifications for such licenses, the records shall also include purchases and sales of food and nonalcoholic beverages.

C. Common carriers. - Common carriers of passengers by train, boat, or airplane shall keep records of purchases and sales of alcoholic beverages and food as required by Board regulation.

D. Wine shippers and beer shippers. - *Every wine shipper licensee and every beer shipper licensee shall keep complete, accurate, and separate records in accordance with Board regulations of all shipments of wine or beer to persons in the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether any wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine and beer sold and the total price charged for such wine and beer. Such records shall include the names and addresses of the purchasers to whom the wine and beer is shipped.*

E. Inspection. - The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth *and to the premises of every wine shipper licensee and beer shipper licensee wherever located* where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein. *The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine shipper licensee or a beer shipper licensee or any applicant for such license.*

§ 4.1-207. Wine licenses.

The Board may grant the following licenses relating to wine:

1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee.

2. Wholesale wine licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3. Wine importers' 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 wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the licensee to sell wine at the place of business designated in the winery license, in closed containers, for off-premises consumption and to deliver ~~or ship~~ the wine to the purchasers in accordance with Board

regulations. *All such deliveries of wine shall be performed by the owner or any agent, officer, director, shareholder or employee of the licensee.*

5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing ~~eighteen~~ 18 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale or retail for the purpose of resale, § 4.1-326 notwithstanding, or (iii) persons outside the Commonwealth. In addition, the licensee may acquire and receive deliveries and shipments of wine manufactured by the licensee and to sell and deliver or ship this wine, in accordance with Board regulations, to persons licensed to sell wine in the Commonwealth, § 4.1-326 notwithstanding. For the purposes of this title, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than two additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption, including delivery ~~and shipment~~ of such wine to purchasers in accordance with Board regulations. *All such deliveries of wine shall be performed by the owner or any agent, officer, director, shareholder or employee of the licensee.*

§ 4.1-208. Beer licenses.

The Board may grant the following licenses relating to beer:

1. 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, (ii) persons licensed to sell beer at retail for the purpose of resale, only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for resale outside the Commonwealth. Such license may also authorize individuals holding a brewery license to operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary. Provided, however, that such samples may be provided only to individuals for consumption on the premises of such facility and only to individuals to whom such products may be lawfully sold.

2. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

3. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship it, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

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

5. Retail on-premises beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating boats for which certificates as a sight-seeing carrier by boat, or a special or charter party by boat have been issued by the Department of Motor Vehicles pursuant to § 46.2-2099.20, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments.

No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in any county with a population between 65,000 and 70,000. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

6. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption and to deliver ~~or ship~~ the beer to purchasers in accordance with Board regulations. *All such deliveries of beer shall be performed by the owner or any agent, officer, director, shareholder or employee of the licensee.*

7. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to (i) sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption and (ii) deliver ~~or ship~~ the beer to purchasers in accordance with Board regulations. *All such deliveries of beer shall be performed by the owner or any agent, officers, directors, shareholders or employee of the licensee.*

8. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 5 a and d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the licensee to sell beer in closed containers for off-premises consumption and to deliver ~~or ship~~ the beer to purchasers in accordance with Board regulations. *All such deliveries of beer shall be performed by the owner or any agent, officer, director, shareholder or employee of the licensee.*

§ 4.1-209. Wine and beer licenses; advertising.

A. The Board may grant the following licenses relating to wine and beer:

1. Retail on-premises wine and beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board;

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them, for on-premises consumption when carrying passengers;

c. Persons operating boats for which certificates as a sight-seeing carrier by boat, or a special or charter party by boat have been issued by the Department of Motor Vehicles pursuant to § 46.2-2099.20, which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding;

e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending

physician is first obtained;

f. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers, during any event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which (i) has seating for more than 20,000 persons and is located in any county with a population between 210,000 and 216,000 or in any city with a population between 392,000 and 394,000 or (ii) has seating for more than 3,500 persons and is located in any county with a population between 65,000 and 70,000. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license; and

h. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell wine and beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and to deliver ~~or ship~~ the same to purchasers in accordance with Board regulations. *All such deliveries of wine or beer shall be performed by the owner or any agent, officer, director, shareholder or employee of the licensee.*

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed one ounce by volume or (ii) a sample of beer not to exceed two ounces by volume, for on-premises consumption.

4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition, shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and to deliver ~~or ship~~ the same to the purchasers, in accordance with Board regulations. *All such deliveries of wine or beer shall be performed by the owner or any agent, officer, director, shareholder or employee of the licensee.*

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. A separate license shall be required for each day of each banquet or special event. For the purposes of this subsection, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

7. Gift shop licenses, which shall authorize the licensee to sell wine and beer unchilled, only within the interior premises of the gift shop in closed containers for off-premises consumption and to deliver ~~or ship~~ the wine and beer to purchasers in accordance with Board regulations. *All such deliveries of wine or beer shall be performed by the owner or any agent, officer, director, shareholder or employee of the licensee.*

8. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to this section may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol,

Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the athlete is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic beverage so advertised enhances athletic prowess.

§ 4.1-215. Limitation on manufacturers, bottlers and wholesalers; exemptions.

A. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall be granted to any (i) manufacturer, bottler or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler or wholesaler; (iii) partnership or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler or wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another subsidiary corporation which is a manufacturer, bottler or wholesaler of alcoholic beverages; or (v) manufacturer, bottler or wholesaler of alcoholic beverages who has a financial interest in a corporation which has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such manufacturer, bottler or wholesaler and such retailer are under common control, by stock ownership or otherwise.

Notwithstanding any other provision of this title, a manufacturer of malt beverages *or wine* may obtain a banquet license for a special event as provided in § 4.1-209 upon application to the Board provided that such event is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about malt beverage *or wine* products. Such manufacturer shall be limited to no more than four banquet licenses for such special events per year.

B. This section shall not apply to:

1. Corporations operating dining cars, buffet cars, club cars or boats;
2. Brewery or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;
3. Farm winery licensees engaging in conduct authorized by subdivision 5 of § 4.1-207; ~~or~~
4. Manufacturers, bottlers or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers or wholesalers; *or*

5. *Wineries, farm wineries, or breweries engaging in conduct authorized by § 4.1-112.1.*

C. The General Assembly finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing techniques. The exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition and shall therefore be construed accordingly.

§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing, under oath, setting forth any information required by the Board. Applications for banquet, tasting, mixed beverage special events, or club events licenses shall not be required to be under oath, but the information contained therein shall be certified as true by the applicant.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for banquet, tasting, special events, club events, *wine or beer shipper's, wine and beer shipper's*, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.) of this title, or beer or wine importer's licenses located outside the Commonwealth, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than ~~thirty~~ 30 days and not less than ~~ten~~ 10 days. Such notice shall be of a size and contain such information as required by the Board.

The applicant shall cause a copy of such notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city or town wherein such applicant proposes to engage in such business. In the case of *wine or beer shipper's licensees, wine and beer shipper's licensees, or* operators of boats, dining cars, buffet cars, club cars, and airplanes, the posting and publishing of notice shall not be required.

Except for applicants for banquet, tasting, mixed beverage special events, club events, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, on each applicant for a license.

The Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within ~~thirty~~ 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee shall be \$50, plus \$15 for each criminal history records search required by the

Board, except for banquet, tasting, mixed beverage special events, or mixed beverage club events licenses, in which case the application fee shall be \$15. Application fees shall be in addition to the state license tax required pursuant to § 4.1-231 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. In the case of applications to solicit the sale of wine and beer or spirits, each application shall be accompanied by a fee of \$125 and \$300, respectively. The fee for each such permit shall be subject to proration to the following extent: If the permit is granted in the second quarter of any year, the fee shall be decreased by one-fourth; if granted in the third quarter of any year, the fee shall be decreased by one-half; and if granted in the fourth quarter of any year, the fee shall be decreased by three-fourths. Each such permit shall expire on June 30 next succeeding the date of issuance, unless sooner suspended or revoked by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the number of months for which the permit is granted.

The fee for a keg registration permit shall be \$50 annually.

The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth shall be \$200 annually.

§ 4.1-231. Taxes on state licenses.

A. The annual taxes on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:

a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$350; and if more than 5,000 gallons manufactured during such year, \$2,860;

b. Fruit distiller's license, \$2,860;

c. Banquet facility license or museum license, \$145;

d. Bed and breakfast establishment license, \$25;

e. Tasting license, \$30 per license granted; and

f. Equine sporting event license, \$100.

2. Wine licenses. For each:

a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, ~~\$350~~ \$145, and if more than 5,000 gallons manufactured during such year, \$2,860;

b. Wholesale wine license, \$715 for any wholesaler who sells 150,000 gallons of wine or less per year, \$1,100 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and \$1,430 for any wholesaler who sells more than 300,000 gallons of wine per year;

c. Wine importer's license, \$285;

d. Retail off-premises winery license, \$110; ~~and~~

e. Farm winery license, \$145 for any Class A license and \$2,860 for any Class B license; *and*

f. *Wine shipper's license, \$50.*

3. Beer licenses. For each:

a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$1,650, and if more than 10,000 barrels manufactured during such year, \$3,300;

b. Bottler's license, \$1,100;

c. Wholesale beer license, \$715 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,100 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,430 for any wholesaler who sells more than 600,000 cases of beer a year;

d. Beer importer's license, \$285;

e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$110; for each such license to a common carrier of passengers by train or boat, \$110 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;

f. Retail off-premises beer license, \$90; ~~and~~

g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$230; *and*

h. *Beer shipper's license, \$50.*

4. Wine and beer licenses. For each:

a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$230; for each such license to a common carrier of passengers by train or boat, \$230 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$575;

b. Retail on-premises wine and beer license to a hospital, \$110;

c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience

grocery store license, \$175;

d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$460;

e. Banquet license, \$30 per license granted by the Board; and

f. Gourmet brewing shop license, \$175; and

g. *Wine and beer shipper's license*, \$50.

5. Mixed beverage licenses. For each:

a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, \$430;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$750; and

(iii) With a seating capacity at tables for more than 150 persons, \$1,100.

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(i) With an average yearly membership of not more than 200 resident members, \$575;

(ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,430; and

(iii) With an average yearly membership of more than 500 resident members, \$2,125.

c. Mixed beverage caterer's license, \$1,430.

d. Mixed beverage special events license, \$35 for each day of each event.

e. Mixed beverage club events licenses, \$25 for each day of each event.

f. Annual mixed beverage special events license, \$430.

g. Mixed beverage carrier license:

(i) \$145 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(ii) \$430 for each common carrier of passengers by boat;

(iii) \$1,135 for each license granted to a common carrier of passengers by airplane;

h. Annual mixed beverage amphitheater license, \$430; and

i. Annual mixed beverage motor sports race track license, \$430.

6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than twelve 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

§ 4.1-310. Illegal importation, shipment and transportation of alcoholic beverages; penalty; exception.

A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported or brought into the Commonwealth, other than to distillery licensees or winery licensees, unless consigned to the Board. However, the Board may permit such alcoholic beverages ordered by it from outside the Commonwealth for (i) persons, for industrial purposes, (ii) the manufacture of articles allowed to be manufactured under § 4.1-200, or (iii) hospitals, to be shipped or transported directly to such persons. On such orders or shipments of alcohol, the Board shall charge only a reasonable permit fee.

B. *Except as otherwise provided in § 4.1-112.1*, no wine shall be imported, shipped, transported or brought into the Commonwealth unless it is consigned to a wholesale wine licensee.

C. *Except as otherwise provided in § 4.1-112.1*, no beer shall be imported, shipped, transported or brought into the Commonwealth except to persons licensed to sell it.

D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal possession, or through United States Customs in his accompanying baggage, into the Commonwealth not for resale, alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the alcoholic beverages being transported is held in metric-sized containers, (ii) the shipment or transportation into the Commonwealth of a reasonable quantity of alcoholic beverages not for resale in the personal or household effects of a person relocating his place of residence to the Commonwealth, or (iii) the possession or storage of alcoholic beverages on passenger boats, dining cars, buffet cars and club cars, licensed under this title, or common carriers engaged in interstate or foreign commerce.

2. That the Alcoholic Beverage Control Board shall promulgate regulations to implement the provisions of this act to be effective within 90 days of its enactment.