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HOUSE BILL NO. 1498

Offered January 12, 2005

Prefiled September 28, 2004

A BILL to amend and reenact §§ 4.1-100, 4.1-103, 4.1-111, 4.1-115, 4.1-119, 4.1-121, 4.1-122, 4.1-206, 4.1-221, 4.1-231, 4.1-233, 4.1-234, and 4.1-330 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 4.1-103.2, 4.1-103.3, 4.1-210.1, and 4.1-210.2, relating to alcoholic beverage control; retail franchising of new government stores.

Patrons—Louderback, Gear, Hargrove, Petersen, Pollard and Saxman

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § §§ 4.1-100, 4.1-103, 4.1-111, 4.1-115, 4.1-119, 4.1-121, 4.1-122, 4.1-206, 4.1-221, 4.1-231, 4.1-233, 4.1-234, and 4.1-330 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 4.1-103.2, 4.1-103.3, 4.1-210.1, and 4.1-210.2 as follows:

§ 4.1-100. Definitions.

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition.

"Barrel" means any container or vessel having a capacity of more than ~~forty-three~~ 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than ~~fifteen~~ 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than ~~forty-three~~ 43 ounces.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Designated area" means a room or area approved by the Board for on-premises licensees.

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59 "Dining area" means a public room or area in which meals are regularly served.

60 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
61 manufactured, sold, or used.

62 "Farm winery" means an establishment (i) located on a farm in the Commonwealth with a producing
63 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the
64 premises where the owner or lessee manufactures wine that contains not more than ~~eighteen~~ 18 percent
65 alcohol by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar
66 growing area or agreements for purchasing grapes or other fruits from agricultural growers within the
67 Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or
68 lessee manufactures wine that contains not more than ~~eighteen~~ 18 percent alcohol by volume. As used in
69 this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of
70 individuals for the purpose of manufacturing wine. In the event such cooperative is licensed as a farm
71 winery, the term "farm" as used in this definition includes all of the land owned or leased by the
72 individual members of the cooperative as long as such land is located in the Commonwealth.

73 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty
74 items relating to history, original and handmade arts and products, collectibles, crafts, and floral
75 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure
76 where stock is displayed and offered for sale and which has facilities to properly secure any stock of
77 wine or beer. Such shop may be located (i) on the premises or grounds of a government registered
78 national, state or local historic building or site or (ii) within the premises of a museum. The Board shall
79 consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be
80 considered a gift shop.

81 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may
82 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
83 persons facilities for manufacturing, fermenting and bottling such wine or beer.

84 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
85 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
86 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
87 furnished to persons.

88 "Government store" means a store established by the Board for the sale of alcoholic beverages.

89 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
90 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
91 four or more bedrooms. It shall also mean the person who operates such hotel.

92 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
93 pursuant to this title.

94 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
95 observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

96 "Licensed" means the holding of a valid license ~~issued~~ *or retail franchise granted* by the Board.

97 "Licensee" means any person to whom a license *or retail franchise* has been granted by the Board.

98 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol
99 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits
100 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit
101 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
102 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of
103 this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved
104 the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be
105 sold for on-premises consumption other than by mixed beverage licensees.

106 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona
107 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments
108 specializing in full course meals with a single substantial entree. ~~Idtitle>~~"Member of a club" means (i) a
109 person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues
110 in the manner established by the rules and regulations thereof or (ii) a person who is a member of a
111 bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide
112 member, whether alive or deceased, of a national or international organization to which an individual
113 lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime
114 member whose financial contribution is not less than ten times the annual dues of resident members of
115 the club, the full amount of such contribution being paid in advance in a lump sum.

116 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of
117 spirits.

118 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials,
119 and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives
120 which are not commonly consumed unless combined with alcoholic beverages, whether or not such

ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies, and corridors of hotels, and any highway, street, lane, park, or place of public resort or amusement.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Retail franchised establishment" or "franchised establishment" means an establishment where alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, and mixers are sold at retail by franchisees of the Board.

"Retail franchisee" or "franchisee" means a person to whom a retail franchise has been granted by the Board to operate a franchised establishment.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Special agent" means an employee of the Department of Alcoholic Beverage Control whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of ~~twenty-one~~ 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain

182 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
183 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
184 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

185 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for
186 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
187 required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by
188 such retail licensee.

189 § 4.1-103. General powers of Board.

190 The Board shall have the power to:

191 1. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries,
192 and to have alcoholic beverages other than beer and wine not produced by farm wineries in its
193 possession for sale;

194 2. Buy and sell any mixers;

195 3. Control the possession, sale, transportation and delivery of alcoholic beverages;

196 4. Determine, subject to §§ 4.1-103.2 and 4.1-121, the localities within which ~~government stores~~
197 *retail franchised establishments* shall be established or operated and the ~~location number~~ of such ~~stores~~
198 *establishments*;

199 5. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
200 beverages to and from such warehouses;

201 6. Lease, occupy and improve any land or building required for the purposes of this title;

202 7. Purchase or otherwise acquire title to any land or building required for the purposes of this title
203 and sell and convey the same by proper deed, with the consent of the Governor;

204 8. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be
205 considered necessary or useful in carrying into effect the purposes of this title, including rectifying,
206 blending and processing plants. The Board may purchase, build, lease, and operate distilleries and
207 manufacture alcoholic beverages;

208 9. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to
209 be kept or sold under this title, and prescribe the form and content of all labels and seals to be placed
210 thereon;

211 10. Appoint every agent and employee required for its operations; require any or all of them to give
212 bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the
213 services of experts and professionals;

214 11. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the
215 production of records, memoranda, papers and other documents before the Board or any agent of the
216 Board; and administer oaths and take testimony thereunder. The Board may authorize any Board
217 member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take
218 testimony thereunder, and make summary decisions, subject to final decision by the Board, on
219 application of any party aggrieved;

220 12. Make a reasonable charge for preparing and furnishing statistical information and compilations to
221 persons other than (i) officials, including court and police officials, of the Commonwealth and of its
222 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
223 interest in obtaining the information requested if such information is not to be used for commercial or
224 trade purposes;

225 13. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
226 and § 4.1-111 of this chapter;

227 14. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and
228 sale of alcoholic beverages, *including retail franchises for the retail sale of alcoholic beverages*;

229 15. Assess and collect civil penalties and civil charges for violations of this title and Board
230 regulations;

231 16. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

232 17. Establish minimum food sale requirements for all retail licensees; and

233 18. Do all acts necessary or advisable to carry out the purposes of this title.

234 § 4.1-103.2. *Franchising of government stores; granting of franchises; applicability of title.*

235 A. *Beginning July 1, 2005, no new government stores shall be established or operated by the Board.*
236 *Instead, the Board shall enter into franchise agreements for the ownership and operation of retail*
237 *franchised establishments in such counties, cities, and towns considered advisable by the Board, subject*
238 *to the provisions of § 4.1-121. Such franchise agreements shall be upon such terms and conditions*
239 *agreed to by the Board; except that no person shall be authorized to operate more than five percent of*
240 *the total number of retail franchises to be granted, as determined by the Board. Such franchise*
241 *agreements shall be subject to the approval of the Governor and shall be in a form approved by the*
242 *Attorney General. The Board shall enter into franchise agreements with any person submitting an*
243 *application in accordance with § 4.1-230 and meeting the conditions established in this title and Board*

regulations for licensure generally. The Board may grant such franchise only if the majority of the voters of the county, city, or town voting therein voted "Yes" in the referendum authorized by § 4.1-121, and such applicant has obtained prior approval of the local governing body in which the franchised establishment would be located. The Board shall determine the manner by which such approval shall be obtained. No retail franchise shall be transferable without the prior approval of the Board. Franchise agreements shall be granted for such period as agreed to by the Board and the retail franchisee.

B. The provisions of Chapter 1 (§ 4.1-100 et seq.), Chapter 2 (§ 4.1-200 et seq.), and Chapter 3 (§ 4.1-300 et seq.) of this title shall apply, *mutatis mutandis*, to retail franchises granted by the Board.

C. The provisions of the Retail [h2] Franchising Act (§ 13.1-557 et seq.) shall not apply to any franchise agreements entered into by the Board.

§ 4.1-103.3. Retail Franchise Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Retail Franchise Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys received by the Board from retail franchise agreements entered into pursuant to § 4.1-103.2 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 school construction, school renovation, major school maintenance, capital outlay, and debt service of any public school. 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 Board.

§ 4.1-111. Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages *and spirits* may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit

305 status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the
306 purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its
307 not-for-profit status. The granting of such waiver shall be limited to two events per year for each
308 applicant.

309 2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the
310 course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of
311 § 4.1-325.2.

312 D. Board regulations shall be uniform in their application, except those relating to hours of sale for
313 licensees.

314 E. Courts shall take judicial notice of Board regulations.

315 F. The Board's power to regulate shall be broadly construed.

316 § 4.1-115. Reports and accounting systems of Board; auditing books and records.

317 A. The Board shall make reports to the Governor as he may require covering the administration and
318 enforcement of this title. Additionally, the Board shall submit an annual report to the Governor and
319 General Assembly on or before October 1 of each year, which shall contain:

320 1. A statement of the nature and amount of the business transacted by each government store *and*
321 *retail franchised establishment* during the year;

322 2. A statement of the assets and liabilities of the Board, including a statement of income and
323 expenses and such other financial statements and matters as may be necessary to show the result of the
324 operations of the Board for the year;

325 3. A statement showing the taxes collected under this title during the year;

326 4. General information and remarks about the working of the alcoholic beverage control laws within
327 the Commonwealth; and

328 5. Any other information requested by the Governor.

329 B. The Board shall maintain an accounting system in compliance with generally accepted accounting
330 principles and approved in accordance with § 2.2-803.

331 C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual
332 audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted
333 by the Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit
334 examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

335 § 4.1-119. Operation of government stores.

336 A. Subject to the requirements of §§ ~~4.1-103.2~~, 4.1-121 and 4.1-122, the Board may ~~establish,~~
337 ~~continue to~~ maintain and operate government stores *established before July 1, 2005*, for the sale of
338 alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, and mixers, ~~in~~
339 ~~such counties, cities, and towns considered advisable by the Board.~~ The Board may discontinue any such
340 store.

341 B. The Board shall fix the wholesale and retail prices at which the various classes, varieties and
342 brands of alcoholic beverages are sold in government stores. Differences in the cost of operating stores,
343 and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at
344 government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and
345 operating under the laws of the United States and regulations of the United States Department of
346 Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United
347 States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged
348 other authorized purchasers.

349 C. Alcoholic beverages at government stores shall be sold by employees of the Board, who shall
350 carry out the provisions of this title and Board regulations governing the operation of government stores
351 and the sale of alcoholic beverages.

352 D. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without
353 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101
354 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

355 E. All alcoholic beverages sold in government stores shall be in closed containers, sealed and affixed
356 with labels prescribed by the Board.

357 F. No alcoholic beverages shall be consumed in a government store by any person.

358 G. With respect to purchases by licensees at government stores, the Board shall accept in payment
359 for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check
360 payable to the Board, in the exact amount of any such purchase or series of purchases.

361 H. With respect to purchases by consumers at government stores, the Board shall accept cash in
362 payment for any purchase or series of purchases. The Board may adopt regulations which provide for
363 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where
364 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by
365 any consumer.

366 § 4.1-121. Referendum on establishment of government stores.

A. The qualified voters of any county, city, or town having a population of 1,000 or more may file a petition with the circuit court of the county or city, or of the county wherein the town or the greater part thereof is situated, asking that a referendum be held on the question of whether the sale by the *Alcoholic Beverage Control Board of Alcoholic Beverages* or by a retail franchisee of the Board, other than beer and wine not produced by farm wineries, should be permitted within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least ~~ten~~ 10 percent of the number registered in the jurisdiction on January 1 preceding its filing or by at least 100 qualified voters, whichever is greater. Upon the filing of a petition, the court shall order the election officials of the county, city, or town, on the date fixed in the order, to conduct a referendum on the question. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the county, city, or town once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale by the Alcoholic Beverage Control Board or a retail franchisee of the Alcoholic Beverage Control Board of alcoholic beverages, other than beer and wine not produced by farm wineries, be permitted in (name of county, city, or town)?"

The referendum shall be ordered and held and the results certified as provided in § 24.2-684. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the county, city, or town.

B. Once a referendum has been held, no other referendum on the same question shall be held in the county, city, or town within four years of the date of the prior referendum. However, a town shall not be prescribed from holding a referendum within such period although an election has been held in the county in which the town or a part thereof is located less than four years prior thereto.

§ 4.1-122. Effect of local option referenda.

A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a majority of the qualified voters vote "No" on the question, then on and after ~~sixty~~ 60 days from the date on which the order of the court, setting forth the results of such referendum was entered of record, none of the alcoholic beverages voted against shall be sold in such county, city, or town except for delivery or shipment to persons outside of such county, city, or town authorized under this title to acquire the alcoholic beverages for resale. This subsection shall not apply to common carriers of passengers by train, boat or airplane selling wine and beer to bona fide passengers.

B. If in any such referendum held in any county, city, or town in which a majority of the qualified voters have previously voted against permitting the sale of alcoholic beverages by the Board or a retail franchisee of the Board and in a subsequent election a majority of the voters of the county, city, or town vote "Yes" on the question stated in § 4.1-121, then such alcoholic beverages permitted to be sold by such referendum may, in accordance with this title, be sold within the county, city, or town on and after ~~sixty~~ 60 days from the day on which the order of the court setting forth the results of such election is entered of record.

C. If any referendum is held under the provisions of § 4.1-124 in any county, town or supervisor's election district of a county and the majority of voters voting in such referendum voted "Yes," the sale by the Board or a retail franchisee of the Board of alcoholic beverages, other than beer and wine not produced by farm wineries, shall be permitted in such county, town or supervisor's election district of a county. Notwithstanding this section and any referendum held under § 4.1-121 to the contrary, persons licensed to sell mixed beverages in such county, town or supervisor's election district of a county shall also be permitted to sell wine and beer for on-premises consumption, provided the appropriate license fees are paid for the privilege.

D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery or shipment of alcoholic beverages specified in § 4.1-200 to and by persons therein authorized to sell alcoholic beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations into any county, city, or town, except as otherwise prohibited by this title.

E. For the purpose of this section, when any referendum is held in any town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county.

§ 4.1-206. Alcoholic beverage licenses.

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

2. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale

428 outside the Commonwealth.

429 3. Banquet facility licenses to volunteer fire departments and volunteer rescue squads, which shall
430 authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the
431 premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for
432 a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the
433 licensee or sold or charged for in any way by the person permitted to use the premises. Such premises
434 shall be a fire or rescue squad station or both, regularly occupied as such and recognized by the
435 governing body of the county, city or town in which it is located. Under conditions as specified by
436 Board regulation, such premises may be other than a fire or rescue squad station, provided such other
437 premises are occupied and under the control of the fire department or rescue squad while the privileges
438 of its license are being exercised.

439 4. Bed and breakfast licenses, which shall authorize the licensee to serve alcoholic beverages in
440 dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is
441 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and
442 without regard to the amount of gross receipts from the sale of food prepared and consumed on the
443 premises.

444 5. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages
445 of the type specified in the license in designated areas at events held by the licensee. A tasting license
446 shall be issued for the purpose of featuring and educating the consuming public about the alcoholic
447 beverages being tasted. A separate license shall be required for each day of each tasting event.

448 6. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501
449 (c) (3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of
450 lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and
451 guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide
452 member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way
453 by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly
454 occupied and utilized as such.

455 7. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and
456 steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired
457 alcoholic beverages on the premises of the licensee by patrons thereof during such event. However,
458 alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this
459 license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian,
460 hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

461 *B. The Board may grant a retail franchise, in accordance with § 4.1-103.2, for the retail sale by a*
462 *franchisee of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth,*
463 *and mixers. Such franchise shall authorize the franchisee to sell alcoholic beverages, other than beer*
464 *and wine not produced by farm wineries, vermouth and mixers in closed containers for off-premises*
465 *consumption and to deliver or ship alcoholic beverages to purchasers in accordance with Board*
466 *regulations. Such franchisees shall purchase such alcoholic beverages from the Board in a manner*
467 *prescribed by Board regulation. No franchisee shall be engaged in any other business in the franchised*
468 *establishment. The sale of lottery tickets, when duly authorized by the State Lottery Department and*
469 *lawfully conducted in accordance with the State Lottery Law (§ 58.1-4000 et seq.) and State Lottery*
470 *Board regulations, shall not constitute engaging in another business within the meaning of this section.*

471 *§ 4.1-210.1. Operation of franchised establishments.*

472 *A. All alcoholic beverages, other than beer and wine not produced by farm wineries, and vermouth*
473 *sold by a franchisee, shall be purchased from the Board.*

474 *B. Franchisees shall operate their stores in accordance with this title and Board regulations. All*
475 *alcoholic beverages authorized by this chapter to be sold in such stores shall be in closed containers,*
476 *sealed, and have such label as prescribed by the Board. No alcoholic beverages shall be consumed in*
477 *such stores by any person, except as may be permitted by this title or Board regulations.*

478 *C. No franchisee or employee of such franchisee shall sell or have in his possession any alcoholic*
479 *beverages, other than beer and wine not produced by farm wineries, and vermouth, that have not been*
480 *obtained from the Board. Title to spirits shipped and delivered to such franchisee shall not pass from*
481 *the Board while in the custody and care of the franchisee until the spirits have been actually sold by the*
482 *franchisee to a bona fide purchaser.*

483 *D. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without*
484 *distinctive character, aroma, taste, or color shall be sold in franchised establishments at a proof greater*
485 *than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.*

486 *§ 4.1-210.2. When retail franchised establishments closed.*

487 *No sale or delivery of alcoholic beverages shall be made at any retail franchised establishment, nor*
488 *shall any such establishment be kept open for the sale of alcoholic beverages:*

489 *1. On Sunday;*

2. *On Thanksgiving Day, Christmas Day and New Year's Day; or*
 3. *During such other periods and on such other days as the Board may direct.*

§ 4.1-221. Limitation on mixed beverage licensees; exceptions.

A. Unless excepted by subsection B, all alcoholic beverages sold as mixed beverages shall be purchased from the Board *or a retail franchisee*.

B. Mixed beverage carrier licensees may obtain from other lawful sources alcoholic beverages to be sold as mixed beverages on trains, boats or airplanes of the licensees provided there is paid to the Board in lieu of the taxes otherwise directly imposed under this chapter and any markup otherwise charged by the Board, a tax of ~~ten~~10 cents for each of the average number of drinks of mixed beverages determined by the Board as having been consumed within the geographical confines of the Commonwealth on such trains, boats or airplanes. Such tax shall be calculated on the basis of the proportionate number of revenue passenger miles traveled within the Commonwealth by such a licensee in relation to the total quantity of all alcoholic beverages obtained either inside or outside the Commonwealth by the licensee for consumption on trains, boats or airplanes of the licensee. Such tax shall be paid to the Board on a quarterly basis.

C. The entire contents of a closed container of distilled spirits shall not be served to an individual for on-premises consumption except as may be provided by Board regulation.

§ 4.1-231. Taxes on state licenses.

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

1. Alcoholic beverage licenses *or franchises*. 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, \$450; and if more than 5,000 gallons manufactured during such year, \$3,725;

b. Fruit distiller's license, \$3,725;

c. Banquet facility license or museum license, \$190;

d. Bed and breakfast establishment license, \$35;

e. Tasting license, \$40 per license granted; ~~and~~

f. Equine sporting event license, \$130; *and*

g. *Retail franchise, \$1,500.*

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, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;

b. Wholesale wine license, \$930 for any wholesaler who sells 150,000 gallons of wine or less per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;

c. Wine importer's license, \$370;

d. Retail off-premises winery license, \$145;

e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license; and

f. Wine shipper's license, \$65.

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, \$2,150, and if more than 10,000 barrels manufactured during such year, \$4,300;

b. Bottler's license, \$1,430;

c. Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;

d. Beer importer's license, \$370;

e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 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, \$120;

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, \$300; and

h. Beer shipper's license, \$65.

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, \$300; for each such license to a common carrier of passengers by train or boat, \$300 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, \$750;

- 551 b. Retail on-premises wine and beer license to a hospital, \$145;
552 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
553 grocery store license, \$230;
554 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600;
555 e. Banquet license, \$40 per license granted by the Board;
556 f. Gourmet brewing shop license, \$230;
557 g. Wine and beer shipper's license, \$65; and
558 h. Annual banquet license, \$150.
- 559 5. Mixed beverage licenses. For each:
560 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
561 located on premises of and operated by hotels or motels, or other persons:
562 (i) With a seating capacity at tables for up to 100 persons, \$560;
563 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
564 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
565 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
566 private, nonprofit clubs:
567 (i) With an average yearly membership of not more than 200 resident members, \$750;
568 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
569 \$1,860; and
570 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
571 c. Mixed beverage caterer's license, \$1,860.
572 d. Mixed beverage special events license, \$45 for each day of each event.
573 e. Mixed beverage club events licenses, \$35 for each day of each event.
574 f. Annual mixed beverage special events license, \$560.
575 g. Mixed beverage carrier license:
576 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the
577 Commonwealth by a common carrier of passengers by train;
578 (ii) \$560 for each common carrier of passengers by boat;
579 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane;
580 h. Annual mixed beverage amphitheater license, \$560;
581 i. Annual mixed beverage motor sports race track license, \$560; and
582 j. Annual mixed beverage banquet license, \$500.
- 583 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
584 imposed by this section on the license for which the applicant applied.
- 585 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be
586 subject to proration to the following extent: If the license is granted in the second quarter of any year,
587 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be
588 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by
589 three-fourths.
- 590 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000
591 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license
592 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the
593 number of gallons permitted to be manufactured shall be prorated in the same manner.
- 594 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000
595 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or
596 winery license, such person shall pay for such unlimited license a license tax equal to the amount that
597 would have been charged had such license been applied for at the time that the license to manufacture
598 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person
599 shall be entitled to a refund of the amount of license tax previously paid on the limited license.
- 600 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than
601 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest
602 cent, multiplied by the number of months in the license period.
- 603 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
604 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
605 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
606 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer
607 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license
608 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining
609 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the
610 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases
611 shall be disregarded.
- 612 § 4.1-233. Taxes on local licenses.

A. In addition to the state license taxes, the annual local license taxes which may be collected shall not exceed the following sums:

1. Alcoholic beverages. - For each:

a. Distiller's license, \$1,000; no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Fruit distiller's license, \$1,500;

c. Bed and breakfast establishment license, \$40;

d. Museum license, \$10;

e. Tasting license, \$5 per license granted; and

f. Equine sporting event license, \$10; and

g. *Retail franchise*, \$500.

2. Beer. - For each:

a. Brewery license, \$1,000;

b. Bottler's license, \$500;

c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;

d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer license in a city, \$100, and in a county or town, \$25; and

e. Beer shipper's license, \$10.

3. Wine. - For each:

a. Winery license, \$ 50;

b. Wholesale wine license, \$50;

c. Farm winery license, \$50; and

d. Wine shipper's license, \$10.

4. Wine and beer. - For each:

a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;

b. Hospital license, \$10;

c. Banquet license, \$5 for each license granted;

d. Gourmet brewing shop license, \$150;

e. Wine and beer shipper's license, \$10; and

f. Annual banquet license, \$15.

5. Mixed beverages. - For each:

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

(i) With a seating capacity at tables for up to 100 persons, \$200;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and

(iii) With a seating capacity at tables for more than 150 persons, \$500.

b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;

c. Mixed beverage caterer's license, \$500;

d. Mixed beverage special events licenses, \$10 for each day of each event;

e. Mixed beverage club events licenses, \$10 for each day of each event;

f. Annual mixed beverage amphitheater license, \$300;

g. Annual mixed beverage motor sports race track license, \$300; and

h. Annual mixed beverage banquet license, \$75.

B. Common carriers. - No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be

the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. - No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.

E. Application of county tax within town. - Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.

§ 4.1-234. Tax on wine and other alcoholic beverages; exceptions.

A. In addition to the taxes imposed pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, a tax of ~~forty~~40 cents is levied on each liter of wine sold in the Commonwealth. Additionally, on vermouth and on farm winery wines sold to consumers by the Board *or a retail franchisee*, the state tax shall be four percent of the price charged.

B. There is levied on other alcoholic beverages sold by the Board *or a retail franchisee*, a tax of ~~twenty~~ 20 percent of the price charged. This subsection shall also apply to all alcoholic beverages purchased from the Board *or a retail franchisee* by any mixed beverage licensee.

C. The provisions of this section shall not apply to (i) beer, (ii) wine coolers, (iii) sales of wine by manufacturers to wholesale wine licensees for resale to retail licensees, (iv) sales, other than by or through government stores, of alcoholic beverages for manufacturing and industrial purposes, or either, (v) sales, other than by or through government stores, of alcohol for hospital and laboratory purposes, or either, (vi) alcoholic beverages shipped from the Commonwealth to points outside the Commonwealth for resale outside the Commonwealth and (vii) sales to any instrumentality of the federal government.

§ 4.1-330. Solicitation by persons interested in manufacture, etc., of alcoholic beverages; penalty.

A. No person having any interest, direct or indirect, in the manufacture, distribution, or sale of spirits or other alcoholic beverages shall, without a permit granted by the Board and upon such conditions as the Board may prescribe, solicit either directly or indirectly (i) a mixed beverage licensee *or retail franchisee*; (ii) any agent, servant, or employee of such licensee *or franchisee*; or (iii) any person connected with the licensee *or franchisee* in any capacity whatsoever in his licensed business, to sell or offer for sale the particular spirits or other alcoholic beverage in which such person may be so interested.

The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate the sale through government stores *or franchised establishments* or its purchase of the brand of spirits or other alcoholic beverage which was the subject matter of the unlawful solicitation or promotion. In addition, the Board may suspend or terminate the sale through such stores *or establishments* or its purchase of all brands of spirits or other alcoholic beverages manufactured or distributed by either the employer or principal of such solicitor, the broker, or by the owner of the brand of spirits unlawfully solicited or promoted. The Board may impose a civil penalty not to exceed \$250,000 in lieu of such suspension or termination of sales through government stores *or franchised establishments* or purchases by the Board or portion thereof, or both.

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

B. No mixed beverage licensee *or retail franchisee*, or any agent, servant, or employee of such licensee *or franchisee*, or any person connected with the licensee *or franchisee* in any capacity whatsoever in his licensed business shall, either directly or indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

The Board may suspend or revoke the license granted to such licensee, or may impose a civil penalty not to exceed \$25,000 in lieu of such suspension or any portion thereof, or both.

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

2. That an emergency exists and this act is in force from its passage.

3. That in any jurisdiction in which the establishment of government stores has been approved in a referendum pursuant to § 4.1-121 of the Code of Virginia, no additional referendum approving the creation of a retail franchise establishment shall be required.

4. That the Alcoholic Beverage Control Board shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.