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HOUSE BILL NO. 1822

Offered January 12, 2005

Prefiled January 5, 2005

A BILL to amend and reenact §§ 4.1-100, 4.1-207, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; wine license for day spas.

 Patron—Suit

 Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-207, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted 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 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.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons certified in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

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

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

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HB1822

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

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

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

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

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

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

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

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

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

95 "Licensed" means the holding of a valid license issued by the Board.

96 "Licensee" means any person to whom a license has been granted by the Board.

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

105 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona
106 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments
107 specializing in full course meals with a single substantial entree.

108 "Member of a club" means (i) a person who maintains his membership in the club by the payment of
109 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii)
110 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal
111 descendants of a bona fide member, whether alive or deceased, of a national or international
112 organization to which an individual lodge holding a club license is an authorized member in the same
113 locality. It shall also mean a lifetime member whose financial contribution is not less than ~~ten~~ 10 times
114 the annual dues of resident members of the club, the full amount of such contribution being paid in
115 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.

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

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio

182 required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by
183 such retail licensee.

184 § 4.1-207. Wine licenses.

185 The Board may grant the following licenses relating to wine:

186 1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or
187 ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the
188 wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth
189 for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate
190 distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit
191 juices only, which shall be used only for the fortification of wine produced by the licensee; and (ii)
192 store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board.

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

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

202 3. Wine importers' licenses, which shall authorize persons located within or outside the
203 Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed
204 containers, to persons in the Commonwealth licensed to sell wine at wholesale for the purpose of resale,
205 and to persons outside the Commonwealth for resale outside the Commonwealth.

206 4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the
207 licensee to sell wine at the place of business designated in the winery license, in closed containers, for
208 off-premises consumption and to deliver the wine to the purchasers in accordance with Board
209 regulations. All such deliveries of wine shall be performed by the owner or any agent, officer, director,
210 shareholder or employee of the licensee.

211 5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 18
212 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board
213 regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured
214 at wholesale or retail for the purpose of resale, § 4.1-326 notwithstanding, or (iii) persons outside the
215 Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine
216 manufactured by the licensee and to sell and deliver or ship this wine, in accordance with Board
217 regulations, to persons licensed to sell wine in the Commonwealth, § 4.1-326 notwithstanding and (b)
218 store wine in bonded warehouses located on or off the licensed premises upon permits issued by the
219 Board. For the purposes of this title, a farm winery license shall be designated either as a Class A or
220 Class B farm winery license in accordance with the limitations set forth in § 4.1-219.

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

227 6. *Day spa licenses, which shall authorize the licensee to give no more than two-five ounce glasses*
228 *of wine to customers of the day spa for on-premises consumption.*

229 § 4.1-231. Taxes on state licenses.

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

231 1. Alcoholic beverage licenses. For each:

232 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured
233 during the year in which the license is granted, \$450; and if more than 5,000 gallons manufactured
234 during such year, \$3,725;

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

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

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

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

239 f. Equine sporting event license, \$130.

240 2. Wine licenses. For each:

241 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the
242 license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;

243 b. Wholesale wine license, \$930 for any wholesaler who sells 150,000 gallons of wine or less per

244 year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine
 245 per year, and \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;
 246 c. Wine importer's license, \$370;
 247 d. Retail off-premises winery license, \$145;
 248 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license; and
 249 f. Wine shipper's license, \$65; and
 250 g. *Day spa license, \$100.*
 251 3. Beer licenses. For each:
 252 a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which
 253 the license is granted, \$2,150, and if more than 10,000 barrels manufactured during such year, \$4,300;
 254 b. Bottler's license, \$1,430;
 255 c. Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less,
 256 and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a
 257 year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
 258 d. Beer importer's license, \$370;
 259 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
 260 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
 261 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
 262 cars operated daily in the Commonwealth;
 263 f. Retail off-premises beer license, \$120;
 264 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
 265 town or in a rural area outside the corporate limits of any city or town, \$300; and
 266 h. Beer shipper's license, \$65.
 267 4. Wine and beer licenses. For each:
 268 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
 269 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
 270 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
 271 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
 272 a common carrier of passengers by airplane, \$750;
 273 b. Retail on-premises wine and beer license to a hospital, \$145;
 274 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
 275 grocery store license, \$230;
 276 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600;
 277 e. Banquet license, \$40 per license granted by the Board;
 278 f. Gourmet brewing shop license, \$230;
 279 g. Wine and beer shipper's license, \$65; and
 280 h. Annual banquet license, \$150.
 281 5. Mixed beverage licenses. For each:
 282 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
 283 located on premises of and operated by hotels or motels, or other persons:
 284 (i) With a seating capacity at tables for up to 100 persons, \$560;
 285 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
 286 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
 287 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
 288 private, nonprofit clubs:
 289 (i) With an average yearly membership of not more than 200 resident members, \$750;
 290 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
 291 \$1,860; and
 292 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
 293 c. Mixed beverage caterer's license, \$1,860.
 294 d. Mixed beverage special events license, \$45 for each day of each event.
 295 e. Mixed beverage club events licenses, \$35 for each day of each event.
 296 f. Annual mixed beverage special events license, \$560.
 297 g. Mixed beverage carrier license:
 298 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the
 299 Commonwealth by a common carrier of passengers by train;
 300 (ii) \$560 for each common carrier of passengers by boat;
 301 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane;
 302 h. Annual mixed beverage amphitheater license, \$560;
 303 i. Annual mixed beverage motor sports race track license, \$560; and
 304 j. Annual mixed beverage banquet license, \$500.

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

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

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

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

322 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than
323 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest
324 cent, multiplied by the number of months in the license period.

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

334 § 4.1-233. Taxes on local licenses.

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

337 1. Alcoholic beverages. - For each:

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

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

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

342 d. Museum license, \$10;

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

344 f. Equine sporting event license, \$10.

345 2. Beer. - For each:

346 a. Brewery license, \$1,000;

347 b. Bottler's license, \$500;

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

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

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

352 3. Wine. - For each:

353 a. Winery license, \$ 50;

354 b. Wholesale wine license, \$50;

355 c. Farm winery license, \$50; and

356 d. Wine shipper's license, \$10; and

357 e. Day spa license, \$20.

358 4. Wine and beer. - For each:

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

362 b. Hospital license, \$10;

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

364 d. Gourmet brewing shop license, \$150;

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

366 f. Annual banquet license, \$15.

- 367 5. Mixed beverages. - For each:
- 368 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
- 369 by hotels or motels, or other persons:
- 370 (i) With a seating capacity at tables for up to 100 persons, \$200;
- 371 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
- 372 (iii) With a seating capacity at tables for more than 150 persons, \$500.
- 373 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
- 374 c. Mixed beverage caterer's license, \$500;
- 375 d. Mixed beverage special events licenses, \$10 for each day of each event;
- 376 e. Mixed beverage club events licenses, \$10 for each day of each event;
- 377 f. Annual mixed beverage amphitheater license, \$300;
- 378 g. Annual mixed beverage motor sports race track license, \$300; and
- 379 h. Annual mixed beverage banquet license, \$75.
- 380 B. Common carriers. - No local license tax shall be either charged or collected for the privilege of
- 381 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the
- 382 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises
- 383 consumption only.
- 384 C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in
- 385 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local
- 386 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,
- 387 may include alcoholic beverages in the base for measuring such local license taxes the same as if the
- 388 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter
- 389 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local
- 390 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license
- 391 taxes authorized by this chapter.
- 392 The governing body of any county, city or town, in adopting an ordinance under this section, shall
- 393 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation
- 394 under the ordinance, and in computing the local wholesale merchants' license tax on such beer
- 395 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be
- 396 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license
- 397 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine
- 398 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale
- 399 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall
- 400 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary
- 401 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax
- 402 paid by such wholesale wine licensee.
- 403 D. Delivery. - No county, city or town shall impose any local alcoholic beverages license tax on any
- 404 wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such
- 405 wholesaler maintains no place of business in such county, city or town.
- 406 E. Application of county tax within town. - Any county license tax imposed under this section shall
- 407 not apply within the limits of any town located in such county, where such town now, or hereafter,
- 408 imposes a town license tax on the same privilege.