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HOUSE BILL NO. 1822

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 1, 2005)

(Patron Prior to Substitute—Delegate Suit)

A BILL to amend and reenact §§ 4.1-100, 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; wine and beer license for day spas.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-206, 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~~ 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.

"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.

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

"Farm winery" means an establishment (i) located on a farm in the Commonwealth with a producing

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

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

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

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

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

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

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

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

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

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

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

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

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

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

116 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials,
117 and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives
118 which are not commonly consumed unless combined with alcoholic beverages, whether or not such
119 ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a
120 Virginia corporation.

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

§ 4.1-206. Alcoholic beverage licenses.

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

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

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

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

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

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

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

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

224 8. *Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully*
225 *acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii)*
226 *serve wine or beer on the premises of the licensee to any such bona fide customer; however, the*
227 *licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any*
228 *such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served*
229 *or consumed. The privileges of this license shall be limited to the premises of the day spa regularly*
230 *occupied and utilized as such.*

231 § 4.1-231. Taxes on state licenses.

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

233 1. Alcoholic beverage licenses. For each:

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

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

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

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

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

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

242 2. Wine licenses. For each:

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

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

306 j. Annual mixed beverage banquet license, \$500.

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

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

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

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

324 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than
325 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest
326 cent, multiplied by the number of months in the license period.

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

336 § 4.1-233. Taxes on local licenses.

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

339 1. Alcoholic beverages. - For each:

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

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

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

344 d. Museum license, \$10;

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

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

347 g. *Day spa license*, \$20.

348 2. Beer. - For each:

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

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

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

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

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

355 3. Wine. - For each:

356 a. Winery license, \$ 50;

357 b. Wholesale wine license, \$50;

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

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

360 4. Wine and beer. - For each:

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

364 b. Hospital license, \$10;

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

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

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

- 368 f. Annual banquet license, \$15.
 369 5. Mixed beverages. - For each:
 370 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
 371 by hotels or motels, or other persons:
 372 (i) With a seating capacity at tables for up to 100 persons, \$200;
 373 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
 374 (iii) With a seating capacity at tables for more than 150 persons, \$500.
 375 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
 376 c. Mixed beverage caterer's license, \$500;
 377 d. Mixed beverage special events licenses, \$10 for each day of each event;
 378 e. Mixed beverage club events licenses, \$10 for each day of each event;
 379 f. Annual mixed beverage amphitheater license, \$300;
 380 g. Annual mixed beverage motor sports race track license, \$300; and
 381 h. Annual mixed beverage banquet license, \$75.
 382 B. Common carriers. - No local license tax shall be either charged or collected for the privilege of
 383 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the
 384 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises
 385 consumption only.
 386 C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in
 387 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local
 388 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,
 389 may include alcoholic beverages in the base for measuring such local license taxes the same as if the
 390 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter
 391 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local
 392 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license
 393 taxes authorized by this chapter.
 394 The governing body of any county, city or town, in adopting an ordinance under this section, shall
 395 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation
 396 under the ordinance, and in computing the local wholesale merchants' license tax on such beer
 397 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be
 398 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license
 399 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine
 400 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale
 401 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall
 402 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary
 403 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax
 404 paid by such wholesale wine licensee.
 405 D. Delivery. - No county, city or town shall impose any local alcoholic beverages license tax on any
 406 wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such
 407 wholesaler maintains no place of business in such county, city or town.
 408 E. Application of county tax within town. - Any county license tax imposed under this section shall
 409 not apply within the limits of any town located in such county, where such town now, or hereafter,
 410 imposes a town license tax on the same privilege.