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SENATE BILL NO. 443

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact §§ 4.1-100, 4.1-103, 4.1-111, 4.1-115, 4.1-116, 4.1-121, 4.1-122, 4.1-130, 4.1-131, 4.1-201, 4.1-206, 4.1-207, 4.1-210, 4.1-213, 4.1-215, 4.1-221, 4.1-226, 4.1-228, 4.1-231, 4.1-233, 4.1-234, 4.1-235, 4.1-303, 4.1-310, 4.1-313, and 4.1-330 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 4.1-120.1, 4.1-210.1, and 4.1-214.1; and to repeal §§ 4.1-104, 4.1-110, 4.1-119, 4.1-120, and 4.1-133 of the Code of Virginia, relating to the privatization of wholesale and retail sale of alcoholic beverages.

Patron—Obenshain

Referred to Committee on Rehabilitation and Social Services

Whereas, the sale of liquor and wine at retail should no longer be performed by the Commonwealth, but rather by private retail licensees; and

Whereas, the health and welfare of the citizens of the Commonwealth will be adequately protected by the regulation of private retail licensees by the Alcoholic Beverage Control Board through strict enforcement of laws and rules relating to the sale of alcoholic beverages; and

Whereas, the sale of alcoholic beverages by private retail licensees will improve customer service, selection, and price; and

Whereas, the operation and efficiency of state government will be improved; and

Whereas, it is the purpose of the General Assembly to (i) continue and increase revenue to the Commonwealth and localities; (ii) provide a system of controls, including limitations on the number of retail applications and enforcement procedures to discourage the intemperate use of liquor; (iii) create incentives and facilitate the transition of displaced employees of the Department of Alcoholic Beverage Control to other employment; and (iv) minimize disruption of services to the public; now, therefore

Be it enacted by the General Assembly of Virginia:

1. § 1. That the Alcoholic Beverage Control Board (the Board) shall, on or before December 31, 2010, complete an implementation study for the discontinuation of government stores, in accordance with the provisions of this act, and for the disposition of all real property owned or leased by the Board that is used for government stores.

§ 2. The Board shall auction or cause to be auctioned or otherwise dispose of all real property owned by it and used for government stores.

§ 3. When government stores are leased by the Board, the Board shall review all such leases to determine the (i) assignability of the lease to a person, firm, or corporation, which shall be eligible for licensure as a package store licensee; (ii) applicable lease termination provisions; and (iii) notice of termination provisions contained in such leases. Upon completion of such review, the Board shall ensure that the Commonwealth's obligation to pay rent terminates, to the extent practicable, at a time coincident with the adoption of regulations governing the issuance of package store licenses and the auctioning of such licenses.

§ 4. On or before July 1, 2011, the Board shall adopt regulations governing the issuance of package store licenses, which regulations shall authorize the issuance of a limited number of package store licenses in the Commonwealth. The number of licenses authorized by the Board shall be no greater than one license per 10,000 residents in each locality of the Commonwealth. Unless prohibited by referendum pursuant to §§ 4.1-121 and 4.1-124 of the Code of Virginia, the Board shall issue no less than one license in each locality of the Commonwealth.

§ 5. The issuance of package store licenses by the Board shall be through public auction conducted by the Board or a Virginia licensed auctioneer. The Board shall pre-qualify all potential bidders for package store licenses to ensure such bidders meet the regulatory requirements established by the Board for a holder of a package store license. By January 1, 2011, the Board shall establish the time and location of no fewer than six regional auctions to take place between July 1, 2011, and December 31, 2011. The Board may conduct such auction in any manner as it deems necessary, including hosting such auction on a publicly accessible website.

§ 6. The final sale price of each license shall become the base licensing tax for that specific license. After the initial purchase of a package store license, the annual license tax to be paid in accordance with the provisions of § 4.1-231 of the Code of Virginia shall be the base licensing tax plus an inflation adjustment equal to the annual increase, expressed as a percentage, of the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor

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59 *Statistics of the United States Department of Labor. In addition to the annual state licensing tax, any*
60 *locality in which a package store license is issued by the Board may establish an annual licensing tax*
61 *not to exceed 50 percent of the state licensing tax, plus inflation, and to be paid in accordance with the*
62 *provisions of § 4.1-233 of the Code of Virginia. The Board shall publish on its publicly accessible*
63 *website a list of all package store licenses in each locality, the base price of each state license tax paid*
64 *to the Board, the annual CPI-U adjustment to the annual licensing tax for such license, and the total*
65 *current annual licensing tax for each package store license.*

66 **2. That §§ 4.1-100, 4.1-103, 4.1-111, 4.1-115, 4.1-116, 4.1-121, 4.1-122, 4.1-130, 4.1-131, 4.1-201,**
67 **4.1-206, 4.1-207, 4.1-210, 4.1-213, 4.1-215, 4.1-221, 4.1-226, 4.1-228, 4.1-231, 4.1-233, 4.1-234,**
68 **4.1-235, 4.1-303, 4.1-310, 4.1-313, and 4.1-330 of the Code of Virginia are amended and reenacted**
69 **and that the Code of Virginia is amended by adding sections numbered 4.1-120.1, 4.1-210.1, and**
70 **4.1-214.1 as follows:**

71 § 4.1-100. Definitions.

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

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

77 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic
78 beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption
79 by inhalation.

80 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties
81 containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages,
82 and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being
83 consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be
84 considered as belonging to that variety which has the higher percentage of alcohol, however obtained,
85 according to the order in which they are set forth in this definition; except that beer may be
86 manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as
87 long as no more than 49 percent of the overall alcohol content of the finished product is derived from
88 the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol
89 content of no more than six percent by volume; or, in the case of products with an alcohol content of
90 more than six percent by volume, as long as no more than one and one-half percent of the volume of
91 the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients
92 containing alcohol.

93 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

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

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

101 "Board" means the Virginia Alcoholic Beverage Control Board.

102 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43
103 ounces.

104 "Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for
105 recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33
106 U.S.C. § 59ii.

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

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

119 "Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding
120 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 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol by volume. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth.

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

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

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

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

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

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

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

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

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

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

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

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

182 "Meal-assembly kitchen" means any commercial establishment that offers its customers, for
183 off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen
184 facilities located at the establishment.

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

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

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

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

203 *"Package store" means the licensed premises where spirits, wine, wine produced by farm wineries,*
204 *beer, and mixers are sold at retail.*

205 *"Package store licensee" means any person licensed pursuant to subdivision A 13 of § 4.1-210.*

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

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

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

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

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

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

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

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

beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"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 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.

§ 4.1-103. General powers of Board.

The Board shall have the power to:

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

2. Buy and sell any mixers;

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

4. Determine, subject to § 4.1-121, the localities within which ~~government~~ package stores ~~shall~~ may be established or operated and the ~~location~~ maximum number of such stores in each locality based on criteria established by Board regulation;

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

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

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

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

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

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

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

12. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its

subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

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

440. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;

451. Assess and collect civil penalties and civil charges for violations of this title and Board regulations;

4612. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

4713. Establish minimum food sale requirements for all retail licensees; and

4814. Do all acts necessary or advisable to carry out the purposes of this title.

§ 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 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.

98. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

409. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

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

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the

course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

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

E. Courts shall take judicial notice of Board regulations.

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

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

A. The Board shall make reports to the Governor as he may require covering the administration and enforcement of this title. Additionally, the Board shall submit an annual report to the Governor and General Assembly on or before December 15 each year, which shall contain:

1. A statement of the nature and amount of the business transacted by each government store during the year;

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

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

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

54. Any other information requested by the Governor.

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

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

§ 4.1-116. Disposition of moneys collected by Board; creation of Enterprise Fund; reserve fund.

A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of salaries, fees, costs, charges, expenses, refunds or claims of any description whatever, as required by § 2.2-1802.

All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred in establishing and maintaining government stores and in the administration of the provisions of this title, including the purchasing, building, leasing and operation of distilleries and the manufacture of alcoholic beverages.

B. The net profits derived under the provisions of this title shall be transferred by the Comptroller to the general fund of the state treasury quarterly, within fifty 50 days after the close of each quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with the administration of this title and to provide for the depreciation on the buildings, plants and equipment owned, held or operated by the Board.

C. The term "net profits" as used in this section means the total of all moneys collected by the Board less all costs, expenses and charges authorized by this section.

§ 4.1-120.1. Program for employees of discontinued government stores.

The Board shall establish a program for its employees whose positions are terminated as a result of the discontinuance of government stores and who do not qualify for or who choose not to accept early retirement. The program, developed in consultation with the Virginia Workforce Council, shall provide needed adult education and workforce training.

Notwithstanding any other provision of law, the Board shall give preference to qualified employees of the Department whose jobs are terminated as a result of the discontinuance of government stores when hiring to fill vacant positions within the Department.

§ 4.1-121. Referendum on establishment of package 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 Board of Alcoholic Beverages, other than beer and wine not produced by farm wineries, of alcoholic beverages by package store licensees of the Alcoholic Beverage Control Board 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 of alcoholic beverages by package store licensees 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 *package store licensees* 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 ~~of alcoholic beverages by package store licensees 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.

§ 4.1-130. Importation of beverages not under customs or internal revenue bonds; storage in approved warehouses; release.

A. Notwithstanding the provisions of § 4.1-310, alcoholic beverages not under United States customs bonds or internal revenue bonds may be transported into and stored in the Commonwealth in warehouses which have been approved by the Board for that purpose.

The Board may refuse to approve any warehouse as a place where alcoholic beverages may be stored if it has reasonable cause to believe that the owner or operator of the warehouse is a person to whom or the place sought to be approved is one for which the Board may refuse to grant a license under the provisions of § 4.1-222, which shall apply mutatis mutandis, unless the provisions of such section are inapplicable.

The Board may disapprove any warehouse which has been approved as a place where alcoholic beverages may be stored if it has reasonable cause to believe that a ground exists for which the Board may suspend or revoke a license under the provisions of § 4.1-225, which shall apply mutatis mutandis, unless the provisions of such section are inapplicable.

B. Alcoholic beverages stored in warehouses in the Commonwealth pursuant to this section shall be released only on permits issued by the Board for delivery ~~to the Board~~ or to persons entitled to receive them within or outside the Commonwealth.

§ 4.1-131. Importation of beverages under customs bonds and holding in warehouses; release.

A. Alcoholic beverages may be imported into the Commonwealth under United States customs bonds and be held in the Commonwealth in United States customs bonded warehouses. Alcoholic beverages may be removed from any such warehouse, wherever situated, to such a warehouse located in the Commonwealth and be held in the Commonwealth.

B. Alcoholic beverages so imported or removed to such warehouses in the Commonwealth shall be released from customs bonds in the Commonwealth only (i) ~~for delivery to the Board, or~~ to licensees entitled to receive them in the Commonwealth, as provided in § 4.1-310; (ii) to boats engaged in foreign trade, trade between the Atlantic and Pacific ports of the United States, trade between the United States and any of its possessions outside of the several states and the District of Columbia, or for shipment outside of the Commonwealth; or (iii) in accordance with subsection C for the official or personal use of persons who are on duty in the United States as members of the armed forces of any foreign country, or their immediate family, authorized by federal laws and regulations to receive imported alcoholic beverages free of customs duties and internal revenue taxes.

C. Persons operating United States customs bonded warehouses and licensed as wholesalers or retailers may make sales and deliveries, in quantities determined by the Board, of alcoholic beverages held in customs bond to foreign armed forces personnel as provided in subsection B. Such sales may be made only on permits issued by the Board which shall cover the transportation of such imported alcoholic beverages, either by the operator of a customs bonded warehouse or purchaser from the operator, from such customs bonded warehouse to the place of duty or residence of such authorized persons.

§ 4.1-201. Conduct not prohibited by this title; limitation.

A. Nothing in this title or any Board regulation adopted pursuant thereto shall prohibit:

1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or given away in violation of this title.

2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to ~~the Board~~ *a package store licensee* or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in accordance with Board regulations.

3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic beverages other than wine or beer, from soliciting and taking orders from ~~the Board~~ *a package store licensee* for such alcoholic beverages.

4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed containers from other breweries owned by such person or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

5. The granting of any retail license to a brewery or winery licensee, or to an applicant for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the places of business or establishments for which the retail licenses are desired are located upon the premises occupied or to be occupied by such winery or brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary.

6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to ~~the Board~~ *package store licensees* and to persons outside the Commonwealth for resale outside the Commonwealth.

7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. The receipt by a fruit distillery licensee of deliveries and shipments of alcoholic beverages made from fruit or fruit juices in closed containers from other fruit distilleries owned by such licensee, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to persons

551 outside of the Commonwealth for resale outside of the Commonwealth.

552 9. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to
553 another farm winery or winery licensee for the purpose of additional bottling in accordance with Board
554 regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

555 10. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed
556 containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be
557 used by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall
558 be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the
559 extent it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth.
560 The selling licensee shall provide to the receiving licensee, and both shall maintain complete and
561 accurate records of, the source of the fresh fruits or agricultural products used to produce the wine so
562 transferred.

563 11. Any distiller licensed under this title from ~~serving as an agent of the Board for the sale of~~
564 ~~alcoholic beverages, other than beer and wine, at a government store established by the Board selling~~
565 ~~spirits~~ on the licensed premises of the distiller in accordance with ~~subsection D of § 4.1-119 subdivision~~
566 ~~A 14 of § 4.1-210.~~

567 12. Any retail on-premises beer licensee, his agent or employee, from giving a sample of beer to
568 persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or retail
569 on-premises wine or beer licensee, his agent or employee, from giving a sample of wine or beer to
570 persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed
571 beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to
572 whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall
573 not exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not
574 exceed one-half ounce. No more than two product samples shall be given to any person per visit.

575 13. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not
576 licensed in the Commonwealth, from selling service items bearing alcoholic brand references to
577 on-premises retail licensees or prohibit any such retail licensee from displaying the service items on the
578 premises of his licensed establishment. Each such retail licensee purchasing such service items shall
579 retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of
580 not less than two years from the date of each sale of the service items. As used in this subdivision,
581 "service items" mean articles of tangible personal property normally used by the employees of
582 on-premises retail licensees to serve alcoholic beverages to customers including, but not limited to,
583 glasses, napkins, buckets, and coasters.

584 14. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in
585 the Commonwealth, from distributing to retail licensees and their employees novelties and specialties,
586 including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage
587 advertising. Such items may be distributed to retail licensees in quantities equal to the number of
588 employees of the retail establishment present at the time the items are delivered. Thereafter, such
589 employees may wear or display the items on the licensed premises.

590 15. Any retail on-premises wine or beer licensee, his agent or employee from offering for sale or
591 selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines
592 or beers consisting of samples of not more than five different wines or beers.

593 B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale
594 outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from
595 receiving or selling the same.

596 § 4.1-206. Alcoholic beverage licenses.

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

598 1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other
599 than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in
600 closed containers, to ~~the Board package store licensees~~ and to persons outside the Commonwealth for
601 resale outside the Commonwealth. *Such licensee may also hold a limited package store license under*
602 *the conditions specified in subdivision A 14 of § 4.1-210.*

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

607 3. Banquet facility licenses to volunteer fire departments and volunteer rescue squads, which shall
608 authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the
609 premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for
610 a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the
611 licensee or sold or charged for in any way by the person permitted to use the premises. Such premises
612 shall be a fire or rescue squad station or both, regularly occupied as such and recognized by the

governing body of the county, city or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a fire or rescue squad station, provided such other premises are occupied and under the control of the fire department or rescue squad while the privileges of its license are being exercised.

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

5. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

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

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

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

9. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

10. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

11. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

§ 4.1-207. Wine licenses.

The Board may grant the following licenses relating to wine:

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

674 juices only, which shall be used only for the fortification of wine produced by the licensee, and (ii)
675 store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board.

676 2. Wholesale wine licenses, including those granted pursuant to § 4.1-207.1, which shall authorize the
677 licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine
678 from one or more premises identified in the license, in accordance with Board regulations, in closed
679 containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the
680 Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for
681 sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for
682 ports of call of a foreign country or another state.

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

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

690 4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the
691 licensee to sell wine at the place of business designated in the winery license, in closed containers, for
692 off-premises consumption.

693 5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 18
694 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board
695 regulations, in closed containers, to (i) ~~the Board package store licensees~~, (ii) persons licensed to sell the
696 wine so manufactured at wholesale for the purpose of resale, § 4.1-326 notwithstanding, or (iii) persons
697 outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and
698 shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to ~~the~~
699 ~~Board package store licensees~~, persons licensed to sell wine at wholesale for the purpose of resale, or
700 persons outside the Commonwealth and (b) store wine in bonded warehouses located on or off the
701 licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license
702 shall be designated either as a Class A or Class B farm winery license in accordance with the limitations
703 set forth in § 4.1-219.

704 Such licenses shall also authorize the licensee to sell wine at retail at the places of business
705 designated in the licenses, which may include no more than five additional retail establishments of the
706 licensee. Wine may be sold at these business places for on-premises consumption and in closed
707 containers for off-premises consumption.

708 6. Internet wine retailer license, which shall authorize persons located within or outside the
709 Commonwealth to sell and ship wine, in accordance with § 4.1-209.1 and Board regulations, in closed
710 containers to persons in the Commonwealth to whom wine may be lawfully sold for off-premises
711 consumption. Such licensee shall not be required to comply with the monthly food sale requirement
712 established by Board regulations.

713 § 4.1-210. Mixed beverages licenses.

714 A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to
715 mixed beverages:

716 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed
717 beverages for consumption in dining areas and other designated areas of such restaurant. Such license
718 may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale
719 of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the
720 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale
721 of mixed beverages and food. For the purposes of this paragraph, other designated areas shall include
722 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas
723 may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such
724 areas are under the control of the licensee and approved by the Board.

725 If the restaurant is located on the premises of a hotel or motel with not less than four permanent
726 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,
727 bedrooms and other private rooms of such hotel or motel, such licensee may (i) sell and serve mixed
728 beverages for consumption in such designated areas, bedrooms and other private rooms and (ii) sell
729 spirits packaged in original closed containers purchased from the Board for on-premises consumption to
730 registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private
731 rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale
732 and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed
733 appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own
734 lawfully acquired spirits in bedrooms or private rooms.

735 If the restaurant is located on the premises of and operated by a private, nonprofit or profit club

exclusively for its members and their guests, or members of another private, nonprofit or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating a performing arts facility, (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings and objects significant in American history and culture, or (iii) a duly organized nonprofit corporation that has been granted an exemption from federal taxation under § 501(c)(3) of the U.S. Internal Revenue Code of 1986 that owns any rural event and entertainment park or similar facility that has a minimum of 60,000 square feet of indoor exhibit space and equine and other livestock show areas. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the sale, on the dates of performances or events in furtherance of the purposes of the nonprofit corporation or association, of alcoholic beverages, for on-premises consumption in areas upon the licensed premises approved by the Board.

6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth.

7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and beer club license to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year.

8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

10. Annual mixed beverage motor sports facility license to persons operating food concessions at any

797 outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on
798 1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed
799 beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events
800 or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing
801 areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization
802 of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
803 premises in all areas and locations covered by the license.

804 11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic or
805 charitable membership organizations that are exempt from state and federal taxation and in charge of
806 banquets conducted exclusively for its members and their guests, which shall authorize the licensee to
807 serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of
808 the place designated in the license. Such license shall authorize the licensee to conduct no more than 12
809 banquets per calendar year.

810 12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve
811 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs
812 shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the
813 restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall
814 the sale of such wine or liqueur-based drinks exceed 10 percent of the total annual gross sales.

815 13. *Package store licenses, which shall authorize the licensee to sell spirits, wine, wine produced by*
816 *farm wineries, and beer in closed containers for off-premises consumption and to deliver or ship such*
817 *alcoholic beverages to purchasers in accordance with Board regulations. Products used in connection*
818 *with alcoholic beverages, including any mixers, garnish, or garnishment applied to the rim of a glass of*
819 *distilled spirits, may be sold by such licensee in accordance with Board regulations. The annual state*
820 *licensing tax for such license shall be determined in accordance with the provisions of subdivision A 5*
821 *m of § 4.1-231. In any case in which a package store license is forfeited by a package store licensee,*
822 *the Board shall auction or cause to be auctioned such license in the locality in which such license was*
823 *initially issued by the Board.*

824 14. *Limited package store licenses, which shall authorize the licensee to sell spirits in accordance*
825 *with the provisions of this title and Board regulations only under the following conditions:*

826 a. *The licensee also holds a distiller's license;*

827 b. *The sale of such spirits is conducted on the distiller's licensed premises; and*

828 c. *At least 51 percent of the agricultural products used by such licensee to manufacture the spirits*
829 *are grown on the licensee's farm and no more than 25 percent of the agricultural products are grown*
830 *or produced outside the Commonwealth. However, upon petition by the Department of Agriculture and*
831 *Consumer Services, the Board may permit the use of a lesser percentage of products grown on the*
832 *licensee's farm if unusually severe weather or disease conditions cause a significant reduction in the*
833 *availability of agricultural products grown on the farm to manufacture the spirits during a given license*
834 *year; or*

835 d. *Such licensee is a duly organized nonprofit association holding title to real property, together with*
836 *improvements thereon that are significant in American history, under a charter from the Commonwealth*
837 *to preserve such property, and which association accepts no federal, state, or local funds.*

838 B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, or 11 shall automatically
839 include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay
840 the state and local taxes required by §§ 4.1-231 and 4.1-233.

841 § 4.1-210.1. *Operation of package stores.*

842 *Package store licensees shall operate their stores in accordance with this title and Board*
843 *regulations. All alcoholic beverages authorized by this chapter to be sold in such stores shall be in*
844 *closed containers, sealed, and have such label as prescribed by the Board. No alcoholic beverages shall*
845 *be consumed in such stores by any person, except as may be permitted by this title or Board*
846 *regulations.*

847 § 4.1-213. *Manufacture and sale of cider.*

848 A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) ~~the Board~~ any
849 *package store licensee*, (ii) any wholesale wine licensee, (iii) any retail licensee approved by the Board
850 for the purpose of selling cider, and (iv) persons outside the Commonwealth for resale outside the
851 Commonwealth.

852 B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver and
853 ship the cider in accordance with Board regulations to (i) ~~the Board~~ any *package store licensee*, (ii) any
854 wholesale wine licensee, (iii) any retail licensee approved by the Board for the purpose of selling cider,
855 and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

856 C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner
857 and to the same persons, and subject to the same limitations and conditions, as such license authorizes
858 him to sell other alcoholic beverages.

D. No additional license fees shall be charged for the privilege of handling cider.

E. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold, or both, in the Commonwealth.

F. The Board shall adopt regulations relating to the manufacture, possession, transportation and sale of cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale of cider and to ensure that the markup required to be paid will be collected.

G. "Cider" means any beverage obtained by the fermentation of the natural sugar content of apples, either with or without sugar, carbonated or otherwise, and containing not more than seven percent of alcohol by volume.

This section shall not limit the privileges set forth in subdivision A 8 of § 4.1-200, nor shall any person be denied the privilege of manufacturing and selling sweet cider.

§ 4.1-214.1. *Limitation on package store licensees.*

A. *The Board shall grant a package store license 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 licensed premises will be located. The Board shall determine the manner by which such approval shall be obtained.*

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

C. *No licensee shall operate a package store within a one-mile radius of an existing package store.*

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

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

Notwithstanding any other provision of this title, a manufacturer of malt beverages or wine, whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in § 4.1-209 upon application to the Board provided that such event is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about malt beverage or wine products. Such manufacturer shall be limited to no more than four banquet licenses for such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event.

B. This section shall not apply to:

1. Corporations operating dining cars, buffet cars, club cars or boats;

2. Brewery or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;

3. Farm winery licensees engaging in conduct authorized by subdivision 5 of § 4.1-207;

4. Manufacturers, bottlers or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers or wholesalers; or

5. Wineries, farm wineries, or breweries engaging in conduct authorized by § 4.1-209.1 or 4.1-212.1; or

6. *Distiller licensees engaging in conduct authorized by subdivision A 14 of § 4.1-210.*

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

§ 4.1-221. *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.~~

BA. 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.

CB. 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.

§ 4.1-226. Grounds for which Board shall suspend or revoke licenses.

The Board shall suspend or revoke any license, other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it finds that:

1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a gambling device, upon the premises for which the Board has granted a license for the sale of alcoholic beverages to the public.

2. In the licensed establishment of a mixed beverage licensee there (i) is entertainment of an obscene nature, entertainment commonly called stripteasing, topless entertaining, or entertainment that has employees who are not clad both above and below the waist or (ii) are employees who solicit the sale of alcoholic beverages. The provisions of clause (i) shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

3. A package store or limited package store licensee is convicted of two violations of § 4.1-304 within any five-year period.

§ 4.1-228. Suspension or revocation; disposition of beverages on hand; termination.

A. Alcoholic beverages, other than beer and wine, owned by or in possession of, or for sale by, any licensee at the time the license of such person is suspended or revoked may be disposed of as follows:

1. Sold by such person to the Board at prices and terms agreed upon by the Board and such person;
2. Sold to persons in the Commonwealth licensed to sell such alcoholic beverages upon permits granted by the Board and conditions specified by the Board; or

3. Sold to persons outside the Commonwealth for resale outside the Commonwealth upon permits granted by the Board.

B. Beer and wine owned and in possession of, or either, or for sale by, any licensee at the time the license of such person is suspended or revoked may be sold to any person authorized to purchase the same for resale upon permits granted by the Board and upon payment of any excise tax due thereon.

C. All alcoholic beverages owned by or in possession of any person whose license is suspended or revoked shall be disposed of by such person in accordance with the provisions of this section within ~~sixty~~ 60 days from the date of such suspension or revocation.

D. Alcoholic beverages owned by, or in possession of, or for sale by persons whose licenses have been terminated other than by suspension or revocation may be disposed of in accordance with ~~subsections~~ subsection A or B within such time as the Board deems proper. Such period shall not be less than ~~sixty~~ 60 days.

E. All alcoholic beverages owned by or remaining in the possession of any person described in subsections A, B, or D after the expiration of such period shall be deemed contraband and forfeited to the Commonwealth in accordance with the provisions of § 4.1-338.

§ 4.1-231. Taxes on state licenses.

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

1. Alcoholic beverage licenses. For each:

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

f. Equine sporting event license, \$130;

g. Motor car sporting event facility license, \$130;

h. Day spa license, \$100;

i. Delivery permit, \$120 if the permittee holds no other license under this title;

- 982 j. Meal-assembly kitchen license, \$100; and
 983 k. Canal boat operator license, \$100.
 984 2. Wine licenses. For each:
 985 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the
 986 license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
 987 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per
 988 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000
 989 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than
 990 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons
 991 of wine per year;
 992 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more
 993 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by
 994 the number of separate locations covered by the license;
 995 c. Wine importer's license, \$370;
 996 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
 997 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
 998 which shall include a delivery permit;
 999 f. Wine shipper's license, \$65; and
 1000 g. Internet wine retailer license, \$150.
 1001 3. Beer licenses. For each:
 1002 a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which
 1003 the license is granted, \$2,150, and if more than 10,000 barrels manufactured during such year, \$4,300;
 1004 b. Bottler's license, \$1,430;
 1005 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
 1006 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
 1007 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
 1008 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
 1009 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
 1010 license;
 1011 d. Beer importer's license, \$370;
 1012 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
 1013 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
 1014 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
 1015 cars operated daily in the Commonwealth;
 1016 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
 1017 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
 1018 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
 1019 delivery permit; and
 1020 h. Beer shipper's license, \$65.
 1021 4. Wine and beer licenses. For each:
 1022 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
 1023 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
 1024 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
 1025 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
 1026 a common carrier of passengers by airplane, \$750;
 1027 b. Retail on-premises wine and beer license to a hospital, \$145;
 1028 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
 1029 grocery store license, \$230, which shall include a delivery permit;
 1030 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall
 1031 include a delivery permit;
 1032 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
 1033 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be
 1034 \$100 per license;
 1035 f. Gourmet brewing shop license, \$230;
 1036 g. Wine and beer shipper's license, \$65; and
 1037 h. Annual banquet license, \$150.
 1038 5. Mixed beverage licenses. For each:
 1039 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
 1040 located on premises of and operated by hotels or motels, or other persons:
 1041 (i) (1) With a seating capacity at tables for up to 100 persons, \$560;
 1042 (ii) (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and

1043 (iii) (3) With a seating capacity at tables for more than 150 persons, \$1,430.
 1044 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
 1045 private, nonprofit clubs:
 1046 (i) (1) With an average yearly membership of not more than 200 resident members, \$750;
 1047 (ii) (2) With an average yearly membership of more than 200 but not more than 500 resident
 1048 members, \$1,860; and
 1049 (iii) (3) With an average yearly membership of more than 500 resident members, \$2,765.
 1050 c. Mixed beverage caterer's license, \$1,860;
 1051 d. Mixed beverage limited caterer's license, \$500;
 1052 e. Mixed beverage special events license, \$45 for each day of each event;
 1053 f. Mixed beverage club events licenses, \$35 for each day of each event;
 1054 g. Annual mixed beverage special events license, \$560;
 1055 h. Mixed beverage carrier license:
 1056 (i) (1) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in
 1057 the Commonwealth by a common carrier of passengers by train;
 1058 (ii) (2) \$560 for each common carrier of passengers by boat;
 1059 (iii) (3) \$1,475 for each license granted to a common carrier of passengers by airplane.
 1060 i. Annual mixed beverage amphitheater license, \$560;
 1061 j. Annual mixed beverage motor sports race track license, \$560;
 1062 k. Annual mixed beverage banquet license, \$500; and
 1063 l. Limited mixed beverage restaurant license:
 1064 (i) (1) With a seating capacity at tables for up to 100 persons, \$460;
 1065 (ii) (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875; and
 1066 (iii) (3) With a seating capacity at tables for more than 150 persons, \$1,330;
 1067 m. *Package store license, an amount equal to the final auction sale price of the package store*
 1068 *license, as reported by the Board, plus an inflation adjustment equal to the annual increase, expressed*
 1069 *as a percentage, of the United States Average Consumer Price Index for all items, all urban consumers*
 1070 *(CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor; and*
 1071 n. *Limited package store license, \$1,000.*
 1072 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
 1073 imposed by this section on the license for which the applicant applied.
 1074 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be
 1075 subject to proration to the following extent: If the license is granted in the second quarter of any year,
 1076 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be
 1077 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by
 1078 three-fourths.
 1079 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000
 1080 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license
 1081 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the
 1082 number of gallons permitted to be manufactured shall be prorated in the same manner.
 1083 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000
 1084 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or
 1085 winery license, such person shall pay for such unlimited license a license tax equal to the amount that
 1086 would have been charged had such license been applied for at the time that the license to manufacture
 1087 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person
 1088 shall be entitled to a refund of the amount of license tax previously paid on the limited license.
 1089 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than
 1090 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest
 1091 cent, multiplied by the number of months in the license period.
 1092 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
 1093 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
 1094 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
 1095 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer
 1096 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license
 1097 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining
 1098 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the
 1099 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases
 1100 shall be disregarded.
 1101 § 4.1-233. Taxes on local licenses.
 1102 A. In addition to the state license taxes, the annual local license taxes which may be collected shall
 1103 not exceed the following sums:
 1104 1. Alcoholic beverages. - For each:

- 1105 a. Distiller's license, \$1,000; no local license shall be required for any person who manufactures not
 1106 more than 5,000 gallons of alcohol or spirits, or both, during such license year;
 1107 b. Fruit distiller's license, \$1,500;
 1108 c. Bed and breakfast establishment license, \$40;
 1109 d. Museum license, \$10;
 1110 e. Tasting license, \$5 per license granted;
 1111 f. Equine sporting event license, \$10;
 1112 g. Day spa license, \$20;
 1113 h. Motor car sporting event facility license, \$10;
 1114 i. Meal-assembly kitchen license, \$20; and
 1115 j. Canal boat operator license, \$20.
 1116 2. Beer. - For each:
 1117 a. Brewery license, \$1,000;
 1118 b. Bottler's license, \$500;
 1119 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
 1120 d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer
 1121 license in a city, \$100, and in a county or town, \$25; and
 1122 e. Beer shipper's license, \$10.
 1123 3. Wine. - For each:
 1124 a. Winery license, \$50;
 1125 b. Wholesale wine license, \$50;
 1126 c. Farm winery license, \$50; and
 1127 d. Wine shipper's license, \$10.
 1128 4. Wine and beer. - For each:
 1129 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail
 1130 off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery
 1131 store license, in a city, \$150, and in a county or town, \$37.50;
 1132 b. Hospital license, \$10;
 1133 c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board
 1134 pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20
 1135 per license;
 1136 d. Gourmet brewing shop license, \$150;
 1137 e. Wine and beer shipper's license, \$10; and
 1138 f. Annual banquet license, \$15.
 1139 5. Mixed beverages. - For each:
 1140 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
 1141 by hotels or motels, or other persons:
 1142 (i) (1) With a seating capacity at tables for up to 100 persons, \$200;
 1143 (ii) (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
 1144 (iii) (3) With a seating capacity at tables for more than 150 persons, \$500.
 1145 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
 1146 c. Mixed beverage caterer's license, \$500;
 1147 d. Mixed beverage limited caterer's license; \$100;
 1148 e. Mixed beverage special events licenses, \$10 for each day of each event;
 1149 f. Mixed beverage club events licenses, \$10 for each day of each event;
 1150 g. Annual mixed beverage amphitheater license, \$300;
 1151 h. Annual mixed beverage motor sports race track license, \$300;
 1152 i. Annual mixed beverage banquet license, \$75; ~~and~~
 1153 j. Limited mixed beverage restaurant license:
 1154 (i) (1) With a seating capacity at tables for up to 100 persons, \$100;
 1155 (ii) (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250; and
 1156 (iii) (3) With a seating capacity at tables for more than 150 persons, \$400;
 1157 k. *Package store license, an amount not to exceed 50 percent of the annual state licensing tax*
 1158 *collected pursuant to § 4.1-231 5 m; and*
 1159 l. *Limited package store license, \$250.*
 1160 B. Common carriers. - No local license tax shall be either charged or collected for the privilege of
 1161 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the
 1162 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises
 1163 consumption only.
 1164 C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in
 1165 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local

1166 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,
 1167 may include alcoholic beverages in the base for measuring such local license taxes the same as if the
 1168 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter
 1169 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local
 1170 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license
 1171 taxes authorized by this chapter.

1172 The governing body of any county, city or town, in adopting an ordinance under this section, shall
 1173 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation
 1174 under the ordinance, and in computing the local wholesale merchants' license tax on such beer
 1175 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be
 1176 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license
 1177 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine
 1178 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale
 1179 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall
 1180 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary
 1181 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax
 1182 paid by such wholesale wine licensee.

1183 D. Delivery. - No county, city or town shall impose any local alcoholic beverages license tax on any
 1184 wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such
 1185 wholesaler maintains no place of business in such county, city or town.

1186 E. Application of county tax within town. - Any county license tax imposed under this section shall
 1187 not apply within the limits of any town located in such county, where such town now, or hereafter,
 1188 imposes a town license tax on the same privilege.

1189 § 4.1-234. Tax on wine and other alcoholic beverages; exceptions.

1190 A. In addition to the taxes imposed pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, a tax of
 1191 ~~forty~~ 40 cents is levied on each liter of wine sold in the Commonwealth. Additionally, on vermouth and
 1192 on farm winery wines sold to consumers by ~~the Board~~ *package store licensees*, the state tax shall be
 1193 four percent of the price charged.

1194 B. There is levied on ~~other alcoholic beverages~~ *spirits* sold by ~~the Board~~ *a package store or limited*
 1195 *package store licensee* a tax of ~~twenty~~ 25 percent of the price charged. This subsection shall also apply
 1196 to all ~~other~~ alcoholic beverages purchased from ~~the Board~~ *a package store or limited package store*
 1197 *licensee* by any mixed beverage licensee.

1198 C. The provisions of this section shall not apply to (i) beer, (ii) wine coolers, (iii) sales of wine by
 1199 manufacturers to wholesale wine licensees for resale to retail licensees, (iv) sales, ~~other than by or~~
 1200 ~~through government stores,~~ of alcoholic beverages for manufacturing and industrial purposes, or either,
 1201 (v) sales, ~~other than by or through government stores,~~ of alcohol for hospital and laboratory purposes, or
 1202 either, (vi) alcoholic beverages shipped from the Commonwealth to points outside the Commonwealth
 1203 for resale outside the Commonwealth, and (vii) sales to any instrumentality of the federal government.

1204 § 4.1-235. Collection; computation, distribution of tax on wine and other alcoholic beverages; refunds
 1205 and adjustments.

1206 A. ~~The Board shall collect the state~~ *State* taxes levied pursuant to § 4.1-234 *shall be collected as*
 1207 *follows:*

1208 1. Collection shall be from the purchaser at the time of or prior to sale, except as to sales made to
 1209 wholesale wine *and package store* licensees. Wholesale wine licensees shall collect the taxes at the time
 1210 of or prior to sale to retail licensees, ~~and~~ *Package store licensees shall collect the taxes at the time of*
 1211 *or prior to sale to consumers. Both wholesale wine and package store licensees* shall remit such taxes
 1212 monthly to the Board, along with such reports as may be required by the Board, at the time and in the
 1213 manner prescribed by the Board.

1214 2. ~~In establishing the prices for items sold by it to persons other than wholesale licensees, the Board~~
 1215 ~~shall include a reasonable markup.~~ The liter tax or ~~twenty~~ 20 percent tax, as appropriate, shall ~~then~~ be
 1216 added to the price of each container of alcoholic beverages. The four percent tax on vermouth and farm
 1217 winery wines shall then be added for those products. ~~In all cases the final price for each container may~~
 1218 ~~be established so as to be a multiple of five.~~

1219 ~~In accounting for the state tax on sales the Board shall divide the net sales for the quarter by 1.20~~
 1220 ~~and multiply the result by twenty percent. As to the sale of vermouth and farm winery wine, the Board~~
 1221 ~~shall divide the net sales for the quarter by 1.04 and multiply the result by four percent.~~

1222 B. The amount of tax collected under this section during each quarter shall, within ~~fifty~~ 50 days after
 1223 the close of such quarter, be certified to the Comptroller by the Board and shall be transferred by him
 1224 from the special fund described in § 4.1-116 to the general fund of the state treasury. The Board shall,
 1225 not later than June 20 of every year, estimate the yield of the state tax on sales imposed by § 4.1-234
 1226 for the quarter ending June 30 and certify the amount of such estimate to the Comptroller, whereupon
 1227 the Comptroller shall, before the end of the month, transfer the amount of such estimate from the special

fund described in § 4.1-116 to the general fund of the state treasury, subject to such adjustment on account of an overestimate or underestimate as may be indicated within ~~fifty~~ 50 days after the close of the quarter ending on June 30.

Forty-four percent of the amount derived from the liter tax levied pursuant to § 4.1-234 shall be transferred to the general fund and paid to the several counties, cities, and towns of the Commonwealth in proportion to their respective populations, and is appropriated for such purpose.

The counties, cities, and towns shall in no event receive from the taxes derived from the sale of wines less revenue than was received by such counties, cities, and towns for the year ending June 30, 1976.

Twelve percent of the amount derived from the liter tax levied shall be retained by the Board as operating revenue and distributed as provided in § 4.1-117.

C. As used in this section, the term "net sales" means gross sales less refunds to customers.

D. The Board may make a refund or adjustment of any tax paid to it under this section when (i) the wine upon which such tax has been paid has been condemned and is not permitted to be sold in the Commonwealth, or (ii) wine is returned by a retail licensee to a wholesale wine licensee for refund in accordance with Board regulations or approval. Any claim for such refund or adjustment shall be made to the Board in the report filed with the Board by the wholesale wine licensee for the period in which such return and refund occurs.

§ 4.1-303. Purchase of alcoholic beverages from person not authorized to sell; penalty.

If any person buys alcoholic beverages from any person other than ~~the Board, a government store or~~ a person authorized under this title to sell alcoholic beverages, he shall be guilty of a Class 1 misdemeanor.

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

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

B. Except as otherwise provided in § 4.1-209.1 or 4.1-212.1, no wine shall be imported, shipped, transported or brought into the Commonwealth unless it is consigned to a wholesale wine licensee.

C. Except as otherwise provided in § 4.1-209.1 or 4.1-212.1, no beer shall be imported, shipped, transported or brought into the Commonwealth except to persons licensed to sell it.

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

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

§ 4.1-313. Possessing, transporting, etc., alcoholic beverages illegally acquired; penalty.

A. No person, other than a common carrier, shall have, possess, keep, carry, ship or transport alcoholic beverages upon which the tax imposed by the laws of the United States has not been paid.

B. No person shall possess alcoholic beverages in amounts in excess of the limits provided in § 4.1-311 in containers not bearing evidence that they have been purchased from ~~the Board or~~ a person licensed to sell them, or other evidence that the tax due to the Commonwealth or the markup required by the Board has been paid, unless it can be proved that the alcoholic beverages were lawfully acquired by the possessor.

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

§ 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 *or package store* licensee; (ii) any agent, servant, or employee of such licensee; or (iii) any person connected with the licensee 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 its purchase~~ of the brand of spirits or other alcoholic beverage

1289 which was the subject matter of the unlawful solicitation or promotion. In addition, the Board may
1290 suspend or terminate the sale ~~through such stores or its purchase~~ of all brands of spirits or other
1291 alcoholic beverages manufactured or distributed by either the employer or principal of such solicitor, the
1292 broker, or by the owner of the brand of spirits unlawfully solicited or promoted. The Board may impose
1293 a civil penalty not to exceed \$250,000 in lieu of such suspension or termination of sales ~~through~~
1294 ~~government stores or purchases by the Board~~ or portion thereof, or both.

1295 Any person convicted of a violation of this subsection shall be guilty of a Class 1 misdemeanor.

1296 B. No mixed beverage licensee or any agent, servant, or employee of such licensee, or any person
1297 connected with the licensee in any capacity whatsoever in his licensed business shall, either directly or
1298 indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

1299 The Board may suspend or revoke the license granted to such licensee, or may impose a civil penalty
1300 not to exceed \$25,000 in lieu of such suspension or any portion thereof, or both.

1301 Any person convicted of a violation of this subsection shall be guilty of a Class 1 misdemeanor.

1302 **2. That §§ 4.1-104, 4.1-110, 4.1-119, 4.1-120, and 4.1-133 of the Code of Virginia are repealed.**

1303 **3. That on, and every fifth year after, July 1, 2011, the Board shall adjust the number of package**
1304 **store licenses issued in each locality and adjust such number to account for any population**
1305 **growth.**

1306 **4. That in any jurisdiction in which the establishment of government stores has been approved in**
1307 **a referendum pursuant to § 4.1-121 of the Code of Virginia, no additional referendum approving**
1308 **the establishment of a package store shall be required.**

1309 **5. That all revenue generated from the initial auction of package store licenses shall be deposited**
1310 **in the general fund. Revenue shall mean all revenues and receipts less the administrative and**
1311 **transaction costs incurred by the Board associated with (i) the sale or transfer of all interest in**
1312 **real property utilized in the wholesale and retail sale of alcoholic beverages and (ii) the auction**
1313 **and issuance of package store licenses prior to December 31, 2011.**

1314 **6. That the Board shall promulgate regulations to implement the provisions of this act to be**
1315 **effective by July 1, 2011.**