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HOUSE BILL NO. 2505

Offered January 21, 2011

A BILL to amend and reenact §§ 4.1-100, 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; art instruction studio license.

Patrons—McQuinn, Carr, Cox, J.A., Ingram, Loupassi, McClellan and Tyler

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. Definitions.

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

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

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

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

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting to replicate that of the instructor during a studio instructional session.

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

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

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

"Board" means the Virginia Alcoholic Beverage Control Board.

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

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

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available

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59 upon the premises to any person who is neither a member nor a bona fide guest of a member.

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

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

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

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

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

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

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

76 "Farm winery" means an establishment (i) located on a farm in the Commonwealth with a producing
77 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the
78 premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol
79 by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar growing
80 area or agreements for purchasing grapes or other fruits from agricultural growers within the
81 Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or
82 lessee manufactures wine that contains not more than 18 percent alcohol by volume. As used in this
83 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of
84 individuals for the purpose of manufacturing wine. In the event such cooperative is licensed as a farm
85 winery, the term "farm" as used in this definition includes all of the land owned or leased by the
86 individual members of the cooperative as long as such land is located in the Commonwealth.

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

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

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

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

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

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

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

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

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

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

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

118 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol
119 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits
120 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.

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

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

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

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

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

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

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

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

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

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

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

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

182 in full course meals with a single substantial entree.

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

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

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

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

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

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

203 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and
204 not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of
205 wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain
206 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
207 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
208 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

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

213 § 4.1-206. Alcoholic beverage licenses.

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

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

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

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

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

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

243 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.

12. Art instruction studio 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 art instruction studio 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 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 art instruction studio regularly occupied and utilized as such.

§ 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;

j. Meal-assembly kitchen license, \$100; and

- 305 k. Canal boat operator license, \$100; *and*
306 l. *Art instruction studio license*, \$100.
307 2. Wine licenses. For each:
308 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the
309 license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
310 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per
311 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000
312 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than
313 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons
314 of wine per year;
315 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more
316 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by
317 the number of separate locations covered by the license;
318 c. Wine importer's license, \$370;
319 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
320 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
321 which shall include a delivery permit;
322 f. Wine shipper's license, \$95; and
323 g. Internet wine retailer license, \$150.
324 3. Beer licenses. For each:
325 a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which
326 the license is granted, \$2,150, and if more than 10,000 barrels manufactured during such year, \$4,300;
327 b. Bottler's license, \$1,430;
328 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
329 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
330 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
331 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
332 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
333 license;
334 d. Beer importer's license, \$370;
335 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
336 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
337 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
338 cars operated daily in the Commonwealth;
339 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
340 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
341 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
342 delivery permit; and
343 h. Beer shipper's license, \$95.
344 4. Wine and beer licenses. For each:
345 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
346 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
347 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
348 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
349 a common carrier of passengers by airplane, \$750;
350 b. Retail on-premises wine and beer license to a hospital, \$145;
351 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
352 grocery store license, \$230, which shall include a delivery permit;
353 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall
354 include a delivery permit;
355 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
356 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be
357 \$100 per license;
358 f. Gourmet brewing shop license, \$230;
359 g. Wine and beer shipper's license, \$95;
360 h. Annual banquet license, \$150;
361 i. Fulfillment warehouse license, \$120; and
362 j. Marketing portal license, \$150.
363 5. Mixed beverage licenses. For each:
364 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
365 located on premises of and operated by hotels or motels, or other persons:
366 (i) With a seating capacity at tables for up to 100 persons, \$560;

- (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
- b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:
- (i) With an average yearly membership of not more than 200 resident members, \$750;
 (ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and
 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
- c. Mixed beverage caterer's license, \$1,860;
 d. Mixed beverage limited caterer's license, \$500;
 e. Mixed beverage special events license, \$45 for each day of each event;
 f. Mixed beverage club events licenses, \$35 for each day of each event;
 g. Annual mixed beverage special events license, \$560;
 h. Mixed beverage carrier license:
- (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;
 (ii) \$560 for each common carrier of passengers by boat;
 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
- i. Annual mixed beverage amphitheater license, \$560;
 j. Annual mixed beverage motor sports race track license, \$560;
 k. Annual mixed beverage banquet license, \$500; and
 l. Limited mixed beverage restaurant license:
- (i) With a seating capacity at tables for up to 100 persons, \$460;
 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875; and
 (iii) With a seating capacity at tables for more than 150 persons, \$1,330.
6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.
- B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.
- If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.
- Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.
- Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period.
- C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.
- § 4.1-233. Taxes on local licenses.
- A. In addition to the state license taxes, the annual local license taxes which may be collected shall not exceed the following sums:
1. Alcoholic beverages. - For each:
- a. Distiller's license, \$1,000; no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;
 b. Fruit distiller's license, \$1,500;

428 c. Bed and breakfast establishment license, \$40;
429 d. Museum license, \$10;
430 e. Tasting license, \$5 per license granted;
431 f. Equine sporting event license, \$10;
432 g. Day spa license, \$20;
433 h. Motor car sporting event facility license, \$10;
434 i. Meal-assembly kitchen license, \$20; ~~and~~
435 j. Canal boat operator license, \$20; *and*
436 k. *Art instruction studio license, \$20.*
437 2. Beer. - For each:
438 a. Brewery license, \$1,000;
439 b. Bottler's license, \$500;
440 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
441 d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer
442 license in a city, \$100, and in a county or town, \$25; and
443 e. Beer shipper's license, \$10.
444 3. Wine. - For each:
445 a. Winery license, \$50;
446 b. Wholesale wine license, \$50;
447 c. Farm winery license, \$50; and
448 d. Wine shipper's license, \$10.
449 4. Wine and beer. - For each:
450 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail
451 off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery
452 store license, in a city, \$150, and in a county or town, \$37.50;
453 b. Hospital license, \$10;
454 c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board
455 pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20
456 per license;
457 d. Gourmet brewing shop license, \$150;
458 e. Wine and beer shipper's license, \$10; and
459 f. Annual banquet license, \$15.
460 5. Mixed beverages. - For each:
461 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
462 by hotels or motels, or other persons:
463 (i) With a seating capacity at tables for up to 100 persons, \$200;
464 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
465 (iii) With a seating capacity at tables for more than 150 persons, \$500.
466 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
467 c. Mixed beverage caterer's license, \$500;
468 d. Mixed beverage limited caterer's license; \$100;
469 e. Mixed beverage special events licenses, \$10 for each day of each event;
470 f. Mixed beverage club events licenses, \$10 for each day of each event;
471 g. Annual mixed beverage amphitheater license, \$300;
472 h. Annual mixed beverage motor sports race track license, \$300;
473 i. Annual mixed beverage banquet license, \$75; and
474 j. Limited mixed beverage restaurant license:
475 (i) With a seating capacity at tables for up to 100 persons, \$100;
476 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250; and
477 (iii) With a seating capacity at tables for more than 150 persons, \$400.
478 B. Common carriers. - No local license tax shall be either charged or collected for the privilege of
479 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the
480 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises
481 consumption only.
482 C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in
483 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local
484 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,
485 may include alcoholic beverages in the base for measuring such local license taxes the same as if the
486 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter
487 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local
488 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license
489 taxes authorized by this chapter.

490 The governing body of any county, city or town, in adopting an ordinance under this section, shall
491 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation
492 under the ordinance, and in computing the local wholesale merchants' license tax on such beer
493 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be
494 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license
495 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine
496 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale
497 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall
498 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary
499 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax
500 paid by such wholesale wine licensee.

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

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