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SENATE BILL NO. 430

Offered January 8, 2014

Prefiled January 7, 2014

A *BILL to amend and reenact §§ 4.1-100, 4.1-112.2, 4.1-119, 4.1-123, 4.1-128, 4.1-200, 4.1-201, 4.1-201.1, 4.1-208, 4.1-209.1, 4.1-212, 4.1-212.1, 4.1-215, 4.1-231, 4.1-233, 4.1-235, 4.1-238, 4.1-324, 4.1-325.2, 4.1-326, 4.1-500, and 15.2-2288.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 4.1-219.1, relating to alcoholic beverage control; farm brewery license created; local regulation of certain activities.*

Patron—Watkins

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-112.2, 4.1-119, 4.1-123, 4.1-128, 4.1-200, 4.1-201, 4.1-201.1, 4.1-208, 4.1-209.1, 4.1-212, 4.1-212.1, 4.1-215, 4.1-231, 4.1-233, 4.1-235, 4.1-238, 4.1-324, 4.1-325.2, 4.1-326, 4.1-500, and 15.2-2288.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-219.1 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.

"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.)

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59 of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided
60 that no alcoholic beverages are served or consumed in the room where such charitable gaming is being
61 conducted while such gaming is being conducted and that no alcoholic beverages are made available
62 upon the premises to any person who is neither a member nor a bona fide guest of a member.

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

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

68 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains
69 grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes,
70 processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with
71 the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility
72 for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied
73 the grapes, fruits, or other agricultural products used in the production of the wine. The contract
74 winemaking facility shall have no right to sell the wine so produced but may charge the farm winery for
75 its services.

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

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

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

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

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

87 *"Farm brewery" means an establishment (i) located on a farm in the Commonwealth with a growing*
88 *area for barley, malt, fruit, or hops and with facilities for fermenting and bottling beer on the premises*
89 *where the owner or lessee manufactures beer or (ii) located in the Commonwealth with a growing area*
90 *for barley, malt, fruit, or hops or agreements for the purchase of barley, malt, fruit, or hops from*
91 *agricultural growers within the Commonwealth, and with facilities for fermenting and bottling beer on*
92 *the premises where the owner or lessee manufactures beer and (iii) produces no more than 15,000*
93 *barrels of beer in a calendar year. As used in this definition, "owner" and "lessee" include a*
94 *cooperative formed by an association of individuals for the purpose of manufacturing beer. In the event*
95 *such cooperative is licensed as a farm brewery, "farm" as used in this definition includes all of the land*
96 *owned or leased by the individual members of the cooperative, as long as such land is located in the*
97 *Commonwealth.*

98 "Farm winery" means an establishment (i) located on a farm in the Commonwealth with a producing
99 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the
100 premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol
101 by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar growing
102 area or agreements for purchasing grapes or other fruits from agricultural growers within the
103 Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or
104 lessee manufactures wine that contains not more than 18 percent alcohol by volume. As used in this
105 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of
106 individuals for the purpose of manufacturing wine. In the event such cooperative is licensed as a farm
107 winery, the term "farm" as used in this definition includes all of the land owned or leased by the
108 individual members of the cooperative as long as such land is located in the Commonwealth.

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

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

120 "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.

"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

182 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in
183 use for private meetings or parties limited in attendance to employees and nonpaying guests of the
184 owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats
185 which are not licensed by the Board and on which alcoholic beverages are not sold.

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

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

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

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

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

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

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

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

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

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

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

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

235 **§ 4.1-112.2. Outdoor advertising; limitations; variances; compliance with Title 33.1.**

236 A. No outdoor alcoholic beverage advertising shall be placed within 500 linear feet on the same side
237 of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the
238 advertisement is placed to the nearest edge of a building or structure located on the real property of (i) a
239 church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial
240 school, college, or university; (iii) a public or private playground or similar recreational facility; or (iv) a
241 dwelling used for residential use.

242 B. However, (i) if there is no building or structure on a playground or similar recreational facility,
243 the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed

to the property line of such playground or similar recreational facility and (ii) if a public or private school providing grade K through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school, college, or university; (iii) a public or private playground or similar recreational facility; or (iv) a dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

D. The Board may grant a permit authorizing a variance from the distance requirements of this section upon a finding that the placement of alcoholic beverage advertising on a sign will not unduly expose children to alcoholic beverage advertising.

E. Provided such signs are in compliance with local ordinances, the distance and zoning restrictions contained in this section shall not apply to:

1. Signs placed by licensees upon the property on which the licensed premises are located; or
2. Directional signs placed by manufacturers or wholesalers with advertising limited to trade names, brand names, the terms "distillery," "brewery," "*farm brewery*," "farm winery," or "winery," and tour information.

F. The distance and zoning restrictions contained in this section shall not apply to any sign that is included in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

G. Nothing in this section shall be construed to authorize billboard signs containing outdoor alcoholic beverage advertising on property zoned agricultural or residential, or on any unzoned property. Nor shall this section be construed to authorize the erection of new billboard signs containing outdoor advertising that would be prohibited under state law or local ordinance.

H. All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this title, Board regulations, and Chapter 7 (§ 33.1-351 et seq.) of Title 33.1 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage directional sign located or to be located on highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

§ 4.1-119. Operation of government stores.

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries or *farm breweries*, vermouth, mixers, and products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine per year.

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

D. Alcoholic beverages at government stores shall be sold by employees of the Board, who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board on the distiller's licensed premises, provided:

1. At least 51 percent of the agricultural products used by such licensee to manufacture the spirits are grown on the licensee's farm or land in Virginia leased by the licensee and no more than 25 percent of the agricultural products are grown or produced outside the Commonwealth. However, upon petition by the Department of Agriculture and Consumer Services, the Board may permit the use of a lesser percentage of products grown on the licensee's farm if unusually severe weather or disease conditions

cause a significant reduction in the availability of agricultural products grown on the farm to manufacture the spirits during a given license year;

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

3. Such licensee operates a museum whose licensed premises is located on the grounds of a local historic building or site;

4. Such licensee is an independently certified organic distillery, with such certification by a USDA-accredited certification agency; or

5. Such licensee is employing traditional distilling techniques, including the use of authentic copper pot stills to blend or produce spirits in any county with a population of less than 20,000.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Board and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. 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 in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits ~~or~~, farm winery, *or farm brewery* or (ii) an authorized representative of a manufacturer of distilled spirits ~~or~~, farm winery, *or farm brewery* with a permit issued by the Board pursuant to subdivision A ~~45~~ 16 of § 4.1-212, and the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits ~~or~~, wine, *or beer* set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304. The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Board shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Board, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

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

§ 4.1-123. Referendum on Sunday wine and beer sales; exception.

A. Either the qualified voters or the governing body of any county, city, town, or supervisor's election district of a county 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 of beer and wine on Sunday should be permitted within that jurisdiction. The petition of voters shall be signed by qualified voters equal in number to at least ten percent of the number registered in the jurisdiction on January 1 preceding its filing or 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 of wine and beer between the hours of twelve o'clock p.m. on each Saturday and six o'clock a.m. on each Monday be permitted in _____ (name of county, city, town, or supervisor's election district of the county)?"

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.

Notwithstanding an ordinance adopted pursuant to § 4.1-129, an affirmative majority vote on the question shall be binding on the governing body of the county, city, or town, and the governing body

shall take all actions required of it to legalize such Sunday sales.

B. Notwithstanding the provisions of subsection A or § 4.1-129, where property that constitutes a farm winery lies within, or abuts, the boundaries of Floyd and Patrick Counties, the retail sale of wine by the farm winery licensee in the county that restricts the sale of wine and beer shall be allowed at one fixed location on a parcel of land that contains all or part of the licensee's producing vineyard and the licensee's vinification facilities.

The Board may refuse to allow such licensee the exercise of his retail sales privilege in the county restricting the Sunday sale of wine and beer if the Board determines, after giving the licensee notice and a hearing, that (i) the owner of the farm winery had actual knowledge that the vinification facilities and all or part of the producing vineyard were going to be located in the county restricting the sale of wine and beer prior to construction of the vinification facilities, (ii) *the owner of the farm brewery had actual knowledge that the fermentation facilities and all or part of the growing areas for the barley, malt, fruit, or hops were going to be located in the county restricting the sale of wine and beer prior to construction of the fermentation facilities*, or ~~(ii)~~ (iii) the primary business purpose of the farm winery or farm brewery licensee is to engage in the retail sale of wine or beer, as applicable, in such county rather than the business of a farm winery or farm brewery.

Nothing in this subsection shall apply to a farm winery licensee that has a retail establishment for the sale of its wine in the county adjoining the county that restricts the Sunday sale of wine and beer if the retail establishment is within one-half mile of the farm winery's vinification facilities.

§ 4.1-128. Local ordinances or resolutions regulating or taxing alcoholic beverages.

A. No county, city, or town shall, except as provided in § 4.1-205 or § 4.1-129, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage, warehousing, and wholesaling of wine or beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law at a licensed farm winery or licensed farm brewery.

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by §§ 58.1-605, 58.1-3833 or § 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance which (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of subsection B of § 4.1-308, or the acts described in § 4.1-309 and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this title, are repealed to the extent of such inconsistency.

§ 4.1-200. Exemptions from licensure.

The licensure requirements of this chapter shall not apply to:

1. A person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, who administers or causes to be administered alcoholic beverages to any bona fide patient or inmate of the institution who is in need of the same, either by way of external application or otherwise for emergency medicinal purposes. Such person may charge for the alcoholic beverages so administered, and carry such stock as may be necessary for this purpose. No charge shall be made of any patient for the alcoholic beverages so administered to him where the same have been supplied to the institution by the Board free of charge.

2. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicine containing sufficient medication to prevent it from being used as a beverage.

3. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicinal preparations manufactured in accordance with formulas prescribed by the United States pharmacopoeia; national formulary, patent and proprietary preparations; and other bona fide medicinal and technical preparations; which contain no more alcohol than is

428 necessary to extract the medicinal properties of the drugs contained in such preparations, and no more
429 alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, and which
430 are manufactured and sold to be used exclusively as medicine and not as beverages.

431 4. The manufacture, sale and delivery or shipment of toilet, medicinal and antiseptic preparations and
432 solutions not intended for internal human use nor to be sold as beverages.

433 5. The manufacture and sale of food products known as flavoring extracts which are manufactured
434 and sold for cooking and culinary purposes only and not sold as beverages.

435 6. Any person who manufactures at his residence or at a gourmet brewing shop for domestic
436 consumption at his residence, but not to be sold, dispensed or given away, except as hereinafter
437 provided, wine or beer or both, in an amount not to exceed the limits permitted by federal law.

438 Any person who manufactures wine or beer in accordance with this subdivision may remove from
439 his residence an amount not to exceed fifty liters of such wine or fifteen gallons of such beer on any
440 one occasion for (i) personal or family use, provided such use does not violate the provisions of this
441 title or Board regulations; (ii) giving to any person to whom wine or beer may be lawfully sold an
442 amount not to exceed (a) one liter of wine per person per year or (b) seventy-two ounces of beer per
443 person per year, provided such gift is for noncommercial purposes; or (iii) giving to any person to
444 whom beer may lawfully be sold a sample of such wine or beer, not to exceed (a) one ounce of wine
445 by volume or (b) two ounces of beer by volume for on-premises consumption at events organized for
446 judging or exhibiting such wine or beer, including events held on the premises of a retail licensee.
447 Nothing in this paragraph shall be construed to authorize the sale of such wine or beer.

448 The provision of this subdivision shall not apply to any person who resides on property on which a
449 winery, farm winery, *farm brewery*, or brewery is located.

450 7. Any person who keeps and possesses lawfully acquired alcoholic beverages in his residence for his
451 personal use or that of his family. However, such alcoholic beverages may be served or given to guests
452 in such residence by such person, his family or servants when (i) such guests are 21 years of age or
453 older or are accompanied by a parent, guardian, or spouse who is 21 years of age or older, (ii) the
454 consumption or possession of such alcoholic beverages by family members or such guests occurs only in
455 such residence where the alcoholic beverages are allowed to be served or given pursuant to this
456 subdivision, and (iii) such service or gift is in no way a shift or device to evade the provisions of this
457 title.

458 8. Any person who manufactures and sells cider to distillery licensees, or any person who
459 manufactures wine from grapes grown by such person and sells it to winery licensees.

460 9. The sale of wine and beer in or through canteens or post exchanges on United States reservations
461 when permitted by the proper authority of the United States.

462 10. The keeping and consumption of any lawfully acquired alcoholic beverages at a private meeting
463 or private party limited in attendance to members and guests of a particular group, association or
464 organization at a banquet or similar affair, or at a special event, if a banquet license has been granted.
465 However, no banquet license shall be required for private meetings or private parties limited in
466 attendance to the members of a common interest community as defined in § 54.1-2345 and their guests,
467 provided (i) the alcoholic beverages shall not be sold or charged for in any way, (ii) the premises where
468 the alcoholic beverages are consumed is limited to the common area regularly occupied and utilized for
469 such private meetings or private parties, and (iii) such meetings or parties are not open to the public.

470 **§ 4.1-201. Conduct not prohibited by this title; limitation.**

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

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

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

480 3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere,
481 alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such
482 alcoholic beverages.

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

489 5. The granting of any retail license to a brewery, distillery, *farm 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 distillery, 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 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 outside of the Commonwealth for resale outside of the Commonwealth.

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

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

11. Any distiller licensed under this title from serving as an agent of the Board for the sale of alcoholic beverages, other than beer and wine, at a government store established by the Board on the licensed premises of the distiller in accordance with subsection D of § 4.1-119.

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

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

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

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

16. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired wine by bona fide customers on the premises in all areas and locations covered by the license. The licensee may charge a corkage fee to such customer for the wine so consumed; however, the licensee shall not charge any other fee to such customer.

17. Any farm brewery licensee from shipping or delivering its beer in closed containers to another farm brewery licensee for the purpose of additional bottling in accordance with Board regulations and the return of the beer so bottled to the manufacturing farm brewery.

18. Any farm brewery licensee from selling and shipping or delivering its beer in closed containers to another farm brewery licensee, the beer so sold and shipped or delivered to be used by the receiving licensee in the manufacture of beer. Any beer received under this subdivision shall be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219.1, to the extent it is produced from barley, malt, fruit, hops, or other agricultural products grown or produced in the Commonwealth. The selling licensee shall provide to the receiving licensee, and both shall maintain complete and accurate records of, the source of the barley, malt, fruit, hops, or other agricultural products used to produce the beer so transferred.

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

§ 4.1-201.1. Conduct not prohibited by this title; tastings conducted by manufacturers, wine or beer wholesalers, and authorized representatives.

A. Manufacturers of alcoholic beverages, whether or not licensed in the Commonwealth, and wine or beer wholesalers may conduct tastings of wine, beer, or spirits within hotels, restaurants, and clubs licensed for on-premises consumption provided:

1. The tastings are conducted only by (i) employees of such manufacturers or wholesalers or (ii) authorized representatives of such manufacturers or wholesalers, which authorized representatives have obtained a permit in accordance with subdivision A ~~45~~ 16 of § 4.1-212;

2. Such employees or authorized representatives are present while the tastings are being conducted;

3. No category of alcoholic beverage products is offered to consumers unless the retail licensee on whose premises the tasting is conducted is licensed to sell that category of alcoholic beverage product;

4. All alcoholic beverage products used in the tasting are served to the consumer by employees of the retail licensee;

5. The quantity of wine, beer, or spirits provided to any person during the tasting does not exceed 12 ounces of beer, five ounces of wine, or one and one-half ounces of spirits; however, for any spirits tastings, no single sample shall exceed one-half ounce per spirits product offered and no more than three spirits products may be offered to any patron; and

6. All alcoholic beverage products used in the tasting are purchased from the retail licensee on whose premises the tasting is conducted; except that no more than \$100 may be expended by or on behalf of any such manufacturer or wholesaler at any retail licensed premises during any 24-hour period. For the purposes of this subdivision, the \$100 limitation shall be exclusive of taxes and gratuities, which gratuities may not exceed 20 percent of the cost of the alcoholic beverages, including taxes, for the alcoholic beverages purchased for the tasting.

B. Manufacturers, wholesalers, and their authorized representatives shall keep complete records of each tasting authorized by this section for a period of not less than two years, which records shall include the date and place of each tasting conducted and the dollar amount expended by the manufacturer, wholesaler, or his agent or representative in the purchase of the alcoholic beverages used in the tasting.

C. Manufacturers and wholesalers shall be held liable for any violation of this section committed by their employees or authorized representative in connection with their employment or representation at any tasting event.

§ 4.1-208. Beer licenses.

The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such 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 or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

3. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

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

4. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

5. Farm brewery license, which shall authorize the licensee to manufacture beer and to sell, deliver, or ship the beer, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the beer so manufactured at wholesale for the purpose of resale, § 4.1-326 notwithstanding, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of beer and sell and deliver or ship this beer, in accordance with Board regulations, to the Board, persons licensed to sell beer at wholesale for the purpose of resale, or persons outside the Commonwealth and (b) store beer in bonded warehouses located on or off the licensed premises upon permits issued by the Board. Such licenses shall also authorize the licensee to sell beer at retail at the places of business designated in the licenses. Beer may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. 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.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta,

674 Pittsylvania, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the
675 performance of any event, in paper, plastic or similar disposable containers to patrons within all seating
676 areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon
677 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic
678 beverages on the premises in all areas and locations covered by the license.

679 g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar
680 facilities located in any county operating under the urban county executive form of government or any
681 city which is completely surrounded by such county, which shall authorize the licensee to sell beer
682 during the event, in paper, plastic or similar disposable containers to patrons or attendees within all
683 seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations
684 designated by the Board in such facilities, for on-premises consumption. Upon authorization of the
685 licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
686 premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or
687 exposition halls" and "convention centers" mean facilities conducting private or public trade shows or
688 exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

689 6. 7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed
690 containers for off-premises consumption.

691 7. 8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize
692 the licensee to sell beer at the place of business designated in the brewery license, in closed containers
693 which shall include growlers and other reusable containers, for off-premises consumption.

694 8. 9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 5 6 a and 5 6 d,
695 which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall
696 authorize the licensee to sell beer in closed containers for off-premises consumption.

697 **§ 4.1-209.1. Direct shipment of wine and beer; shipper's license.**

698 A. Holders of wine shippers' licenses and beer shippers' licenses issued pursuant to this section may
699 sell and ship not more than two cases of wine per month nor more than two cases of beer per month to
700 any person in Virginia to whom alcoholic beverages may be lawfully sold. All such sales and shipments
701 shall be for personal consumption only and not for resale. A case of wine shall mean any combination
702 of packages containing not more than nine liters of wine. A case of beer shall mean any combination of
703 packages containing not more than 288 ounces of beer. Any winery or farm winery located within or
704 outside the Commonwealth may apply to the Board for issuance of a wine shipper's license that shall
705 authorize the shipment of brands of wine and farm wine identified in such application. Any brewery or
706 farm brewery located within or outside the Commonwealth may apply to the Board for issuance of a
707 beer shipper's license that shall authorize the shipment of brands of beer identified in such application.
708 Any person located within or outside the Commonwealth who is authorized to sell wine or beer at retail
709 in their state of domicile and who is not a winery, farm winery, farm brewery, or brewery may
710 nevertheless apply for a wine or beer shipper's license, or both, if such person satisfies the requirements
711 of this section. Any brewery, farm brewery, winery, or farm winery that applies for a shipper's license
712 or authorizes any other person, other than a retail off-premises licensee, to apply for a license to ship
713 such brewery's, farm brewery's, winery's, or farm winery's brands of wine or beer shall notify any
714 wholesale licensees that have been authorized to distribute such brands that an application has been filed
715 for a shipper's license. The notice shall be in writing and in a form prescribed by the Board. The Board
716 may adopt such regulations as it reasonably deems necessary to implement the provisions of this section,
717 including regulations that permit the holder of a shipper's license to amend the same by, among other
718 things, adding or deleting any brands of wine, farm wine, or beer identified in such shipper's license.

719 B. Any applicant for a wine or beer shipper's license that does not own or have the right to control
720 the distribution of the brands of wine, farm wine, farm beer, or beer identified in such person's
721 application may be issued a shipper's license for wine or beer or both, if the applicant has obtained and
722 filed with its application for a shipper's license, and with any subsequent application for renewal thereof,
723 the written consent of either (i) the winery, farm winery, farm brewery, or brewery whose brands of
724 wine, farm wine, farm beer, or beer are identified therein or (ii) any wholesale distributor authorized to
725 distribute the wine or beer produced by the winery, farm winery, farm brewery, or brewery. Any winery,
726 farm winery, farm brewery, or brewery, or its wholesale distributor, that has provided written
727 authorization to a shipper licensed pursuant to this section to sell and ship its brand or brands of wine,
728 farm wine, farm beer, or beer shall not be restricted by any provision of this section from withdrawing
729 such authorization at any time. If such authorization is withdrawn, the winery, farm winery, farm
730 brewery, or brewery shall promptly notify such shipper licensee and the Board in writing of its decision
731 to withdraw from such shipper licensee the authority to sell and ship any of its brands, whereupon such
732 shipper licensee shall promptly file with the Board an amendment to its license eliminating any such
733 withdrawn brand or brands from the shipper's license.

734 C. The direct shipment of beer and wine by holders of licenses issued pursuant to this section shall
735 be by approved common carrier only. The Board shall develop regulations pursuant to which common

carriers may apply for approval to provide common carriage of wine or beer, or both, shipped by holders of licenses issued pursuant to this section. Such regulations shall include provisions that require (i) the recipient to demonstrate, upon delivery, that he is at least 21 years of age; (ii) the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board; and (iii) the Board-approved common carrier to submit to the Board such information as the Board may prescribe. The Board-approved common carrier shall refuse delivery when the proposed recipient appears to be under the age of 21 years and refuses to present valid identification. All licensees shipping wine or beer pursuant to this section shall affix a conspicuous notice in 16-point type or larger to the outside of each package of wine or beer shipped within or into the Commonwealth, in a conspicuous location stating: "CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY." Any delivery of alcoholic beverages to a minor by a common carrier shall constitute a violation by the common carrier. The common carrier and the shipper licensee shall be liable only for their independent acts.

D. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each shipment of wine or beer by a wine shipper licensee or a beer shipper licensee shall constitute a sale in Virginia. The licensee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the Department of Alcoholic Beverage Control and any sales taxes to the Department of Taxation.

E. Notwithstanding the provisions of § 4.1-203, the holder of a wine shipper license or beer shipper license may solicit and receive applications for subscription to a wine-of-the-month or beer-of-the-month club at in-state or out-of-state locations for which a license for on-premises consumption has been issued, other than the place where the licensee carries on the business for which the license is granted. For the purposes of this subsection, "wine-of-the-month club" or "beer-of-the-month club" shall mean an agreement between an in-state or out-of-state holder of a wine shipper license or beer shipper license and a consumer in Virginia to whom alcoholic beverages may be lawfully sold that the shipper will sell and ship to the consumer and the consumer will purchase a lawful amount of wine or beer each month for an agreed term of months.

F. Notwithstanding the provisions of § 4.1-203, a wine or beer shipper licensee may ship wine or beer as authorized by this section through the use of the services of an approved fulfillment warehouse. For the purposes of this section, a "fulfillment warehouse" means a business operating a warehouse and providing storage, packaging, and shipping services to wineries or breweries. The Board shall develop regulations pursuant to which fulfillment warehouses may apply for approval to provide storage, packaging, and shipping services to holders of licenses issued pursuant to this section. Such regulations shall include provisions that require (i) the fulfillment warehouse to demonstrate that it is appropriately licensed for the services to be provided by the state in which its place of business is located, (ii) the Board-approved fulfillment warehouse to maintain such records and to submit to the Board such information as the Board may prescribe, and (iii) the fulfillment warehouse and each wine or beer shipper licensed under this section to whom services are provided to enter into a contract designating the fulfillment warehouse as the agent of the shipper for purposes of complying with the provisions of this section.

G. Notwithstanding the provisions of § 4.1-203, a wine or beer shipper licensee may sell wine or beer as authorized by this section through the use of the services of an approved marketing portal. For the purposes of this section, a "marketing portal" means a business organized as an agricultural cooperative association under the laws of a state, soliciting and receiving orders for wine or beer and accepting and processing payment of such orders as the agent of a licensed wine or beer shipper. The Board shall develop regulations pursuant to which marketing portals may apply for approval to provide marketing services to holders of licenses issued pursuant to this section. Such regulations shall include provisions that require (i) the marketing portal to demonstrate that it is appropriately organized as an agricultural cooperative association and licensed for the services to be provided by the state in which its place of business is located, (ii) the Board-approved marketing portal to maintain such records and to submit to the Board such information as the Board may prescribe, and (iii) the marketing portal and each wine or beer shipper licensed under this section to whom services are provided to enter into a contract designating the marketing portal as the agent of the shipper for purposes of complying with the provisions of this section.

§ 4.1-212. Permits required in certain instances.

A. The Board may grant the following permits which shall authorize:

1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic

797 beverages.

798 3. Any person to keep upon his premises alcoholic beverages which he is not authorized by any
799 license to sell and which shall be used for culinary purposes only.

800 4. Any person to transport lawfully purchased alcoholic beverages within, into or through the
801 Commonwealth, except that no permit shall be required for any person shipping or transporting into the
802 Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of
803 residence to the Commonwealth in accordance with § 4.1-310.

804 5. Any person to keep, store or possess any still or distilling apparatus.

805 6. The release of alcoholic beverages not under United States custom bonds or internal revenue
806 bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive
807 them within or outside of the Commonwealth.

808 7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to
809 the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

810 8. The release of alcoholic beverages from United States internal revenue bonded warehouses for
811 delivery in accordance with subsection C of § 4.1-132.

812 9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary
813 appointed or qualified in any court proceeding, to continue to operate under the licenses previously
814 issued to any deceased or other person licensed to sell alcoholic beverages for such period as the Board
815 deems appropriate.

816 10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which
817 may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment
818 lien or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a
819 sheriff, personal representative, receiver or other officer acting under authority of a court having
820 jurisdiction in the Commonwealth, or by any secured party as defined in subdivision (a)(73) of §
821 8.9A-102 of the Virginia Uniform Commercial Code. Such sales shall be made only to persons who are
822 licensed or hold a permit to sell alcoholic beverages in the Commonwealth or to persons outside the
823 Commonwealth for resale outside the Commonwealth and upon such conditions or restrictions as the
824 Board may prescribe.

825 11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the
826 premises or property of a person licensed by the Board and who has become lawfully entitled to the
827 possession of the licensed premises to continue to operate the establishment to the same extent as a
828 person holding such licenses for a period not to exceed 60 days or for such longer period as determined
829 by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the
830 previous owner to the extent determined by the Board. Such temporary permit may be issued in
831 advance, conditioned on the above requirements.

832 12. The sale of wine and beer in kegs by any person licensed to sell wine or beer, or both, at retail
833 for off-premises consumption.

834 13. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue
835 bond in warehouses located in the Commonwealth.

836 14. The storage of wine by a licensed winery or farm winery under internal revenue bond in
837 warehouses located in the Commonwealth.

838 15. *The storage of beer by a licensed farm brewery under internal revenue bond in warehouses*
839 *located in the Commonwealth.*

840 16. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has
841 filed an application for a permit in which the applicant represents (i) that he or she is under contract to
842 conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the
843 application; (ii) that such contract grants to the applicant the authority to act as the authorized
844 representative of such manufacturer or wholesaler; and (iii) that such contract contains an
845 acknowledgment that the manufacturer or wholesaler named in the application may be held liable for
846 any violation of § 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision
847 shall be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with
848 § 4.1-229.

849 ~~16.~~ 17. Any person who, through contract, lease, concession, license, management or similar
850 agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of
851 the premises of a person licensed by the Board to continue to operate the establishment to the same
852 extent as a person holding such licenses, provided such person has made application to the Board for a
853 license at the same premises. The permit shall (i) confer the privileges of any licenses held by the
854 previous owner to the extent determined by the Board and (ii) be valid for a period of 120 days or for
855 such longer period as may be necessary as determined by the Board pending the completion of the
856 processing of the permittee's license application. No permit shall be issued without the written consent
857 of the previous licensee. No permit shall be issued under the provisions of this subdivision if the
858 previous licensee owes any state or local taxes, or has any pending charges for violation of this title or

any Board regulation, unless the permittee agrees to assume the liability of the previous licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to the effective date of the contract, in which case the permit when issued shall become effective on the effective date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance with the provisions of this title and any Board regulation and (b) the previous licensee shall not be held liable for any violation of this title or any Board regulation committed by, or any errors or omissions of, the permittee.

B. Nothing in subdivision A 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

§ 4.1-212.1. Permits; delivery of wine and beer; regulations of Board.

A. Any brewery, winery, ~~or~~ farm winery, *or farm brewery* located within or outside the Commonwealth that is authorized to engage in the retail sale of wine or beer for off-premises consumption may apply to the Board for issuance of a delivery permit that shall authorize the delivery of the brands of beer, wine, ~~and~~ farm wine, *and farm beer* produced by the same brewery, winery, ~~or~~ farm winery, *or farm brewery* in closed containers to consumers within the Commonwealth for personal consumption.

B. Any person located within or outside the Commonwealth who is authorized to sell wine or beer at retail for off-premises consumption in their state of domicile, and who is not a brewery, winery, ~~or~~ farm winery, *or farm brewery*, may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm wine *or farm beer* it is authorized to sell in its state of domicile, in closed containers, to consumers within the Commonwealth for personal consumption.

C. All such deliveries shall be to consumers within the Commonwealth for personal consumption only, and not for resale. All such deliveries of beer, wine, or farm wine shall be performed by the owner or any agent, officer, director, shareholder or employee of the permittee. No more than four cases of wine nor more than four cases of beer may be delivered at one time to any person in Virginia to whom alcoholic beverages may be lawfully sold; except that the permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the Department in writing at least one business day in advance of any such delivery, which notice contains the name and address of the intended recipient. The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this section. Such regulations shall include provisions that require (i) the recipient to demonstrate, upon delivery, that he is at least 21 years of age; and (ii) the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board.

D. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each delivery of wine or beer by a permittee shall constitute a sale in Virginia. The permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the Department of Alcoholic Beverage Control and any sales taxes to the Department of Taxation.

§ 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 (a) at a place approved by the Board and (b) 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, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;

920 3. Farm winery licensees engaging in conduct authorized by subdivision 5 of § 4.1-207 or farm
921 brewery licensees engaging in the conduct authorized by subdivision 5 of § 4.1-208;

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

927 5. Wineries, farm wineries, farm breweries, or breweries engaging in conduct authorized by §
928 4.1-209.1 or 4.1-212.1; or

929 6. One out-of-state winery, not under common control or ownership with any other winery, that is
930 under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so
931 long as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the
932 restaurant before it is offered for sale to consumers.

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

940 **§ 4.1-219.1. Limitation on farm breweries.**

941 *The farm brewery license shall be restricted to a brewery at which such beer manufactured is*
942 *located that is constructed upon a tract of land exclusively under the control of the licensee, and the*
943 *licensee is actively engaged in farming on or adjacent to the brewery premises and is growing and*
944 *cultivating barley, malt, fruit, hops, or other agricultural products used in the production of beer.*

945 *However, upon petition by the Department of Agriculture and Consumer Services, the Board may*
946 *permit the use of out-of-state products if (i) supplies grown or produced in the Commonwealth are*
947 *insufficient for a farm brewery to achieve the level of production that otherwise could be anticipated*
948 *during a given license year or (ii) if unusually severe weather or disease conditions cause a significant*
949 *reduction in the availability of barley, malt, fruit, hops, or other agricultural products grown or*
950 *produced on the farm to manufacture beer during a given license year.*

951 *As used in this section, the term "farm" includes all of the land owned or leased by the farm brewery*
952 *licensee, as long as such land is located in the Commonwealth.*

953 **§ 4.1-231. Taxes on state licenses.**

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

955 1. Alcoholic beverage licenses. For each:

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

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

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

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

962 e. Tasting license, \$40 per license granted;

963 f. Equine sporting event license, \$130;

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

965 h. Day spa license, \$100;

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

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

968 k. Canal boat operator license, \$100.

969 2. Wine licenses. For each:

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

972 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per
973 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000
974 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than
975 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons
976 of wine per year;

977 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more
978 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by
979 the number of separate locations covered by the license;

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

981 d. Retail off-premises winery license, \$145, which shall include a delivery permit;

e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;

f. Wine shipper's license, \$95; and

g. Internet wine retailer license, \$150.

3. Beer licenses. For each:

a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150, and if more than 10,000 barrels manufactured during such year, \$4,300;

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

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

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;

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

e. *Farm brewery license, if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150; if more than 10,000 but not more than 15,000 barrels of beer manufactured during the year in which the license is granted, \$3,725;*

f. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;

g. Retail off-premises beer license, \$120, which shall include a delivery permit;

h. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;

i. Beer shipper's license, \$95; and

j. Retail off-premises brewery license, \$120, which shall include a delivery permit.

4. Wine and beer licenses. For each:

a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;

b. Retail on-premises wine and beer license to a hospital, \$145;

c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;

d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;

e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$100 per license;

f. Gourmet brewing shop license, \$230;

g. Wine and beer shipper's license, \$95;

h. Annual banquet license, \$150;

i. Fulfillment warehouse license, \$120;

j. Marketing portal license, \$150; and

k. Gourmet oyster house license, \$230.

5. Mixed beverage licenses. For each:

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

(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;

- 1043 d. Mixed beverage limited caterer's license, \$500;
1044 e. Mixed beverage special events license, \$45 for each day of each event;
1045 f. Mixed beverage club events licenses, \$35 for each day of each event;
1046 g. Annual mixed beverage special events license, \$560;
1047 h. Mixed beverage carrier license:
1048 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the
1049 Commonwealth by a common carrier of passengers by train;
1050 (ii) \$560 for each common carrier of passengers by boat;
1051 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
1052 i. Annual mixed beverage amphitheater license, \$560;
1053 j. Annual mixed beverage motor sports race track license, \$560;
1054 k. Annual mixed beverage banquet license, \$500;
1055 l. Limited mixed beverage restaurant license:
1056 (i) With a seating capacity at tables for up to 100 persons, \$460;
1057 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
1058 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
1059 m. Annual mixed beverage motor sports facility license, \$560; and
1060 n. Annual mixed beverage performing arts facility license, \$560.
1061 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
1062 imposed by this section on the license for which the applicant applied.
1063 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be
1064 subject to proration to the following extent: If the license is granted in the second quarter of any year,
1065 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be
1066 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by
1067 three-fourths.
1068 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000
1069 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license
1070 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the
1071 number of gallons permitted to be manufactured shall be prorated in the same manner.
1072 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000
1073 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or
1074 winery license, such person shall pay for such unlimited license a license tax equal to the amount that
1075 would have been charged had such license been applied for at the time that the license to manufacture
1076 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person
1077 shall be entitled to a refund of the amount of license tax previously paid on the limited license.
1078 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than
1079 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest
1080 cent, multiplied by the number of months in the license period.
1081 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
1082 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
1083 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
1084 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer
1085 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license
1086 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining
1087 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the
1088 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases
1089 shall be disregarded.
1090 **§ 4.1-233. Taxes on local licenses.**
1091 A. In addition to the state license taxes, the annual local license taxes which may be collected shall
1092 not exceed the following sums:
1093 1. Alcoholic beverages. - For each:
1094 a. Distiller's license, \$1,000; no local license shall be required for any person who manufactures not
1095 more than 5,000 gallons of alcohol or spirits, or both, during such license year;
1096 b. Fruit distiller's license, \$1,500;
1097 c. Bed and breakfast establishment license, \$40;
1098 d. Museum license, \$10;
1099 e. Tasting license, \$5 per license granted;
1100 f. Equine sporting event license, \$10;
1101 g. Day spa license, \$20;
1102 h. Motor car sporting event facility license, \$10;
1103 i. Meal-assembly kitchen license, \$20; and
1104 j. Canal boat operator license, \$20.

- 1105 2. Beer. - For each:
- 1106 a. Brewery license, \$1,000;
- 1107 b. Bottler's license, \$500;
- 1108 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
- 1109 d. *Farm brewery license*, \$50;
- 1110 e. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer
- 1111 license in a city, \$100, and in a county or town, \$25; and
- 1112 e. f. Beer shipper's license, \$10.
- 1113 3. Wine. - For each:
- 1114 a. Winery license, \$50;
- 1115 b. Wholesale wine license, \$50;
- 1116 c. Farm winery license, \$50; and
- 1117 d. Wine shipper's license, \$10.
- 1118 4. Wine and beer. - For each:
- 1119 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail
- 1120 off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery
- 1121 store license, in a city, \$150, and in a county or town, \$37.50;
- 1122 b. Hospital license, \$10;
- 1123 c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board
- 1124 pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20
- 1125 per license;
- 1126 d. Gourmet brewing shop license, \$150;
- 1127 e. Wine and beer shipper's license, \$10;
- 1128 f. Annual banquet license, \$15; and
- 1129 g. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
- 1130 5. Mixed beverages. - For each:
- 1131 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
- 1132 by hotels or motels, or other persons:
- 1133 (i) With a seating capacity at tables for up to 100 persons, \$200;
- 1134 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
- 1135 (iii) With a seating capacity at tables for more than 150 persons, \$500.
- 1136 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
- 1137 c. Mixed beverage caterer's license, \$500;
- 1138 d. Mixed beverage limited caterer's license; \$100;
- 1139 e. Mixed beverage special events licenses, \$10 for each day of each event;
- 1140 f. Mixed beverage club events licenses, \$10 for each day of each event;
- 1141 g. Annual mixed beverage amphitheater license, \$300;
- 1142 h. Annual mixed beverage motor sports race track license, \$300;
- 1143 i. Annual mixed beverage banquet license, \$75;
- 1144 j. Limited mixed beverage restaurant license:
- 1145 (i) With a seating capacity at tables for up to 100 persons, \$100;
- 1146 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
- 1147 (iii) With a seating capacity at tables for more than 150 persons, \$400;
- 1148 k. Annual mixed beverage motor sports facility license, \$300; and
- 1149 l. Annual mixed beverage performing arts facility license; \$300.
- 1150 B. Common carriers. - No local license tax shall be either charged or collected for the privilege of
- 1151 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the
- 1152 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises
- 1153 consumption only.
- 1154 C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in
- 1155 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local
- 1156 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,
- 1157 may include alcoholic beverages in the base for measuring such local license taxes the same as if the
- 1158 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter
- 1159 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local
- 1160 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license
- 1161 taxes authorized by this chapter.
- 1162 The governing body of any county, city or town, in adopting an ordinance under this section, shall
- 1163 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation
- 1164 under the ordinance, and in computing the local wholesale merchants' license tax on such beer
- 1165 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be

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

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

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

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

A. The Board shall collect the state taxes levied pursuant to § 4.1-234 as follows:

1. Collection shall be from the purchaser at the time of or prior to sale, except as to sales made to wholesale wine licensees. Wholesale wine licensees shall collect the taxes at the time of or prior to sale to retail licensees, and shall remit such taxes monthly to the Board, along with such reports as may be required by the Board, at the time and in the manner prescribed by the Board.

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

In accounting for the state tax on sales the Board shall divide the net sales for the quarter by 1.20 and multiply the result by 20 percent. As to the sale of vermouth ~~and~~, farm winery wine, *or farm winery beer*, the Board shall divide the net sales for the quarter by 1.04 and multiply the result by four percent.

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

The portion of wine liter tax collected pursuant to § 4.1-234 that is attributable to the sale of wine produced by a farm winery shall be deposited in the Virginia Wine Promotion Fund established pursuant to § 3.2-3005.

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.

§ 4.1-238. Bond required to secure excise tax liability on beer and wine coolers, and wine stored in bonded warehouses.

A. Every manufacturer, bottler or wholesaler, as a condition precedent to obtaining a license to sell beer or wine coolers to a licensed retailer, shall file a bond with the Board in such sum and with such surety as the Board deems adequate to cover the tax liability of each such manufacturer, bottler or wholesaler. The sum of such bond shall be proportioned to the volume of business of each such

manufacturer, bottler or wholesaler, but shall in no event be less than \$1,000 or more than \$100,000. Such bond shall be conditioned upon the payment by such manufacturer, bottler or wholesaler of the tax imposed by § 4.1-236.

B. Every holder of a bonded warehouse permit, issued in accordance with subdivision A 14 of § 4.1-212, as a condition to obtaining the permit, shall file a bond with the Board in such sum and with such surety as the Board deems adequate to cover the tax liability of each such permittee. The sum of such bond shall be proportioned to the volume of business of each such manufacturer, bottler, or wholesaler, but shall in no event be less than \$1,000 or more than \$10,000. Such bond shall be conditioned upon the payment by the permittee of the tax imposed by § 4.1-234.

C. The Board may waive the requirement of both the surety and the bond, in cases where a manufacturer, bottler or wholesaler has previously demonstrated his financial responsibility.

D. Upon the termination of the bond, its guaranty or surety, the Board, upon reasonable notice to the manufacturer, bottler or wholesaler so licensed, may suspend the license so granted until such times as the required bond is filed or the proper surety or guaranty is given.

§ 4.1-324. Illegal sale or keeping of alcoholic beverages by licensees; penalty.

A. No licensee or any agent or employee of such licensee shall:

1. Sell any alcoholic beverages of a kind other than that which such license or this title authorizes him to sell;

2. Sell beer to which wine, spirits or alcohol has been added, except that a mixed beverage licensee may combine wine or spirits, or both, with beer pursuant to a patron's order;

3. Sell wine to which spirits or alcohol, or both, have been added, otherwise than as required in the manufacture thereof under Board regulations, except that a mixed beverage licensee may (i) make sangria that contains brandy, triple sec, or other similar spirits and (ii) combine beer or spirits, or both, with wine pursuant to a patron's order;

4. Sell alcoholic beverages of a kind which such license or this title authorizes him to sell, but to any person other than to those to whom such license or this title authorizes him to sell;

5. Sell alcoholic beverages which such license or this title authorizes him to sell, but in any place or in any manner other than such license or this title authorizes him to sell;

6. Sell any alcoholic beverages when forbidden by this title;

7. Keep or allow to be kept, other than in his residence and for his personal use, any alcoholic beverages other than that which he is authorized to sell by such license or by this title;

8. Sell any beer to a retail licensee, except for cash, if the seller holds a brewery, bottler's or wholesale beer license *or a farm brewery license*;

9. Sell any beer on draft and fail to display to customers the brand of beer sold or misrepresent the brand of any beer sold;

10. Sell any wine for delivery within the Commonwealth to a retail licensee, except for cash, if the seller holds a wholesale wine or farm winery license;

11. Keep or allow to be kept or sell any vaporized form of an alcoholic beverage produced by an alcohol vaporizing device;

12. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except: (i) for a frozen alcoholic beverage; and (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; or

13. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

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

C. Neither this section nor any Board regulation shall prohibit an on-premises restaurant licensee from using alcoholic beverages that the licensee otherwise is authorized to purchase and possess for the purposes of preparing and selling for on-premises consumption food products with a final alcohol content of more than one-half of one percent by volume, as long as such food products are sold to and consumed by persons who are 21 years of age or older.

§ 4.1-325.2. Prohibited acts by employees of wine or beer licensees; penalty.

A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a

1289 customer for quality control purposes.

1290 B. For the purposes of subsection A, a wine or beer wholesaler or farm winery *or farm brewery*
1291 licensee or its employees that participate in a wine or beer tasting sponsored by a retail wine or beer
1292 licensee shall not be deemed to be agents of the retail wine or beer licensee.

1293 C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic
1294 beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so
1295 long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to
1296 a person responsible for the planning, preparation or conduct on any conference, convention, trade show
1297 or event held or to be held on the premises of the licensee, when such gift is made in the course of
1298 usual and customary business entertainment and is in no way a shift or device to evade the restriction
1299 set forth in this subsection; (iii) pursuant to subsection C of § 4.1-209; or (iv) pursuant to subdivision A
1300 12 of § 4.1-201. Any gift permitted by this subsection shall be subject to the taxes imposed by this title
1301 on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in
1302 accordance with this subsection.

1303 D. Any person convicted of a violation of this section shall be subject to a civil penalty in an
1304 amount not to exceed \$500.

1305 **§ 4.1-326. Sale of; purchase for resale; wine or beer from a person without a license; penalty.**

1306 No licensee, other than a common carrier operating in interstate or foreign commerce, licensed to sell
1307 wine or beer at retail shall purchase for resale or sell any wine or beer purchased from anyone other
1308 than a wholesale wine, farm winery, brewery, *farm brewery*, bottler's, or wholesale beer licensee.

1309 Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

1310 **§ 4.1-500. Definitions.**

1311 As used in this chapter, unless the context requires a different meaning:

1312 "Agreement" means a commercial relationship, not required to be evidenced in writing, of definite or
1313 indefinite duration, between a brewery and beer wholesaler pursuant to which the wholesaler has been
1314 authorized to distribute one or more of the brewery's brands of beer. The doing or accomplishment of
1315 any of the following acts shall constitute prima facie evidence of an agreement within the meaning of
1316 this definition:

1317 1. The shipment, preparation for shipment or acceptance of any order by any brewery for any beer to
1318 a beer wholesaler within the Commonwealth.

1319 2. The payment by a beer wholesaler and the acceptance of payment by any brewery for the
1320 shipment of an order of beer intended for sale in the Commonwealth.

1321 "Beer wholesaler," "wholesaler," "beer distributor," and "distributor" mean any wholesale beer
1322 licensee, including any successor-in-interest to such person, within the Commonwealth offering beer for
1323 sale or resale to retailers or other beer wholesalers without regard to whether the business of the person
1324 is conducted under the terms of an agreement with a licensed brewery.

1325 "Brand" means any word, name, group of letters, symbol or combination thereof adopted and used
1326 by a brewery to identify a specific malt beverage product and to distinguish that product from other
1327 beers produced or marketed by that brewery or other breweries. The use of general corporate logos or
1328 symbols or the use of advertising messages, whether appearing on the product packaging or elsewhere,
1329 shall not be considered to be a brand, brand extension, or part thereof as these terms are used in this
1330 chapter.

1331 "Brand extension" and "extension of a brand" mean any brand, which incorporates all or a substantial
1332 part of the unique features of a preexisting brand of the same brewery and which relies to a significant
1333 extent on the goodwill associated with such preexisting brand.

1334 "Brewery" means every person, including any authorized representative of such person pursuant to
1335 § 4.1-218 ~~which~~, *that* (i) is licensed as a brewery *or farm brewery* located within the Commonwealth,
1336 (ii) holds a beer importer's license and is not simultaneously licensed as a beer wholesaler, or (iii)
1337 manufactures any malt beverage, has title to any malt beverage products excluding licensed Virginia
1338 wholesalers and retailers, or has the contractual right to distribute under its own brand any malt
1339 beverage product whether licensed in the Commonwealth or not, who enters into an agreement with any
1340 beer wholesaler licensed to do business in the Commonwealth.

1341 "Dual distributorships" means the existence of agreements between a single brewery and more than
1342 one wholesaler in a given territory as the result of a purchase of another brewery.

1343 "Nonsurviving brewery" means any brewery which is purchased by another brewery as provided in
1344 § 4.1-504 and, as a result, ceases to exist as an independent legal entity.

1345 "Person" means a natural person, corporation, partnership, trust, agency, or other entity as well as the
1346 individual officers, directors or other persons in active control of the activities of each such entity.

1347 "Person" also includes heirs, assigns, personal representatives and conservators.

1348 "Purchase" includes, but is not limited to, the sale of stock, sale of assets, merger, lease, transfer or
1349 consolidation.

1350 "Surviving brewery" means a brewery which purchases a nonsurviving brewery as provided in

§ 4.1-504.

"Territory" or "sales territory" means the area of sales responsibility within the Commonwealth expressly or impliedly designated by any agreement between any beer wholesaler and brewery for the brand or brands of any brewer.

§ 15.2-2288.3. Licensed farm wineries; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine and beer industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries or farm breweries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery or farm brewery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries or farm breweries throughout the Commonwealth. Usual and customary activities and events at farm wineries or farm breweries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries or farm breweries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery or farm brewery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. [Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery or licensed farm brewery who resides at the farm winery or farm brewery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine or beer is not sold or marketed and for which no consideration is received by the farm winery or farm brewery or its agents differently from private personal gatherings by other citizens.

E. No locality shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 5 of § 4.1-207:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;

2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;

3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;

4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;

5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or

6. The sale of wine-related items that are incidental to the sale of wine.

F. No locality shall regulate any of the following activities of a farm brewery licensed in accordance with subdivision 5 of § 4.1-208:

1. The production and harvesting of barley, malt, fruit, hops, or other agricultural products and the manufacturing of beer;

2. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of the licensed farm brewery;

3. The direct sale and shipment of beer by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;

4. The sale and shipment of beer to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;

5. The storage, warehousing, and wholesaling of beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or

6. The sale of beer-related items that are incidental to the sale of beer.

G. No local ordinance shall impose minimum parking, road access, or road upgrade requirements on any farm brewery licensed in accordance with subdivision 5 of § 4.1-208, unless there is a substantial impact on the health, safety, or welfare of the public.