

VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

CHAPTER 348

An Act to amend and reenact §§ 4.1-100, 4.1-126, 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; licenses; mixed beverage licenses for certain establishments; art instruction studio license.

[S 1287]

Approved March 19, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-126, 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. Definitions.

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

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

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

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

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

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

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

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

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

"Board" means the Virginia Alcoholic Beverage Control Board.

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

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

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

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

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

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

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 4.1-126. Licenses for establishments in national forests, certain adjoining lands, on the Blue Ridge Parkway, and certain other properties.

A. Notwithstanding the provisions of § 4.1-124, mixed beverage licenses may be granted to establishments located (i) on property owned by the federal government in Jefferson National Forest, George Washington National Forest or the Blue Ridge Parkway; (ii) at altitudes of 3,800 feet or more above sea level on property adjoining the Jefferson National Forest; (iii) at an altitude of 2,800 feet or more above sea level on property adjoining the Blue Ridge Parkway at Mile Marker No. 189; (iv) on property within one-quarter mile of Mile Marker No. 174 on the Blue Ridge Parkway; (v) on property developed by a nonprofit economic development company or an industrial development authority; (vi) on old Jonesboro Road between Routes 823 and 654, located approximately 5,500 feet from the City of Bristol; (vii) on property developed as a motor sports road racing club, of which the track surface is 3.27 miles in length, on 1,200 acres of rural property bordering the Dan River in Halifax County, with such license applying to any area of the property deemed appropriate by the Board; (viii) at an altitude of 2,645 feet or more above sea level on land containing at least 750 acres used for recreational purposes and located within two and one-half miles of the Blue Ridge Parkway; (ix) on property fronting U.S. Route 11, with portions fronting Route 659, adjoining the City of Bristol and located approximately 2,700 feet north of mile marker 7.7 on Interstate 81; (x) on property bounded on the north by U.S. Route 11 and to the south by Interstate 81, and located between mile markers 8.1 and 8.5 of Interstate 81; (xi) on property consisting of at least 10,000 acres and operated as a resort located in any county with a population between 19,200 and 19,500; (xii) on property located as of December 1, 2012, within the Montgomery County Route 177 Urban Development Area, which area is adjacent to Exit 109 on Interstate 81; (xiii) on property fronting Route 603, with portions fronting on Interstate 81, located approximately 1,100 feet from the intersection of Route 603 and Interstate 81 at Exit 128; (xiv) on property located south of and within 1,400 feet of Interstate 81 between mile markers 38.8 and 39.5; (xv) on property bounded on the north by Interstate 81, on the west and south by State Route 691, and on the east by State Route 689; (xvi) on property located south of and within 1,500 feet of Interstate 81 between mile markers 44 and 44.4; (xvii) on property within 1,500 feet of Interstate 81 on either frontage road between mile markers 75 and 86 in the County of Wythe; (xviii) on property within the boundary of any town incorporated in 1875 located adjacent to the intersection of Interstate 81 and

Route 91; (xix) on property adjacent to the intersection of U.S. Route 220 North and State Route 57, operated as a country club as of December 31, 1926, in Henry County; (xx) on property adjacent to Lake Lanier, operated as a country club as of December 31, 1932, in Henry County; ~~and~~ (xxi) on property fronting Old Jonesboro Road between Routes 823 and 808, located approximately 4,500 feet south of Interstate 81, and operated as a country club; (xxii) *on property located west of Route 58 and approximately 3,000 feet north of Interstate 81*; (xxiii) *on property fronting U.S. Route 11 and 1,300 feet north of Interstate 81*; (xxiv) *on property located within 1,500 feet of Exit 26 on Interstate 81*; (xxv) *on property within the boundary of any town incorporated in 1911 located adjacent to the intersection of Route 63 and Route 58 Alternate*; and (xxvi) *on property within the boundary of any town incorporated in 1894 consisting of 1.9 square miles and, prior to the town's incorporation was known as Guest Station*.

B. In granting any license under clauses (iii) and (iv) of subsection A, the Board shall consider whether the (i) voters of the jurisdiction in which the establishment is located have voted by referendum under the provisions of § 4.1-124 to prohibit the sale of mixed beverages and (ii) granting of a license will give that establishment an unfair business advantage over other establishments in the same jurisdiction. If an unfair business advantage will result, then no license shall be granted.

§ 4.1-206. Alcoholic beverage licenses.

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

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

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

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

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

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

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

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

8. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii)

serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

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

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

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

12. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

13. *Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.*

§ 4.1-231. Taxes on state licenses.

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

1. Alcoholic beverage licenses. For each:

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

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

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

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

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

f. Equine sporting event license, \$130;

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

h. Day spa license, \$100;

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

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

k. Canal boat operator license, \$100; ~~and~~

l. Annual arts venue event license, \$100; *and*

m. Art instruction studio license, \$100.

2. Wine licenses. For each:

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

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

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

- c. Wine importer's license, \$370;
- 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 500 barrels of beer manufactured during the year in which the license is granted, \$350; 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. 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;

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

g. 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;

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

i. 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;

- d. Mixed beverage limited caterer's license, \$500;
 - e. Mixed beverage special events license, \$45 for each day of each event;
 - f. Mixed beverage club events licenses, \$35 for each day of each event;
 - g. Annual mixed beverage special events license, \$560;
 - h. Mixed beverage carrier license:
 - (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;
 - (ii) \$560 for each common carrier of passengers by boat;
 - (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
 - i. Annual mixed beverage amphitheater license, \$560;
 - j. Annual mixed beverage motor sports race track license, \$560;
 - k. Annual mixed beverage banquet license, \$500;
 - l. Limited mixed beverage restaurant license:
 - (i) With a seating capacity at tables for up to 100 persons, \$460;
 - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
 - (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
 - m. Annual mixed beverage motor sports facility license, \$560; and
 - n. Annual mixed beverage performing arts facility license, \$560.
6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

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

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

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

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

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

§ 4.1-233. Taxes on local licenses.

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

- 1. Alcoholic beverages. - For each:
 - a. Distiller's license, \$1,000; no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;
 - b. Fruit distiller's license, \$1,500;
 - c. Bed and breakfast establishment license, \$40;
 - d. Museum license, \$10;
 - e. Tasting license, \$5 per license granted;
 - f. Equine sporting event license, \$10;
 - g. Day spa license, \$20;
 - h. Motor car sporting event facility license, \$10;
 - i. Meal-assembly kitchen license, \$20;
 - j. Canal boat operator license, \$20; ~~and~~
 - k. Annual arts venue event license, \$20; *and*
 - l. Art instruction studio license, \$20.

2. Beer. - For each:
 - a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000;
 - b. Bottler's license, \$500;
 - c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
 - d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer license in a city, \$100, and in a county or town, \$25; and
 - e. Beer shipper's license, \$10.
 3. Wine. - For each:
 - a. Winery license, \$50;
 - b. Wholesale wine license, \$50;
 - c. Farm winery license, \$50; and
 - d. Wine shipper's license, \$10.
 4. Wine and beer. - For each:
 - a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;
 - b. Hospital license, \$10;
 - c. Banquet license, \$5 for each license granted, 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 \$20 per license;
 - d. Gourmet brewing shop license, \$150;
 - e. Wine and beer shipper's license, \$10;
 - f. Annual banquet license, \$15; and
 - g. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
 5. Mixed beverages. - For each:
 - a. Mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons:
 - (i) With a seating capacity at tables for up to 100 persons, \$200;
 - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
 - (iii) With a seating capacity at tables for more than 150 persons, \$500.
 - b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
 - c. Mixed beverage caterer's license, \$500;
 - d. Mixed beverage limited caterer's license, \$100;
 - e. Mixed beverage special events licenses, \$10 for each day of each event;
 - f. Mixed beverage club events licenses, \$10 for each day of each event;
 - g. Annual mixed beverage amphitheater license, \$300;
 - h. Annual mixed beverage motor sports race track license, \$300;
 - i. Annual mixed beverage banquet license, \$75;
 - j. Limited mixed beverage restaurant license:
 - (i) With a seating capacity at tables for up to 100 persons, \$100;
 - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
 - (iii) With a seating capacity at tables for more than 150 persons, \$400;
 - k. Annual mixed beverage motor sports facility license, \$300; and
 - l. Annual mixed beverage performing arts facility license, \$300.
 - B. Common carriers. - No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.
 - C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.
- The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer 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.