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HOUSE BILL NO. 2119

Offered January 14, 2015

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A *BILL to amend and reenact §§ 4.1-101.1, 4.1-111, 4.1-203, 4.1-206, 4.1-208, 4.1-209, 4.1-210, 4.1-213, 4.1-230, 4.1-231, 4.1-232, 4.1-240, and 4.1-326 of the Code of Virginia, relating to alcoholic beverage control; customer service.*

Patron—Knight

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-101.1, 4.1-111, 4.1-203, 4.1-206, 4.1-208, 4.1-209, 4.1-210, 4.1-213, 4.1-230, 4.1-231, 4.1-232, 4.1-240, and 4.1-326 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-101.1. Certified mail; subsequent mail or notices may be sent by regular mail; electronic communications as alternative to regular mail.

A. Whenever in this title the Board is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board may be sent by regular mail.

B. Whenever in this title the Board is required or permitted to send any mail, notice, or other official communication by regular mail to persons licensed under Chapter 2 (§ 4.1-200 et seq.), the Board may instead send such mail, notice, or official communication by email, text message, or other electronic means to the email address, telephone number, or other contact information provided to the Board by the licensee.

§ 4.1-111. Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of

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59 the banquet licensee. Such regulations shall be applicable only to public events where alcoholic
60 beverages are being sold.

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

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

66 11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and
67 sell flavored distilled spirits.

68 12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to
69 subsection C of § 4.1-232.

70 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic
71 beverages, not inconsistent with the provisions of this title, so that such advertising does not encourage
72 or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages
73 may not be lawfully sold. Such regulations shall:

74 a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i)
75 the general prohibition against tied interests between retail licensees and manufacturers or wholesale
76 licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of
77 wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the
78 general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and
79 retail licensees as set forth in Board regulation; and

80 b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this title and (ii) the
81 display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under
82 Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate
83 as defined in § 55-526, but only in accordance with this title.

84 14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer
85 pursuant to an agreement with a brand owner not under common control with the manufacturing
86 brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require
87 that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a
88 written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board
89 are maintained by the parties.

90 C. The Board may promulgate regulations that:

91 1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be
92 based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit
93 status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the
94 purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its
95 not-for-profit status. The granting of such waiver shall be limited to two events per year for each
96 applicant.

97 2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the
98 course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of
99 § 4.1-325.2.

100 3. *Provide incentives to licensees with a proven history of compliance with state and federal laws*
101 *and regulations to encourage licensees to conduct their business and related activities in a manner that*
102 *is beneficial to the Commonwealth.*

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

105 E. Courts shall take judicial notice of Board regulations.

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

107 **§ 4.1-203. Separate license for each place of business; transfer or amendment; posting;**
108 **expiration; carriers.**

109 A. Each license granted by the Board shall designate the place where the business of the licensee
110 will be carried on. Except as otherwise provided in §§ 4.1-207 and 4.1-208, a separate license shall be
111 required for each separate place of business.

112 B. No license shall be transferable from one person to another, or from one location to another. The
113 Board may permit a licensee to amend the classification of an existing license without complying with
114 the posting and publishing procedures required by § 4.1-230 if the effect of the amendment is to reduce
115 materially the privileges of an existing license. However, if (i) the Board determines that the amendment
116 is a device to evade the provisions of this chapter, (ii) a majority of the corporate stock of a retail
117 licensee is sold to a new entity, or (iii) there is a change of business at the premises of a retail licensee,
118 the Board may, within 30 days of receipt of written notice by the licensee of a change in ownership or a
119 change of business, require the licensee to comply with any or all of the requirements of § 4.1-230. If
120 the Board fails to exercise its authority within the 30-day period, the licensee shall not be required to

reapply for a license. The licensee shall submit such written notice to the Secretary of the Board.

C. Each license shall be posted in a location conspicuous to the public at the place where the licensee carries on the business for which the license is granted.

D. The privileges conferred by any license granted by the Board, except for temporary licenses, banquet and mixed beverage special events licenses, shall continue until the last day of the twelfth month next ensuing or the last day of the designated month *and year* of expiration, except the license may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a license, by operation of law, voluntary surrender or order of the Board.

The Board may grant licenses for one year or for multiple years, not to exceed three years, based on the fees set forth in § 4.1-231. Qualification for a multiyear license shall be determined on the basis of criteria established by the Board. Fees for multiyear licenses shall not be refundable except as provided in § 4.1-232. The Board may provide a discount for two-year or three-year licenses, not to exceed five percent of the applicable license fee, which extends for one fiscal year and shall not be altered or rescinded during such period.

The Board may permit a licensee who fails to pay:

1. The required license tax covering the continuation or reissuance of his license by midnight of the fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable, to pay the tax in lieu of posting and publishing notice and reapplying, provided payment of the tax is made within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such tax, whichever is greater; and

2. The tax and civil penalty pursuant to subdivision 1 to pay the tax in lieu of posting and publishing notice and reapplying, provided payment of the tax is made within 45 days following the 30 days specified in subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such tax, whichever is greater.

Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-114.

E. Subsections A and C shall not apply to common carriers of passengers by train, boat, or airplane.

§ 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. *For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.*

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

182 beverages being tasted. A separate license shall be required for each day of each tasting event. No
183 tasting license shall be required for conduct authorized by § 4.1-201.1.

184 6. Museum licenses, which may be issued to nonprofit museums exempt from taxation under
185 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the
186 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide
187 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any
188 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in
189 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,
190 regularly occupied and utilized as such.

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

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

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

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

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

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

231 **§ 4.1-208. Beer licenses.**

232 The Board may grant the following licenses relating to beer:

233 1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or
234 ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons
235 licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale
236 within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a
237 company under common control of such brewery, or upon property of such brewery or a parent,
238 subsidiary or a company under common control of such brewery contiguous to such premises, or in a
239 development contiguous to such premises owned and operated by such brewery or a parent, subsidiary
240 or a company under common control of such brewery; and (iii) persons outside the Commonwealth for
241 resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the
242 brands of beer that the brewery owns at premises described in the brewery license for on-premises
243 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. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises.

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. 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.

4. 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.

5. 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.

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. *For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.*

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

305 within all seating areas, concourses, walkways, concession areas, and additional locations designated by
306 the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon
307 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic
308 beverages on the premises in all areas and locations covered by the license.

309 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar
310 facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta,
311 Pittsylvania, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the
312 performance of any event, in paper, plastic or similar disposable containers to patrons within all seating
313 areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon
314 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic
315 beverages on the premises in all areas and locations covered by the license.

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

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

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

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

334 **§ 4.1-209. Wine and beer licenses; advertising.**

335 A. The Board may grant the following licenses relating to wine and beer:

336 1. Retail on-premises wine and beer licenses to:

337 a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with
338 or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas,
339 private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such
340 rooms and areas. However, with regard to a hotel classified by the Board as (i) a resort complex, the
341 Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort
342 complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the
343 sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated
344 areas to persons to whom overnight lodging is being provided, for on-premises consumption in such
345 rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and
346 consumed on the premises, provided that at least one meal is provided each day by the hotel to such
347 guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title
348 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under
349 this subdivision, any resident may, upon authorization of the licensee, keep and consume his own
350 lawfully acquired alcoholic beverages on the premises in all areas covered by the license. *For purposes*
351 *of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous*
352 *to the licensed premises, which may have more than one means of ingress and egress to an adjacent*
353 *public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and*
354 *approved by the Board. Such noncontiguous designated areas shall not be approved for any retail*
355 *license issued pursuant to subdivision A 5 of § 4.1-201;*

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

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

362 d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or
363 intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by
364 passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated
365 rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding.
366 For purposes of supplying its airplanes, as well as any airplane of a licensed express carrier flying under

the same brand, an air carrier licensee may appoint an authorized representative to load wine and beer onto the same airplanes and to transport and store wine and beer at or in close proximity to the airport where the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of wine and beer may be stored and from which the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all wine and beer to be transported, stored, and delivered by its authorized representative;

e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained;

f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers, during any event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia, racetracks 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;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which (i) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach, (ii) has capacity for more than 3,500 persons and is located in the Counties of Albemarle, Augusta, Pittsylvania, or Rockingham, or the Cities of Charlottesville, Danville, or Roanoke, or (iii) has capacity for more than 9,500 persons and is located in Henrico County. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. 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; and

h. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell wine and beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such 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. For purposes of this subsection, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume, for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, breweries, and wholesale licensees may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Notwithstanding Board regulations relating to food sales, the licensee shall maintain each year an average monthly inventory and sales volume of at least \$1,000 in products such as cheeses and gourmet food.

4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition, shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event

428 of inclement weather. However, no such license shall be required of any hotel, restaurant, or club
429 holding a retail wine and beer license.

430 7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior
431 premises of the gift shop in closed containers for off-premises consumption and, the provisions of
432 § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a
433 sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces
434 by volume for on-premises consumption. The licensee may also give samples of wine and beer in
435 designated areas at events held by the licensee for the purpose of featuring and educating the consuming
436 public about the alcoholic beverages being tasted.

437 8. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom
438 wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging,
439 and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for
440 off-premises consumption in accordance with subdivision 6 of § 4.1-200.

441 9. Annual banquet licenses, to duly organized private nonprofit fraternal, patriotic or charitable
442 membership organizations that are exempt from state and federal taxation and in charge of banquets
443 conducted exclusively for its members and their guests, which shall authorize the licensee to serve wine
444 and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such
445 rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per
446 calendar year. For the purposes of this subdivision, when the location named in the original application
447 for a license is outdoors, the application may also name an alternative location in the event of inclement
448 weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail
449 wine and beer license.

450 10. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a
451 place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer
452 owned by holders of wine or beer shipper's licenses, (ii) store such wine or beer on behalf of the owner,
453 and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board
454 regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or
455 not, or any person under common control of such licensee, shall acquire or hold any financial interest,
456 direct or indirect, in the business for which any fulfillment warehouse license is issued.

457 11. Marketing portal licenses, which shall authorize agricultural cooperative associations organized
458 under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place
459 of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive
460 orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom
461 wine or beer may be lawfully sold, on behalf of holders of wine or beer shipper's licenses. Upon receipt
462 of an order for wine or beer, the licensee shall forward it to a holder of a wine or beer shipper's license
463 for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

464 12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina
465 and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on
466 the premises, where the licensee also offers to the public events for the purpose of featuring and
467 educating the consuming public about local oysters and other seafood products. Such license shall
468 authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas
469 approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed
470 containers for off-premises consumption. Samples of wine shall not exceed two ounces per person.
471 Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly
472 food sale requirement of oysters and other seafood for such license. Additionally, with the consent of
473 the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees
474 authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic
475 beverages may be lawfully sold.

476 B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license
477 pursuant to this section may display within their licensed premises point-of-sale advertising materials
478 that incorporate the use of any professional athlete or athletic team, provided that such advertising
479 materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol,
480 Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior
481 to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the athlete
482 is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic
483 beverage so advertised enhances athletic prowess.

484 C. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this
485 section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its
486 customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in
487 designated areas at events held by the licensee for the purpose of featuring and educating the consuming
488 public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm
489 wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct

tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person.

§ 4.1-210. Mixed beverage licenses.

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

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this ~~paragraph~~ *subdivision*, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. *Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.*

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

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

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

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

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

5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility, (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings and objects significant in American history and culture, or (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space

551 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped
552 with roofs, exterior walls, and open or closed-door access. The operation in all cases shall be upon
553 premises owned by such licensee or occupied under a bona fide lease the original term of which was for
554 more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages
555 during scheduled events and performances for on-premises consumption in areas upon the licensed
556 premises approved by the Board.

557 6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat
558 or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the
559 Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms
560 of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its
561 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air
562 carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes
563 and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits
564 will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier
565 licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits
566 may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and
567 any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported,
568 stored, and delivered by its authorized representative.

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

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

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

586 10. Annual mixed beverage motor sports facility license to persons operating food concessions at any
587 outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on
588 1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed
589 beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events
590 or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing
591 areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization
592 of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
593 premises in all areas and locations covered by the license.

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

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

606 13. Annual mixed beverage motor sports facility licenses to persons operating concessions at an
607 outdoor motor sports facility that hosts a NASCAR national touring race, which shall authorize the
608 licensee to sell mixed beverages, in paper, plastic, or similar disposable containers during scheduled
609 events, as well as events or performances immediately subsequent thereto, to patrons in all dining
610 facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises
611 consumption.

612 14. Annual mixed beverage performing arts facility license to corporations or associations operating a

performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, or 14 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

§ 4.1-213. Manufacture and sale of cider.

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

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

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

D. Cider containing less than seven percent of alcohol by volume may be sold in any containers that comply with federal regulations for wine or beer, provided such containers are labeled in accordance with Board regulations. Cider containing seven percent or more of alcohol by volume may be sold in any containers that comply with federal regulations for wine, provided such containers are labeled in accordance with Board regulations.

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

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

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

H. For the purposes of this section:

"Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must before or during fermentation.

"Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural sugar content of apples or pears (i) containing not more than 10 percent of alcohol by volume without chaptalization or (ii) containing not more than seven percent of alcohol by volume regardless of chaptalization.

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

§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing, under oath, setting forth any information required by the Board. Applications for banquet, tasting, mixed beverage special events, or club events licenses shall not be required to be under oath, but the information contained therein shall be certified as true by the applicant.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, delivery permit, *annual arts venue*, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.) ~~of this title~~, or beer or wine importer's licenses ~~located outside the Commonwealth~~, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial publication of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication. In the case of wine or beer shipper's licensees, wine and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, and airplanes, the posting and publishing of notice shall not be

674 required.

675 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club
676 events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, *beer or wine*
677 *importer's, annual arts venue*, or museum licenses, the Board shall conduct a background investigation,
678 to include a criminal history records search, which may include a fingerprint-based national criminal
679 history records search, on each applicant for a license. However, the Board may waive, for good cause
680 shown, the requirement for a criminal history records search and completed personal data form for
681 officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited
682 liability company, or limited partnership.

683 Except for applicants for wine shipper's, beer shipper's, wine and beer shipper's licenses, and delivery
684 permits, the Board shall notify the local governing body of each license application through the county
685 or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit
686 objections to the granting of a license within 30 days of the filing of the application.

687 C. Each applicant shall pay the required application fee *and appropriate annual license fee* at the
688 time the application is filed. Each license application fee, including annual banquet and annual mixed
689 beverage banquet, shall be \$65, plus the actual cost charged to the Department of State Police by the
690 Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any
691 fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for
692 each criminal history records search required by the Board, except for banquet, tasting, mixed beverage
693 special events, or mixed beverage club events licenses, in which case the application fee shall be \$15.
694 Application fees shall be in addition to the state license fee required pursuant to § 4.1-231 and shall not
695 be refunded.

696 D. Subsection A shall not apply to the continuance of licenses granted under this chapter. *However,*
697 *all licensees shall maintain with the Board a current, accurate record of the information required by the*
698 *Board pursuant to subsection A and notify the Board of any changes to such information within 30 days*
699 *of such change. The Board may refuse to continue the license of any licensee who fails to provide the*
700 *notice required under this subsection or, as a condition of continuance, may require such licensee to*
701 *pay a civil penalty of \$25 or an amount equal to 10 percent of the applicable license fee set forth in*
702 *§ 4.1-231, whichever is greater.*

703 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the
704 Board. In the case of applications to solicit the sale of wine and beer or spirits, each application shall be
705 accompanied by a fee of \$165 and \$390, respectively. The fee for each such permit shall be subject to
706 proration to the following extent: If the permit is granted in the second quarter of any year, the fee shall
707 be decreased by one-fourth; if granted in the third quarter of any year, the fee shall be decreased by
708 one-half; and if granted in the fourth quarter of any year, the fee shall be decreased by three-fourths.
709 Each such permit shall expire on June 30 next succeeding the date of issuance, unless sooner suspended
710 or revoked by the Board. Such permits shall confer upon their holders no authority to make solicitations
711 in the Commonwealth as otherwise provided by law.

712 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for
713 applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied
714 by the number of months for which the permit is granted.

715 The fee for a keg registration permit shall be \$65 annually.

716 The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs bond
717 or internal revenue bond in warehouses located in the Commonwealth shall be \$260 annually.

718 **§ 4.1-231. Taxes on state licenses.**

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

720 1. Alcoholic beverage licenses. For each:

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

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

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

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

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

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

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

730 h. Day spa license, \$100;

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

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

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

734 l. Annual arts venue event license, \$100.

735 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:

797 (i) With a seating capacity at tables for up to 100 persons, \$560;
798 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
799 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
800 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
801 private, nonprofit clubs:
802 (i) With an average yearly membership of not more than 200 resident members, \$750;
803 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
804 \$1,860; and
805 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
806 c. Mixed beverage caterer's license, \$1,860;
807 d. Mixed beverage limited caterer's license, \$500;
808 e. Mixed beverage special events license, \$45 for each day of each event;
809 f. Mixed beverage club events licenses, \$35 for each day of each event;
810 g. Annual mixed beverage special events license, \$560;
811 h. Mixed beverage carrier license:
812 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the
813 Commonwealth by a common carrier of passengers by train;
814 (ii) \$560 for each common carrier of passengers by boat;
815 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
816 i. Annual mixed beverage amphitheater license, \$560;
817 j. Annual mixed beverage motor sports race track license, \$560;
818 k. Annual mixed beverage banquet license, \$500;
819 l. Limited mixed beverage restaurant license:
820 (i) With a seating capacity at tables for up to 100 persons, \$460;
821 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
822 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
823 m. Annual mixed beverage motor sports facility license, \$560; and
824 n. Annual mixed beverage performing arts facility license, \$560.
825 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
826 imposed by this section on the license for which the applicant applied.
827 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be
828 subject to proration to the following extent: If the license is granted in the second quarter of any year,
829 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be
830 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by
831 three-fourths.
832 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000
833 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license
834 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the
835 number of gallons permitted to be manufactured shall be prorated in the same manner.
836 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000
837 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or
838 winery license, such person shall pay for such unlimited license a license tax equal to the amount that
839 would have been charged had such license been applied for at the time that the license to manufacture
840 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person
841 shall be entitled to a refund of the amount of license tax previously paid on the limited license.
842 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less other
843 than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed
844 to the nearest cent, multiplied by the number of months in the license period, and then increased by five
845 percent. Such tax shall not be refundable, except as provided in § 4.1-232.
846 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
847 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
848 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
849 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer
850 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license
851 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining
852 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the
853 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases
854 shall be disregarded.
855 D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license
856 purchased in person from the Board if such license is available for purchase online.
857 **§ 4.1-232. Refund of state license tax.**
858 A. The Board may correct erroneous assessments made by it against any person and make refunds of

any amounts collected pursuant to erroneous assessments, or collected as taxes on licenses, which are subsequently refused or application therefor withdrawn, and to allow credit for any license taxes paid by any licensee for any license ~~which~~ *that* is subsequently merged or changed into another license during the same license ~~year~~ *period*. No refund shall be made of any such amount, however, unless made within three years from the date of collection of the same.

B. In any case where a licensee has changed its name or form of organization during a license ~~year~~ *period* without any change being made in its ownership, and because of such change is required to pay an additional license tax for such ~~year~~ *period*, the Board shall refund to such licensee the amount of such tax so paid in excess of the required license tax for such ~~year~~ *period*.

C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of state license taxes paid pursuant to subsection A of § 4.1-231 if the place of business designated in the license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or similar natural disaster or phenomenon.

D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of moneys appropriated to the Board and in the manner prescribed in § 4.1-116.

§ 4.1-240. Collection of taxes and fees; service charge; storage of credit card, debit card, and automated clearinghouse information.

A. The Board may accept ~~credit or debit cards in~~ *payment by any commercially acceptable means, including checks, credit cards, debit cards, and electronic funds transfers*, for the taxes, penalties, or other fees imposed on a licensee in accordance with this title. In addition, the Board may assess a service charge for the use of a credit or debit card. The service charge shall not exceed the amount negotiated and agreed to in a contract with the Department.

B. *Upon the request of a license applicant or licensee, the Board may collect and maintain a record of the applicant's or licensee's credit card, debit card, or automated clearinghouse transfer information and use such information for future payments of taxes, penalties, other fees, or amounts due for products purchased from the Board. The Board may assess a service charge as provided in subsection A for any payments made under this subsection. The Board may procure the services of a third-party vendor for the secure storage of information collected pursuant to this subsection.*

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

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

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