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HOUSE BILL NO. 2119**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws
on January 29, 2015)

(Patron Prior to Substitute—Delegate Knight)

A *BILL to amend and reenact §§ 4.1-101.1, 4.1-111, 4.1-203, 4.1-206, 4.1-207, 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.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-101.1, 4.1-111, 4.1-203, 4.1-206, 4.1-207, 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; limitation.

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. *Except as provided in subsection C, 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.), upon the request of a licensee, 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, provided that the Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by the Board confirming the electronic delivery.*

C. *No notice required by § 4.1-227 to (i) a licensee of a hearing that may result in the suspension or revocation of his license or the imposition of a civil penalty or (ii) a person holding a permit shall be sent by the Board by email, text message, or other electronic means, nor shall any decision by the Board to suspend or revoke a license or permit or impose a civil penalty be sent by the Board by email, text message, or other electronic means.*

§ 4.1-111. Regulations of Board.

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 Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)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

B. The Board shall promulgate regulations that:

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

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

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

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

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

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

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from

licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

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

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

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

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

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

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

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

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

C. The Board may promulgate regulations that:

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

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

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

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

E. Courts shall take judicial notice of Board regulations.

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

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

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

B. No license shall be transferable from one person to another, or from one location to another. The Board may permit a licensee to amend the classification of an existing license without complying with the posting and publishing procedures required by § 4.1-230 if the effect of the amendment is to reduce materially the privileges of an existing license. However, if (i) the Board determines that the amendment

is a device to evade the provisions of this chapter, (ii) a majority of the corporate stock of a retail licensee is sold to a new entity, or (iii) there is a change of business at the premises of a retail licensee, the Board may, within 30 days of receipt of written notice by the licensee of a change in ownership or a change of business, require the licensee to comply with any or all of the requirements of § 4.1-230. If 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*

183 *control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be*
184 *approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.*

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

190 6. Museum licenses, which may be issued to nonprofit museums exempt from taxation under
191 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the
192 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide
193 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any
194 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in
195 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,
196 regularly occupied and utilized as such.

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

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

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

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

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

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

237 **§ 4.1-207. Wine licenses.**

238 The Board may grant the following licenses relating to wine:

239 1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or
240 ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the
241 wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth
242 for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate
243 distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit
244 juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate

a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board.

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

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

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

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

5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 18 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, ~~§ 4.1-326 notwithstanding~~, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

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

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

§ 4.1-208. Beer licenses.

The Board may grant the following licenses relating to beer:

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

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises,

306 provided that such samples shall be provided only to individuals for consumption on the premises of
307 such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

308 2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per
309 calendar year, provided (i) the brewery is located on a farm in the Commonwealth on land zoned
310 agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including
311 barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on
312 the farm. The licensed premises shall be limited to the portion of the farm on which agricultural
313 products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its
314 beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured,
315 exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local
316 governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm
317 to be included as part of the licensed premises.

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

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

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

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

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

338 6. Retail on-premises beer licenses to:

339 a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without
340 meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private
341 guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms
342 and areas. *For purposes of this subdivision, "other designated areas" includes outdoor dining areas,*
343 *whether or not contiguous to the licensed premises, which may have more than one means of ingress*
344 *and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the*
345 *control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be*
346 *approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.*

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

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

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

358 e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize
359 the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of
360 professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons
361 within all seating areas, concourses, walkways, concession areas, and additional locations designated by
362 the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon
363 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic
364 beverages on the premises in all areas and locations covered by the license.

365 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar
366 facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta,
367 Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell 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.

g. 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 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 halls" 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.

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

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

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

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

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

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

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and 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. However, with regard to a hotel classified by the Board as (i) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. *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 wine and 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 wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding. 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

429 and beer to be transported, stored, and delivered by its authorized representative;

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

433 f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall
434 authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers, during any
435 event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways,
436 concession areas and additional locations designated by the Board in such coliseums, stadia, racetracks
437 or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may
438 keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and
439 locations covered by the license;

440 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar
441 facility which (i) has seating for more than 20,000 persons and is located in Prince William County or
442 the City of Virginia Beach, (ii) has capacity for more than 3,500 persons and is located in the Counties
443 of Albemarle, Augusta, *Nelson*, Pittsylvania, or Rockingham, or the Cities of Charlottesville, Danville, or
444 Roanoke, or (iii) has capacity for more than 9,500 persons and is located in Henrico County. Such
445 license shall authorize the licensee to sell wine and beer during the performance of any event, in paper,
446 plastic or similar disposable containers to patrons within all seating areas, concourses, walkways,
447 concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee,
448 any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all
449 areas and locations covered by the license; and

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

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

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

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

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

478 6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or
479 associations in charge of special events, which shall authorize the licensee to sell or give wine and beer
480 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms
481 or areas. Except as provided in § 4.1-215, a separate license shall be required for each day of each
482 banquet or special event. For the purposes of this subdivision, when the location named in the original
483 application for a license is outdoors, the application may also name an alternative location in the event
484 of inclement weather. However, no such license shall be required of any hotel, restaurant, or club
485 holding a retail wine and beer license.

486 7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior
487 premises of the gift shop in closed containers for off-premises consumption and, the provisions of
488 § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a
489 sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces
490 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.

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

9. Annual banquet licenses, to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. 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 of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

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

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

12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, where the licensee also offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products. Such license shall authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed containers for off-premises consumption. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly food sale requirement of oysters and other seafood for such license. Additionally, with the consent of the licensee, farm 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.

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

C. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption. Such licensees may sell or 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, 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 beverages 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 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open or closed-door access. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat

or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits 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 distilled spirits may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported, stored, and delivered by its authorized representative.

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

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

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

10. Annual mixed beverage motor sports facility license to persons operating food concessions at any outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on 1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, 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.

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

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

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

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

675 automatically include a license to sell and serve wine and beer for on-premises consumption. The
676 licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

677 **§ 4.1-213. Manufacture and sale of cider.**

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

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

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

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

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

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

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

699 H. For the purposes of this section:

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

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

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

708 **§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.**

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

714 B. In addition, each applicant for a license under the provisions of this chapter, except applicants for
715 annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine or
716 beer shipper's, wine and beer shipper's, delivery permit, *annual arts venue*, or museum licenses issued
717 under the provisions of Chapter 2 (§ 4.1-200 et seq.) ~~of this title~~, or beer or wine importer's licenses
718 ~~located outside the Commonwealth~~, shall post a notice of his application with the Board on the front
719 door of the building, place or room where he proposes to engage in such business for no more than 30
720 days and not less than 10 days. Such notice shall be of a size and contain such information as required
721 by the Board, including a statement that any objections shall be submitted to the Board not more than
722 30 days following initial publication of the notice required pursuant to this subsection.

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

731 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club
732 events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, *beer or wine*
733 *importer's*, *annual arts venue*, or museum licenses, the Board shall conduct a background investigation,
734 to include a criminal history records search, which may include a fingerprint-based national criminal
735 history records search, on each applicant for a license. However, the Board may waive, for good cause
736 shown, the requirement for a criminal history records search and completed personal data form for

officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

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

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

D. Subsection A shall not apply to the continuance of licenses granted under this chapter; *however all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.*

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

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

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

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

§ 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.

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

798 the number of separate locations covered by the license;
799 c. Wine importer's license, \$370;
800 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
801 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
802 which shall include a delivery permit;
803 f. Wine shipper's license, \$95; and
804 g. Internet wine retailer license, \$150.
805 3. Beer licenses. For each:
806 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
807 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which
808 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
809 b. Bottler's license, \$1,430;
810 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
811 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
812 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
813 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
814 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
815 license;
816 d. Beer importer's license, \$370;
817 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
818 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
819 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
820 cars operated daily in the Commonwealth;
821 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
822 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
823 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
824 delivery permit;
825 h. Beer shipper's license, \$95; and
826 i. Retail off-premises brewery license, \$120, which shall include a delivery permit.
827 4. Wine and beer licenses. For each:
828 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
829 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
830 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
831 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
832 a common carrier of passengers by airplane, \$750;
833 b. Retail on-premises wine and beer license to a hospital, \$145;
834 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
835 grocery store license, \$230, which shall include a delivery permit;
836 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall
837 include a delivery permit;
838 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
839 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be
840 \$100 per license;
841 f. Gourmet brewing shop license, \$230;
842 g. Wine and beer shipper's license, \$95;
843 h. Annual banquet license, \$150;
844 i. Fulfillment warehouse license, \$120;
845 j. Marketing portal license, \$150; and
846 k. Gourmet oyster house license, \$230.
847 5. Mixed beverage licenses. For each:
848 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
849 located on premises of and operated by hotels or motels, or other persons:
850 (i) With a seating capacity at tables for up to 100 persons, \$560;
851 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
852 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
853 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
854 private, nonprofit clubs:
855 (i) With an average yearly membership of not more than 200 resident members, \$750;
856 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
857 \$1,860; and
858 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
859 c. Mixed beverage caterer's license, \$1,860;

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

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

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

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

895 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of ~~less other~~
 896 ~~than 12, 24, or 36~~ months shall be equal to one-twelfth of the taxes required by subsection A computed
 897 to the nearest cent, multiplied by the number of months in the license period, *and then increased by five*
 898 *percent. Such tax shall not be refundable, except as provided in § 4.1-232.*

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

908 *D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license*
 909 *purchased in person from the Board if such license is available for purchase online.*

910 **§ 4.1-232. Refund of state license tax.**

911 A. The Board may correct erroneous assessments made by it against any person and make refunds of
 912 any amounts collected pursuant to erroneous assessments, or collected as taxes on licenses, which are
 913 subsequently refused or application therefor withdrawn, and to allow credit for any license taxes paid by
 914 any licensee for any license ~~which~~ *that* is subsequently merged or changed into another license during
 915 the same license ~~year~~ *period*. No refund shall be made of any such amount, however, unless made
 916 within three years from the date of collection of the same.

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

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

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

927 **§ 4.1-240. Collection of taxes and fees; service charge; storage of credit card, debit card, and**
928 **automated clearinghouse information.**

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

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

940 **§ 4.1-326. Sale of; purchase for resale; wine or beer from a person without a license; penalty.**

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

944 *Nothing in this section shall prohibit the holder of a retail license issued pursuant to subdivision A 5*
945 *of § 4.1-201 from the purchase or sale of wine or beer from the winery or brewery located on or*
946 *contiguous to the licensed retail premises.*

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