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**HOUSE BILL NO. 879****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Joint Conference Committee  
on March 11, 2016)

(Patron Prior to Substitute—Delegate Hugo)

*A BILL to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-208 of the Code of Virginia, relating to alcoholic beverage control; farm wineries and limited brewery licenses; land zoned agricultural.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-208 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-100. (Effective until July 1, 2018) Definitions.**

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

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

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

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

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

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

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

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

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

"Board" means the Virginia Alcoholic Beverage Control Board.

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

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

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

60 conducted while such gaming is being conducted and that no alcoholic beverages are made available  
61 upon the premises to any person who is neither a member nor a bona fide guest of a member.

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

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

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

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

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

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

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

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

87 "Farm winery" means (i) an establishment (i) located on a farm in the Commonwealth *on land*  
88 *zoned agricultural* with a producing vineyard, orchard, or similar growing area and with facilities for  
89 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
90 not more than 21 percent alcohol by volume or (ii) located in the Commonwealth *on land zoned*  
91 *agricultural* with a producing vineyard, orchard, or similar growing area or agreements for purchasing  
92 grapes or other fruits from agricultural growers within the Commonwealth; and with facilities for  
93 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
94 not more than 21 percent alcohol by volume. ~~"Farm winery"~~ *includes or (ii) an accredited public or*  
95 *private institution of higher education, provided that (a) no wine manufactured by the institution shall be*  
96 *sold, (b) the wine manufactured by the institution shall be used solely for research and educational*  
97 *purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm*  
98 *winery that shall be separate and apart from all other facilities of the institution, and (d) such farm*  
99 *winery is operated in strict conformance with the requirements of this sentence clause (ii) and Board*  
100 *regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed*  
101 *by an association of individuals for the purpose of manufacturing wine. In the event that such*  
102 *cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the*  
103 *land owned or leased by the individual members of the cooperative as long as such land is located in*  
104 *the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as*  
105 *an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery*  
106 *use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential*  
107 *conservation." Except for the limitation on land zoned "residential conservation," nothing in the*  
108 *definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.*

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

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

120 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage  
121 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and

beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

235 **§ 4.1-100. (Effective July 1, 2018) Definitions.**

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

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

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

244 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties

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

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

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

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

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

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

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

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

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

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

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

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

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

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

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

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons certified in accordance with § 54.1-3029, and barbering or cosmetology services

306 performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

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

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

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

311 "Farm winery" means (i) an establishment (i) (a) located on a farm in the Commonwealth on land  
312 zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for  
313 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
314 not more than 21 percent alcohol by volume or (ii) (b) located in the Commonwealth on land zoned  
315 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing  
316 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for  
317 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
318 not more than 21 percent alcohol by volume. ~~"Farm winery" includes or~~ (ii) an accredited public or  
319 private institution of higher education, provided that (a) no wine manufactured by the institution shall be  
320 sold, (b) the wine manufactured by the institution shall be used solely for research and educational  
321 purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm  
322 winery that shall be separate and apart from all other facilities of the institution, and (d) such farm  
323 winery is operated in strict conformance with the requirements of this sentence clause (ii) and Board  
324 regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed  
325 by an association of individuals for the purpose of manufacturing wine. In the event that such  
326 cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the  
327 land owned or leased by the individual members of the cooperative as long as such land is located in  
328 the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as  
329 an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery  
330 use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential  
331 conservation." Except for the limitation on land zoned "residential conservation," nothing in the  
332 definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

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

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

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

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

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

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

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

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

360 "Licensed" means the holding of a valid license granted by the Authority.

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

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

364 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol  
365 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits  
366 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit  
367 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by

fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

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

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

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

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

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

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

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

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

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

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

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

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant

license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

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

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

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

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

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

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

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

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

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

#### **§ 4.1-208. Beer licenses.**

The Board may grant the following licenses relating to beer:

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

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

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (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. *For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.*

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

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

552 during the performance of any event, in paper, plastic or similar disposable containers to patrons within  
553 all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises  
554 consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully  
555 acquired alcoholic beverages on the premises in all areas and locations covered by the license.

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

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

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

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

574 2. That any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license  
575 granted by the Alcoholic Beverage Control Board (the Board) in accordance with Title 4.1 of the  
576 Code of Virginia and (ii) is in compliance with the local zoning ordinance as an agricultural  
577 district or classification or as otherwise permitted by a locality for farm winery or limited brewery  
578 use shall be allowed to continue such use as provided in § 15.2-2307 of the Code of Virginia,  
579 notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the farm  
580 winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance,  
581 or other means. Any such farm winery or limited brewery located on land zoned residential  
582 conservation prior to July 1, 2016 may expand any existing building or structure and the uses  
583 thereof so long as specifically approved by the locality by special exception. Any such farm winery  
584 or limited brewery located on land zoned residential conservation prior to July 1, 2016 may  
585 construct a new building or structure so long as specifically approved by the locality by special  
586 exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of  
587 Virginia and Board regulations for renewal of such license or the issuance of a new license in the  
588 event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

589 3. That any person who, prior to July 1, 2016, (i) has a pending application with the Alcoholic  
590 Beverage Control Board (the Board) for a license as a farm winery or limited brewery in  
591 accordance with Title 4.1 of the Code of Virginia, (ii) is in compliance with the local zoning  
592 ordinance as an agricultural district or classification or as otherwise permitted by a locality for  
593 farm winery or limited brewery use, and (iii) subsequently is issued a license as a farm winery or  
594 limited brewery shall be allowed to engage in such use as provided in § 15.2-2307 of the Code of  
595 Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of  
596 the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition,  
597 inheritance, or other means. Any such farm winery or limited brewery located on land zoned  
598 residential conservation prior to July 1, 2016 may expand any existing building or structure and  
599 the uses thereof so long as specifically approved by the locality by special exception. Any such  
600 farm winery or limited brewery located on land zoned residential conservation prior to July 1,  
601 2016 may construct a new building or structure so long as specifically approved by the locality by  
602 special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of  
603 Virginia and Board regulations for renewal of such license or the issuance of a new license in the  
604 event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.