

17104694D

HOUSE BILL NO. 1743**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws
on January 26, 2017)

(Patron Prior to Substitute—Delegate Rush)

A BILL to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, 4.1-209, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; retail on-premises license for nonprofit historic cinema houses.

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, 4.1-209, 4.1-231, and 4.1-233 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 licensed 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 (a) located on a farm in the Commonwealth on land zoned
88 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 (b) 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 or (ii) an accredited public or private institution of higher
95 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine
96 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
97 manufactured by the institution shall be stored on the premises of such farm winery that shall be
98 separate and apart from all other facilities of the institution, and (d) such farm winery is operated in
99 strict conformance with the requirements of this clause (ii) and Board regulations. As used in this
100 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of
101 individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a
102 farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the
103 individual members of the cooperative as long as such land is located in the Commonwealth. For
104 purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or
105 classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this
106 definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for
107 the limitation on land zoned "residential conservation," nothing in the definition of "land zoned
108 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.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"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

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

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

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

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

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

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

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

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

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

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

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

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

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

238 **§ 4.1-100. (Effective July 1, 2018) Definitions.**

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

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

244 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic

245 beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption
246 by inhalation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

306 grocery stores.

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

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

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

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

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

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

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

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

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

352 "*Historic cinema house*" means a nonprofit establishment exempt from taxation under § 501(c)(3) of
353 the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of
354 showing motion pictures to the public.

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

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

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

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

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

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

"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.

"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.

§ 4.1-209. 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 and beer to be transported, stored, and delivered by its authorized representative;

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

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

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

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

i. Persons operating a concert and dinner-theater venue on property fronting Natural Bridge School Road in Natural Bridge Station, Virginia, and formerly operated as Natural Bridge High School, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served; and

j. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption. The privileges of this license shall be limited to the premises

552 *of the historic cinema house regularly occupied and utilized as such.*

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

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

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

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

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

579 7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior
580 premises of the gift shop in closed containers for off-premises consumption and, the provisions of
581 § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a
582 sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces
583 by volume for on-premises consumption. The licensee may also give samples of wine and beer in
584 designated areas at events held by the licensee for the purpose of featuring and educating the consuming
585 public about the alcoholic beverages being tasted.

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

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

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

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

613 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.

§ 4.1-231. 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; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 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;

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

m. Art instruction studio license, \$100.

2. Wine licenses. For each:

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

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

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

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

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

e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of

675 which shall include a delivery permit;
676 f. Wine shipper's license, \$95; and
677 g. Internet wine retailer license, \$150.
678 3. Beer licenses. For each:
679 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
680 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which
681 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
682 b. Bottler's license, \$1,430;
683 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
684 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
685 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
686 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
687 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
688 license;
689 d. Beer importer's license, \$370;
690 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
691 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
692 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
693 cars operated daily in the Commonwealth;
694 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
695 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
696 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
697 delivery permit;
698 h. Beer shipper's license, \$95; and
699 i. Retail off-premises brewery license, \$120, which shall include a delivery permit.
700 4. Wine and beer licenses. For each:
701 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
702 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
703 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
704 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
705 a common carrier of passengers by airplane, \$750;
706 b. Retail on-premises wine and beer license to a hospital, \$145;
707 c. *Retail on-premises wine and beer license to a historic cinema house, \$200;*
708 d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
709 grocery store license, \$230, which shall include a delivery permit;
710 ~~d.~~ e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which
711 shall include a delivery permit;
712 ~~e.~~ f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by
713 the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall
714 be \$100 per license;
715 ~~f.~~ g. Gourmet brewing shop license, \$230;
716 ~~g.~~ h. Wine and beer shipper's license, \$95;
717 ~~h.~~ i. Annual banquet license, \$150;
718 ~~i.~~ j. Fulfillment warehouse license, \$120;
719 ~~j.~~ k. Marketing portal license, \$150; and
720 ~~k.~~ l. Gourmet oyster house license, \$230.
721 5. Mixed beverage licenses. For each:
722 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
723 located on premises of and operated by hotels or motels, or other persons:
724 (i) With a seating capacity at tables for up to 100 persons, \$560;
725 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
726 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
727 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
728 private, nonprofit clubs:
729 (i) With an average yearly membership of not more than 200 resident members, \$750;
730 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
731 \$1,860; and
732 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
733 c. Mixed beverage caterer's license, \$1,860;
734 d. Mixed beverage limited caterer's license, \$500;
735 e. Mixed beverage special events license, \$45 for each day of each event;
736 f. Mixed beverage club events licenses, \$35 for each day of each event;

- g. Annual mixed beverage special events license, \$560;
 h. Mixed beverage carrier license:
 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;
 (ii) \$560 for each common carrier of passengers by boat;
 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
 i. Annual mixed beverage amphitheater license, \$560;
 j. Annual mixed beverage motor sports race track license, \$560;
 k. Annual mixed beverage banquet license, \$500;
 l. Limited mixed beverage restaurant license:
 (i) With a seating capacity at tables for up to 100 persons, \$460;
 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
 m. Annual mixed beverage motor sports facility license, \$560; and
 n. Annual mixed beverage performing arts facility license, \$560.
 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.
 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.
 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.
 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.
 Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.
 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.
 D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.
§ 4.1-233. Taxes on local licenses.
 A. In addition to the state license taxes, the annual local license taxes which may be collected shall not exceed the following sums:
 1. Alcoholic beverages. — For each:
 a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;
 b. Fruit distiller's license, \$1,500;
 c. Bed and breakfast establishment license, \$40;
 d. Museum license, \$10;
 e. Tasting license, \$5 per license granted;
 f. Equine sporting event license, \$10;
 g. Day spa license, \$20;

- 798 h. Motor car sporting event facility license, \$10;
799 i. Meal-assembly kitchen license, \$20;
800 j. Canal boat operator license, \$20;
801 k. Annual arts venue event license, \$20; and
802 l. Art instruction studio license, \$20.
803 2. Beer. — For each:
804 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
805 license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the
806 license is granted, \$1,000;
807 b. Bottler's license, \$500;
808 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
809 d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer
810 license in a city, \$100, and in a county or town, \$25; and
811 e. Beer shipper's license, \$10.
812 3. Wine. — For each:
813 a. Winery license, \$50;
814 b. Wholesale wine license, \$50;
815 c. Farm winery license, \$50; and
816 d. Wine shipper's license, \$10.
817 4. Wine and beer. — For each:
818 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail
819 off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery
820 store license, in a city, \$150, and in a county or town, \$37.50;
821 b. Hospital license, \$10;
822 c. *Historic cinema house license*, \$20;
823 d. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board
824 pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20
825 per license;
826 ~~d.~~ e. Gourmet brewing shop license, \$150;
827 ~~e.~~ f. Wine and beer shipper's license, \$10;
828 ~~f.~~ g. Annual banquet license, \$15; and
829 ~~g.~~ h. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
830 5. Mixed beverages. — For each:
831 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
832 by hotels or motels, or other persons:
833 (i) With a seating capacity at tables for up to 100 persons, \$200;
834 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
835 (iii) With a seating capacity at tables for more than 150 persons, \$500.
836 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
837 c. Mixed beverage caterer's license, \$500;
838 d. Mixed beverage limited caterer's license, \$100;
839 e. Mixed beverage special events licenses, \$10 for each day of each event;
840 f. Mixed beverage club events licenses, \$10 for each day of each event;
841 g. Annual mixed beverage amphitheater license, \$300;
842 h. Annual mixed beverage motor sports race track license, \$300;
843 i. Annual mixed beverage banquet license, \$75;
844 j. Limited mixed beverage restaurant license:
845 (i) With a seating capacity at tables for up to 100 persons, \$100;
846 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
847 (iii) With a seating capacity at tables for more than 150 persons, \$400;
848 k. Annual mixed beverage motor sports facility license, \$300; and
849 l. Annual mixed beverage performing arts facility license, \$300.
850 B. Common carriers. — No local license tax shall be either charged or collected for the privilege of
851 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the
852 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises
853 consumption only.
854 C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in
855 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local
856 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,
857 may include alcoholic beverages in the base for measuring such local license taxes the same as if the
858 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter
859 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local

860 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license
861 taxes authorized by this chapter.

862 The governing body of any county, city or town, in adopting an ordinance under this section, shall
863 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation
864 under the ordinance, and in computing the local wholesale merchants' license tax on such beer
865 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be
866 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license
867 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine
868 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale
869 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall
870 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary
871 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax
872 paid by such wholesale wine licensee.

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

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