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HOUSE BILL NO. 1926

Offered January 11, 2017

Prefiled January 10, 2017

A BILL to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-210 of the Code of Virginia, relating to alcoholic beverage control; definition of municipal golf course; exemption from food sales requirements for mixed beverage restaurant licensees located on the premises of and operated by municipal golf courses.

Patrons—Campbell, Fariss, Levine, Lindsey and O'Quinn

Referred to Committee on General Laws

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 4.1-210 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

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59 means the establishment so operated. A corporation or association shall not lose its status as a club
60 because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.)
61 of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided
62 that no alcoholic beverages are served or consumed in the room where such charitable gaming is being
63 conducted while such gaming is being conducted and that no alcoholic beverages are made available
64 upon the premises to any person who is neither a member nor a bona fide guest of a member.

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

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

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

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

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

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

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

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

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

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

120 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may

lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Municipal golf course" means any golf course that is owned by a city or town of the Commonwealth and that is open to the general public. Such golf course may be operated by the city or town or may be operated by a private golf course management group under the terms of a lease agreement.

"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,

182 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any
183 highway, street, or lane.

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

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

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

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

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

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

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

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

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

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

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

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

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

242 **§ 4.1-100. (Effective July 1, 2018) Definitions.**

243 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.

"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

305 not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm
306 winery for its services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"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.

"Municipal golf course" means any golf course that is owned by a city or town of the Commonwealth and that is open to the general public. Such golf course may be operated by the city or town or may be operated by a private golf course management group under the terms of a lease agreement.

"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.

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

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

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

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

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

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

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

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

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

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

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

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

477 **§ 4.1-210. Mixed beverages licenses.**

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

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

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

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

If the restaurant is located on the premises of and operated by a municipal golf course, such licensee shall be exempt from the requirement that the restaurant's gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. Such licensee shall also be exempt from the monthly food sales requirements established by Board regulations.

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

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

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

5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility, (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings and objects significant in American history and culture, or (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open or closed-door access. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air

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

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

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

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

575 10. Annual mixed beverage motor sports facility license to persons operating food concessions at any
576 outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on 1,
577 200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed
578 beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events
579 or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing
580 areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization
581 of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
582 premises in all areas and locations covered by the license.

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

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

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

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

607 15. Annual mixed beverage performing arts facility license to persons operating food concessions at
608 any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the
609 performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the
610 original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has
611 been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts
612 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages

served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

16. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or private or special events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

17. A combined mixed beverage restaurant and caterer's license, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, or 17 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.