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HOUSE BILL NO. 2222

Offered January 11, 2017

Prefiled January 11, 2017

A BILL to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, 4.1-210, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; limited mixed beverage license for retail cigar shops.

Patron—Yost

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, 4.1-210, 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.

"Cigar shop" means any bona fide retail store that (i) caters to patrons who purchase and smoke premium cigars; (ii) annually receives at least 60 percent of its gross revenue from the sale of premium tobacco products, to include at least \$200,000 and 40 percent of its gross revenue from the sale of premium cigars; (iii) has on the premises at least one display humidor that stocks no less than 5,000

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59 *premium cigars; and (iv) is open to the public on a regular basis. Such shop shall be a permanent*
60 *structure where stock is displayed and offered for sale and that has facilities to properly secure any*
61 *stock of alcoholic beverages. For the purposes of this definition, "premium cigars" means any handmade*
62 *cigar valued at \$2 or more at retail, and "premium tobacco products" means cigars, pipes, pipe*
63 *tobacco, humidors, and other accessories for cigars and pipes. "Premium tobacco products" does not*
64 *include cigarettes. In addition, a cigar shop licensed in accordance with this title shall not be deemed a*
65 *restaurant for the purposes of Chapter 28.2 (§ 15.2-2820 et seq.) of Title 15.2.*

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

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

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

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

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

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

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

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

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

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

agricultural" shall otherwise limit or affect local zoning authority.

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

"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.

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

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

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

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

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

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

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

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

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

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

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

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

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

238 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and
239 not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of
240 wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain
241 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
242 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
243 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.

§ 4.1-100. (Effective 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.

"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.

"Cigar shop" means any bona fide retail store that (i) caters to patrons who purchase and smoke premium cigars; (ii) annually receives least 60 percent of its gross revenue from the sale of premium tobacco products, to include at least \$200,000 and 40 percent of its gross revenue from the sale of premium cigars; (iii) has on the premises at least one display humidor that stocks no less than 5,000 premium cigars; and (iv) is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and that has facilities to properly secure any stock of alcoholic beverages. For the purposes of this definition, "premium cigars" means any handmade cigar valued at \$2 or more at retail, and "premium tobacco products" means cigars, pipes, pipe tobacco, humidors, and other accessories for cigars and pipes. "Premium tobacco products" does not include cigarettes. In addition, a cigar shop licensed in accordance with this title shall not be deemed a restaurant for the purposes of Chapter 28.2 (§ 15.2-2820 et seq.) of Title 15.2.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club

because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

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

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

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

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

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

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

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

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

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

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

"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 Authority 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 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.

"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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 4.1-210. Mixed beverages licenses.

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

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

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

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

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

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

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

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

during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

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

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

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

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

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

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

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

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

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

on-premises consumption in areas upon the licensed premises approved by the Board.

15. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, 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 capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts 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.

18. Limited mixed beverage retail cigar shop license, which shall authorize the licensee to sell and serve wine, beer, or mixed beverages for on-premises consumption in areas upon the licensed premises approved by the Board to any bona fide customer, provided that (i) in no event shall the sale of any alcoholic beverages by the licensee exceed 40 percent of the total annual gross sales of the licensee and (ii) the monthly gross receipts from the sale of food, prepared on or off premises, sold by the licensee and consumed on the premises meet or exceed \$2,000 or, in the case where only wine and beer are sold by the licensee, \$1,000. The privileges of this license shall be limited to the premises of the cigar shop regularly occupied and utilized as such.

B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, ~~or~~ 17, or 18 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

§ 4.1-231. 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

674 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than
675 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons
676 of wine per year;

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

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

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

682 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
683 which shall include a delivery permit;

684 f. Wine shipper's license, \$95; and

685 g. Internet wine retailer license, \$150.

686 3. Beer licenses. For each:

687 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
688 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which
689 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;

690 b. Bottler's license, \$1,430;

691 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
692 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
693 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;

694 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
695 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
696 license;

697 d. Beer importer's license, \$370;

698 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
699 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
700 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
701 cars operated daily in the Commonwealth;

702 f. Retail off-premises beer license, \$120, which shall include a delivery permit;

703 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
704 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
705 delivery permit;

706 h. Beer shipper's license, \$95; and

707 i. Retail off-premises brewery license, \$120, which shall include a delivery permit.

708 4. Wine and beer licenses. For each:

709 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
710 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
711 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
712 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
713 a common carrier of passengers by airplane, \$750;

714 b. Retail on-premises wine and beer license to a hospital, \$145;

715 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
716 grocery store license, \$230, which shall include a delivery permit;

717 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall
718 include a delivery permit;

719 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
720 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be
721 \$100 per license;

722 f. Gourmet brewing shop license, \$230;

723 g. Wine and beer shipper's license, \$95;

724 h. Annual banquet license, \$150;

725 i. Fulfillment warehouse license, \$120;

726 j. Marketing portal license, \$150; and

727 k. Gourmet oyster house license, \$230.

728 5. Mixed beverage licenses. For each:

729 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
730 located on premises of and operated by hotels or motels, or other persons:

731 (i) With a seating capacity at tables for up to 100 persons, \$560;

732 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and

733 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.

734 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
735 private, nonprofit clubs:

- (i) With an average yearly membership of not more than 200 resident members, \$750;
 (ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and
 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
 c. Mixed beverage caterer's license, \$1,860;
 d. Mixed beverage limited caterer's license, \$500;
 e. Mixed beverage special events license, \$45 for each day of each event;
 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; ~~and~~
 o. *Limited mixed beverage retail cigar shop license, \$100.*
 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

797 during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no
 798 local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol
 799 or spirits, or both, during such license year;
 800 b. Fruit distiller's license, \$1,500;
 801 c. Bed and breakfast establishment license, \$40;
 802 d. Museum license, \$10;
 803 e. Tasting license, \$5 per license granted;
 804 f. Equine sporting event license, \$10;
 805 g. Day spa license, \$20;
 806 h. Motor car sporting event facility license, \$10;
 807 i. Meal-assembly kitchen license, \$20;
 808 j. Canal boat operator license, \$20;
 809 k. Annual arts venue event license, \$20; and
 810 l. Art instruction studio license, \$20.
 811 2. Beer. — For each:
 812 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
 813 license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the
 814 license is granted, \$1,000;
 815 b. Bottler's license, \$500;
 816 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
 817 d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer
 818 license in a city, \$100, and in a county or town, \$25; and
 819 e. Beer shipper's license, \$10.
 820 3. Wine. — For each:
 821 a. Winery license, \$50;
 822 b. Wholesale wine license, \$50;
 823 c. Farm winery license, \$50; and
 824 d. Wine shipper's license, \$10.
 825 4. Wine and beer. — For each:
 826 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail
 827 off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery
 828 store license, in a city, \$150, and in a county or town, \$37.50;
 829 b. Hospital license, \$10;
 830 c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board
 831 pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20
 832 per license;
 833 d. Gourmet brewing shop license, \$150;
 834 e. Wine and beer shipper's license, \$10;
 835 f. Annual banquet license, \$15; and
 836 g. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
 837 5. Mixed beverages. — For each:
 838 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
 839 by hotels or motels, or other persons:
 840 (i) With a seating capacity at tables for up to 100 persons, \$200;
 841 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
 842 (iii) With a seating capacity at tables for more than 150 persons, \$500.
 843 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
 844 c. Mixed beverage caterer's license, \$500;
 845 d. Mixed beverage limited caterer's license, \$100;
 846 e. Mixed beverage special events licenses, \$10 for each day of each event;
 847 f. Mixed beverage club events licenses, \$10 for each day of each event;
 848 g. Annual mixed beverage amphitheater license, \$300;
 849 h. Annual mixed beverage motor sports race track license, \$300;
 850 i. Annual mixed beverage banquet license, \$75;
 851 j. Limited mixed beverage restaurant license:
 852 (i) With a seating capacity at tables for up to 100 persons, \$100;
 853 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
 854 (iii) With a seating capacity at tables for more than 150 persons, \$400;
 855 k. Annual mixed beverage motor sports facility license, \$300; and
 856 l. Annual mixed beverage performing arts facility license, \$300; and
 857 m. *Limited mixed beverage retail cigar shop license, \$20.*
 858 B. Common carriers. — No local license tax shall be either charged or collected for the privilege of

859 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the
860 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises
861 consumption only.

862 C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in
863 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local
864 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,
865 may include alcoholic beverages in the base for measuring such local license taxes the same as if the
866 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter
867 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local
868 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license
869 taxes authorized by this chapter.

870 The governing body of any county, city or town, in adopting an ordinance under this section, shall
871 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation
872 under the ordinance, and in computing the local wholesale merchants' license tax on such beer
873 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be
874 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license
875 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine
876 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale
877 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall
878 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary
879 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax
880 paid by such wholesale wine licensee.

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

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