

17103906D

SENATE BILL NO. 1391

Offered January 11, 2017

Prefiled January 11, 2017

A BILL to amend and reenact §§ 4.1-100 and 4.1-128, as they are currently effective and as they shall become effective, 4.1-206, 4.1-231, 4.1-233, and 4.1-308 of the Code of Virginia, relating to alcoholic beverage control; new license for certain commercial lifestyle centers.

Patrons—DeSteph; Delegate: Knight

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100 and 4.1-128, as they are currently effective and as they shall become effective, 4.1-206, 4.1-231, 4.1-233, and 4.1-308 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

INTRODUCED

SB1391

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 *"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 25*
69 *acres of land and having at least 100,000 square feet of retail space featuring national specialty chain*
70 *stores and a combination of dining, entertainment, office, residential, or hotel establishments located in*
71 *a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial*
72 *owners' association that is responsible for the management, maintenance, and operation of the common*
73 *areas thereof.*

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

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

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

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

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

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

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

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

118 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty
119 items relating to history, original and handmade arts and products, collectibles, crafts, and floral
120 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.

"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.

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

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

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

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

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

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

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

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

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

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

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

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

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

240 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for
241 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
242 required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by
243 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.

"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.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 25 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

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

305 alcoholic beverages.

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

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

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

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

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

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

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

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

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

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

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

364 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
365 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
366 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.

"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

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

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

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

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

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

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

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

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

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

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

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

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

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

481 **§ 4.1-128. (Effective until July 1, 2018) Local ordinances or resolutions regulating or taxing**
482 **alcoholic beverages.**

483 A. No county, city, or town shall, except as provided in § 4.1-205 or § 4.1-129, adopt any ordinance
484 or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale
485 distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in
486 the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits
487 or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations
488 of the Alcoholic Beverage Control Board, and federal law at a licensed farm winery.

489 No provision of law, general or special, shall be construed to authorize any county, city or town to

adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by §§ 58.1-605, 58.1-3833 or § 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance ~~which that~~ (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of ~~subsection~~ *subsections B and E* of § 4.1-308, or the acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this title, are repealed to the extent of such inconsistency.

§ 4.1-128. (Effective July 1, 2018) Local ordinances or resolutions regulating or taxing alcoholic beverages.

A. No county, city, or town shall, except as provided in § 4.1-205 or 4.1-129, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board, and federal law at a licensed farm winery.

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by § 58.1-605, 58.1-3833 or 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance ~~which that~~ (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of ~~subsection~~ *subsections B and E* of § 4.1-308, or the acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this title, are repealed to the extent of such inconsistency.

§ 4.1-206. Alcoholic beverage licenses.

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

551 3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages
552 made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board
553 regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale
554 outside the Commonwealth.

555 4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services
556 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic
557 beverages on the premises of the licensee by any person, and bona fide members and guests thereof,
558 otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be
559 purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the
560 premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency
561 station or both, regularly occupied as such and recognized by the governing body of the county, city, or
562 town in which it is located. Under conditions as specified by Board regulation, such premises may be
563 other than a volunteer fire or volunteer emergency medical services agency station, provided such other
564 premises are occupied and under the control of the volunteer fire department or volunteer emergency
565 medical services agency while the privileges of its license are being exercised.

566 5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in
567 dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is
568 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and
569 without regard to the amount of gross receipts from the sale of food prepared and consumed on the
570 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom
571 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas
572 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas"
573 includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more
574 than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor
575 dining areas are under the control of the licensee and approved by the Board. Such noncontiguous
576 designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of
577 § 4.1-201.

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

583 7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under
584 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the
585 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide
586 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any
587 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in
588 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,
589 regularly occupied and utilized as such.

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

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

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

609 11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the
610 premises of the licensee to any such bona fide customer attending either a private gathering or a special
611 event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce
612 glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the

wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. 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.

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

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

15. *Commercial lifestyle center license, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer of the commercial lifestyle center or on the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant. The license shall also authorize any retail on-premises licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any such bona fide customer to whom alcoholic beverages may be lawfully sold and permit the consumption of such alcoholic beverages on the licensed premises of the commercial lifestyle center, whether or not contiguous to the premises of the retail on-premises licensee, provided that the alcoholic beverages are contained in paper, plastic, or similar disposable containers. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The privileges of the license shall be limited to those areas of the licensee's premises designated by the Board, including plazas, seating areas, concourses, walkways, or such other similar areas, but excluding any parking areas. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to enforce the applicable provisions of this title and Board regulations.*

B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

§ 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;

- 674 c. Banquet facility license or museum license, \$190;
675 d. Bed and breakfast establishment license, \$35;
676 e. Tasting license, \$40 per license granted;
677 f. Equine sporting event license, \$130;
678 g. Motor car sporting event facility license, \$130;
679 h. Day spa license, \$100;
680 i. Delivery permit, \$120 if the permittee holds no other license under this title;
681 j. Meal-assembly kitchen license, \$100;
682 k. Canal boat operator license, \$100;
683 l. Annual arts venue event license, \$100; and
684 m. Art instruction studio license, \$100; and
685 n. *Commercial lifestyle center license, \$300.*
686 2. Wine licenses. For each:
687 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the
688 license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
689 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per
690 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000
691 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than
692 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons
693 of wine per year;
694 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more
695 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by
696 the number of separate locations covered by the license;
697 c. Wine importer's license, \$370;
698 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
699 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
700 which shall include a delivery permit;
701 f. Wine shipper's license, \$95; and
702 g. Internet wine retailer license, \$150.
703 3. Beer licenses. For each:
704 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
705 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which
706 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
707 b. Bottler's license, \$1,430;
708 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
709 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
710 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
711 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
712 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
713 license;
714 d. Beer importer's license, \$370;
715 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
716 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
717 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
718 cars operated daily in the Commonwealth;
719 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
720 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
721 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
722 delivery permit;
723 h. Beer shipper's license, \$95; and
724 i. Retail off-premises brewery license, \$120, which shall include a delivery permit.
725 4. Wine and beer licenses. For each:
726 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
727 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
728 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
729 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
730 a common carrier of passengers by airplane, \$750;
731 b. Retail on-premises wine and beer license to a hospital, \$145;
732 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
733 grocery store license, \$230, which shall include a delivery permit;
734 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall
735 include a delivery permit;

- 736 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
 737 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be
 738 \$100 per license;
- 739 f. Gourmet brewing shop license, \$230;
 740 g. Wine and beer shipper's license, \$95;
 741 h. Annual banquet license, \$150;
 742 i. Fulfillment warehouse license, \$120;
 743 j. Marketing portal license, \$150; and
 744 k. Gourmet oyster house license, \$230.
- 745 5. Mixed beverage licenses. For each:
- 746 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
 747 located on premises of and operated by hotels or motels, or other persons:
- 748 (i) With a seating capacity at tables for up to 100 persons, \$560;
 749 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
 750 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
- 751 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
 752 private, nonprofit clubs:
- 753 (i) With an average yearly membership of not more than 200 resident members, \$750;
 754 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
 755 \$1,860; and
 756 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
- 757 c. Mixed beverage caterer's license, \$1,860;
 758 d. Mixed beverage limited caterer's license, \$500;
- 759 e. Mixed beverage special events license, \$45 for each day of each event;
 760 f. Mixed beverage club events licenses, \$35 for each day of each event;
 761 g. Annual mixed beverage special events license, \$560;
 762 h. Mixed beverage carrier license:
- 763 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the
 764 Commonwealth by a common carrier of passengers by train;
 765 (ii) \$560 for each common carrier of passengers by boat;
 766 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
- 767 i. Annual mixed beverage amphitheater license, \$560;
 768 j. Annual mixed beverage motor sports race track license, \$560;
 769 k. Annual mixed beverage banquet license, \$500;
- 770 l. Limited mixed beverage restaurant license:
- 771 (i) With a seating capacity at tables for up to 100 persons, \$460;
 772 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
 773 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
- 774 m. Annual mixed beverage motor sports facility license, \$560; and
 775 n. Annual mixed beverage performing arts facility license, \$560.
- 776 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
 777 imposed by this section on the license for which the applicant applied.
- 778 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be
 779 subject to proration to the following extent: If the license is granted in the second quarter of any year,
 780 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be
 781 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by
 782 three-fourths.
- 783 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000
 784 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license
 785 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the
 786 number of gallons permitted to be manufactured shall be prorated in the same manner.
- 787 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000
 788 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or
 789 winery license, such person shall pay for such unlimited license a license tax equal to the amount that
 790 would have been charged had such license been applied for at the time that the license to manufacture
 791 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person
 792 shall be entitled to a refund of the amount of license tax previously paid on the limited license.
- 793 Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12,
 794 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the
 795 nearest cent, multiplied by the number of months in the license period, and then increased by five
 796 percent. Such tax shall not be refundable, except as provided in § 4.1-232.

797 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
 798 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
 799 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
 800 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer
 801 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license
 802 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining
 803 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the
 804 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases
 805 shall be disregarded.

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

808 **§ 4.1-233. Taxes on local licenses.**

809 A. In addition to the state license taxes, the annual local license taxes which may be collected shall
 810 not exceed the following sums:

811 1. Alcoholic beverages. — For each:

812 a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured
 813 during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no
 814 local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol
 815 or spirits, or both, during such license year;

816 b. Fruit distiller's license, \$1,500;

817 c. Bed and breakfast establishment license, \$40;

818 d. Museum license, \$10;

819 e. Tasting license, \$5 per license granted;

820 f. Equine sporting event license, \$10;

821 g. Day spa license, \$20;

822 h. Motor car sporting event facility license, \$10;

823 i. Meal-assembly kitchen license, \$20;

824 j. Canal boat operator license, \$20;

825 k. Annual arts venue event license, \$20; and

826 l. Art instruction studio license, \$20; and

827 m. *Commercial lifestyle center license*, \$60.

828 2. Beer. — For each:

829 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
 830 license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the
 831 license is granted, \$1,000;

832 b. Bottler's license, \$500;

833 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;

834 d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer
 835 license in a city, \$100, and in a county or town, \$25; and

836 e. Beer shipper's license, \$10.

837 3. Wine. — For each:

838 a. Winery license, \$50;

839 b. Wholesale wine license, \$50;

840 c. Farm winery license, \$50; and

841 d. Wine shipper's license, \$10.

842 4. Wine and beer. — For each:

843 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail
 844 off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery
 845 store license, in a city, \$150, and in a county or town, \$37.50;

846 b. Hospital license, \$10;

847 c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board
 848 pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20
 849 per license;

850 d. Gourmet brewing shop license, \$150;

851 e. Wine and beer shipper's license, \$10;

852 f. Annual banquet license, \$15; and

853 g. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.

854 5. Mixed beverages. — For each:

855 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
 856 by hotels or motels, or other persons:

857 (i) With a seating capacity at tables for up to 100 persons, \$200;

858 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and

- (iii) With a seating capacity at tables for more than 150 persons, \$500.
- b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
- c. Mixed beverage caterer's license, \$500;
- d. Mixed beverage limited caterer's license, \$100;
- e. Mixed beverage special events licenses, \$10 for each day of each event;
- f. Mixed beverage club events licenses, \$10 for each day of each event;
- g. Annual mixed beverage amphitheater license, \$300;
- h. Annual mixed beverage motor sports race track license, \$300;
- i. Annual mixed beverage banquet license, \$75;
- j. Limited mixed beverage restaurant license:
- (i) With a seating capacity at tables for up to 100 persons, \$100;
- (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
- (iii) With a seating capacity at tables for more than 150 persons, \$400;
- k. Annual mixed beverage motor sports facility license, \$300; and
- l. Annual mixed beverage performing arts facility license, \$300.
- B. Common carriers. — No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.
- C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.
- The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.
- D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.
- E. Application of county tax within town. — Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.
- § 4.1-308. Drinking alcoholic beverages, or offering to another, in public place; penalty; exceptions.**
- A. If any person takes a drink of alcoholic beverages or offers a drink thereof to another, whether accepted or not, at or in any public place, he ~~shall be~~ *is* guilty of a Class 4 misdemeanor.
- B. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any rooms or areas approved by the Board in a licensed establishment, provided such establishment or the person who operates the same is licensed to sell alcoholic beverages at retail for on-premises consumption and the alcoholic beverages drunk or offered were purchased therein.
- C. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any room or area approved by the Board at an event for which a banquet license or mixed beverage special events license has been granted. Nor shall this section prevent, upon authorization of the licensee, any person from drinking his own lawfully acquired alcoholic beverages or offering a drink thereof to another in approved areas and locations at events for which a coliseum or stadium license has been granted.
- D. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another on a chartered boat being used for the transportation of passengers for compensation which is not licensed by the Board and which does not sell alcoholic beverages.

920 *E. This section shall not prevent any person from drinking alcoholic beverages or offering a drink*
921 *thereof to another in any areas approved by the Board in a licensed commercial lifestyle center.*