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## SENATE BILL NO. 1391

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services  
on January 27, 2017)

(Patron Prior to Substitute—Senator DeSteph)

*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.*

**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 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 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 Board for the sale of alcoholic beverages.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

183 highway, street, or lane.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

244 "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 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.

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

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

429 which are not licensed by the Board and on which alcoholic beverages are not sold.

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

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

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

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

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

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

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

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

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

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

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

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

479 **§ 4.1-128. (Effective until July 1, 2018) Local ordinances or resolutions regulating or taxing**  
480 **alcoholic beverages.**

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

487 No provision of law, general or special, shall be construed to authorize any county, city or town to  
488 adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than  
489 the taxes authorized by §§ 58.1-605, 58.1-3833 or § 58.1-3840. The foregoing limitation shall not affect  
490 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.

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, 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

552 outside the Commonwealth.

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

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

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

581 7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under  
582 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the  
583 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide  
584 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any  
585 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in  
586 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,  
587 regularly occupied and utilized as such.

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

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

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

607 11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the  
608 premises of the licensee to any such bona fide customer attending either a private gathering or a special  
609 event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce  
610 glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the  
611 wine or beer served or consumed. The privileges of this license shall be limited to the premises of the  
612 meal-assembly kitchen regularly occupied and utilized as such.

613 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 any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) 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, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. 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 ensure compliance with 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;

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;

- 675 g. Motor car sporting event facility license, \$130;  
676 h. Day spa license, \$100;  
677 i. Delivery permit, \$120 if the permittee holds no other license under this title;  
678 j. Meal-assembly kitchen license, \$100;  
679 k. Canal boat operator license, \$100;  
680 l. Annual arts venue event license, \$100; ~~and~~  
681 m. Art instruction studio license, \$100; ~~and~~  
682 *n. Commercial lifestyle center license, \$300.*  
683 2. Wine licenses. For each:  
684 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the  
685 license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;  
686 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per  
687 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000  
688 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than  
689 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons  
690 of wine per year;  
691 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more  
692 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by  
693 the number of separate locations covered by the license;  
694 c. Wine importer's license, \$370;  
695 d. Retail off-premises winery license, \$145, which shall include a delivery permit;  
696 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of  
697 which shall include a delivery permit;  
698 f. Wine shipper's license, \$95; and  
699 g. Internet wine retailer license, \$150.  
700 3. Beer licenses. For each:  
701 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the  
702 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which  
703 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;  
704 b. Bottler's license, \$1,430;  
705 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or  
706 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of  
707 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;  
708 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be  
709 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the  
710 license;  
711 d. Beer importer's license, \$370;  
712 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common  
713 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by  
714 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club  
715 cars operated daily in the Commonwealth;  
716 f. Retail off-premises beer license, \$120, which shall include a delivery permit;  
717 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a  
718 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a  
719 delivery permit;  
720 h. Beer shipper's license, \$95; and  
721 i. Retail off-premises brewery license, \$120, which shall include a delivery permit.  
722 4. Wine and beer licenses. For each:  
723 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a  
724 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common  
725 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining  
726 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to  
727 a common carrier of passengers by airplane, \$750;  
728 b. Retail on-premises wine and beer license to a hospital, \$145;  
729 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience  
730 grocery store license, \$230, which shall include a delivery permit;  
731 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall  
732 include a delivery permit;  
733 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the  
734 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be  
735 \$100 per license;  
736 f. Gourmet brewing shop license, \$230;

- 737 g. Wine and beer shipper's license, \$95;  
 738 h. Annual banquet license, \$150;  
 739 i. Fulfillment warehouse license, \$120;  
 740 j. Marketing portal license, \$150; and  
 741 k. Gourmet oyster house license, \$230.  
 742 5. Mixed beverage licenses. For each:  
 743 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants  
 744 located on premises of and operated by hotels or motels, or other persons:  
 745 (i) With a seating capacity at tables for up to 100 persons, \$560;  
 746 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and  
 747 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.  
 748 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by  
 749 private, nonprofit clubs:  
 750 (i) With an average yearly membership of not more than 200 resident members, \$750;  
 751 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,  
 752 \$1,860; and  
 753 (iii) With an average yearly membership of more than 500 resident members, \$2,765.  
 754 c. Mixed beverage caterer's license, \$1,860;  
 755 d. Mixed beverage limited caterer's license, \$500;  
 756 e. Mixed beverage special events license, \$45 for each day of each event;  
 757 f. Mixed beverage club events licenses, \$35 for each day of each event;  
 758 g. Annual mixed beverage special events license, \$560;  
 759 h. Mixed beverage carrier license:  
 760 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the  
 761 Commonwealth by a common carrier of passengers by train;  
 762 (ii) \$560 for each common carrier of passengers by boat;  
 763 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.  
 764 i. Annual mixed beverage amphitheater license, \$560;  
 765 j. Annual mixed beverage motor sports race track license, \$560;  
 766 k. Annual mixed beverage banquet license, \$500;  
 767 l. Limited mixed beverage restaurant license:  
 768 (i) With a seating capacity at tables for up to 100 persons, \$460;  
 769 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;  
 770 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;  
 771 m. Annual mixed beverage motor sports facility license, \$560; and  
 772 n. Annual mixed beverage performing arts facility license, \$560.  
 773 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax  
 774 imposed by this section on the license for which the applicant applied.  
 775 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be  
 776 subject to proration to the following extent: If the license is granted in the second quarter of any year,  
 777 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be  
 778 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by  
 779 three-fourths.  
 780 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000  
 781 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license  
 782 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the  
 783 number of gallons permitted to be manufactured shall be prorated in the same manner.  
 784 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000  
 785 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or  
 786 winery license, such person shall pay for such unlimited license a license tax equal to the amount that  
 787 would have been charged had such license been applied for at the time that the license to manufacture  
 788 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person  
 789 shall be entitled to a refund of the amount of license tax previously paid on the limited license.  
 790 Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12,  
 791 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the  
 792 nearest cent, multiplied by the number of months in the license period, and then increased by five  
 793 percent. Such tax shall not be refundable, except as provided in § 4.1-232.  
 794 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state  
 795 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,  
 796 shall be liable to state merchants' license taxation and state restaurant license taxation and other state  
 797 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer

wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

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

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

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

1. Alcoholic beverages. — For each:

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

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

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

d. Museum license, \$10;

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

f. Equine sporting event license, \$10;

g. Day spa license, \$20;

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

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

j. Canal boat operator license, \$20;

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

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

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

2. Beer. — For each:

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

b. Bottler's license, \$500;

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

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

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

3. Wine. — For each:

a. Winery license, \$50;

b. Wholesale wine license, \$50;

c. Farm winery license, \$50; and

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

4. Wine and beer. — For each:

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

b. Hospital license, \$10;

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

d. Gourmet brewing shop license, \$150;

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

f. Annual banquet license, \$15; and

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

5. Mixed beverages. — For each:

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

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

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