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SENATE BILL NO. 1469

Offered January 16, 2017

A *BILL to amend and reenact §§ 4.1-208, 4.1-209, and 4.1-210 of the Code of Virginia, relating to alcoholic beverage control; disposable containers.*

Patron—Chafin

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-208, 4.1-209, and 4.1-210 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-208. Beer licenses.

A. The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. 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 brewery 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.

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered

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59 under the laws of the United States sailing for ports of call of a foreign country or another state, and
60 (iii) persons outside the Commonwealth for resale outside the Commonwealth.

61 No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth
62 who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's
63 license and purchases beer for resale pursuant to the privileges of such beer importer's license.

64 5. Beer importers' licenses, which shall authorize persons licensed within or outside the
65 Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board
66 regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for
67 the purpose of resale.

68 6. Retail on-premises beer licenses to:

69 a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without
70 meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private
71 guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms
72 and areas. For purposes of this subdivision, "other designated areas" includes outdoor dining areas,
73 whether or not contiguous to the licensed premises, which may have more than one means of ingress
74 and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the
75 control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be
76 approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

77 b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the
78 licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so
79 operated by them for on-premises consumption when carrying passengers.

80 c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee
81 to sell beer, either with or without meals, on such boats operated by them for on-premises consumption
82 when carrying passengers.

83 d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or
84 town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments.
85 No license shall be granted unless it appears affirmatively that a substantial public demand for such
86 licensed establishment exists and that public convenience and the purposes of this title will be promoted
87 by granting the license.

88 e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize
89 the licensee to sell beer, in paper, plastic, or similar disposable containers *or in single original metal*
90 *cans*, during the performance of professional sporting exhibitions, events or performances immediately
91 subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and
92 additional locations designated by the Board in such coliseums, stadia, or similar facilities, for
93 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his
94 own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the
95 license.

96 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar
97 facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta,
98 Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer
99 during the performance of any event, in paper, plastic or similar disposable containers *or in single*
100 *original metal cans*, to patrons within all seating areas, concourses, walkways, concession areas, or
101 similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep
102 and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations
103 covered by the license.

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

115 7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed
116 containers for off-premises consumption.

117 8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize
118 the licensee to sell beer at the place of business designated in the brewery license, in closed containers
119 which shall include growlers and other reusable containers, for off-premises consumption.

120 9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which

shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the licensee to sell beer in closed containers for off-premises consumption.

B. Any farm winery or limited brewery 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 farm winery or limited brewery 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 farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery 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 farm winery or limited brewery 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 farm winery or limited brewery on or after July 1, 2016.

§ 4.1-209. Wine and beer licenses; advertising.

A. The Board may grant the following licenses relating to wine and beer:

1. Retail on-premises wine and beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (i) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201;

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them, for on-premises consumption when carrying passengers;

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding. For purposes of supplying its airplanes, as well as any airplane of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load wine and beer onto the same airplanes and to transport and store wine and beer at or in close proximity to the airport where the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of wine and beer may be stored and from which the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all wine and beer to be transported, stored, and delivered by its authorized representative;

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

f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers *or in single*

182 *original metal cans*, during any event and immediately subsequent thereto, to patrons within all seating
183 areas, concourses, walkways, concession areas and additional locations designated by the Board in such
184 coliseums, stadia, racetracks or similar facilities, for on-premises consumption. Upon authorization of the
185 licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
186 premises in all areas and locations covered by the license;

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

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

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

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

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

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

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

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

241 7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior
242 premises of the gift shop in closed containers for off-premises consumption and, the provisions of
243 § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a

sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.

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

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

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

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

12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, where the licensee also offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products. Such license shall authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed containers for off-premises consumption. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly food sale requirement of oysters and other seafood for such license. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold.

B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to this section may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol, Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the athlete is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic beverage so advertised enhances athletic prowess.

C. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person.

§ 4.1-210. Mixed beverages licenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

429 15. Annual mixed beverage performing arts facility license to persons operating food concessions at
430 any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the
431 performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the
432 original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has
433 been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts
434 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages
435 served on the premises that meet or exceed the monthly minimum established by Board regulations for
436 mixed beverage restaurants. Such license shall authorize the sale, on the dates of performances or
437 events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises
438 approved by the Board.

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

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

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