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HOUSE BILL NO. 1813

Offered January 9, 2019

Prefiled December 30, 2018

A BILL to amend and reenact §§ 4.1-100, 4.1-225, 4.1-227, 4.1-304, 4.1-306, and 18.2-308.09 of the Code of Virginia and to repeal §§ 4.1-322, 4.1-333, and 4.1-334 of the Code of Virginia, relating to alcoholic beverage control; interdiction; possession or consumption of alcoholic beverages by interdicted persons; repeal.

Patrons—Carroll Foy, Adams, D.M., Hope, Kory, Lindsey, McQuinn, Mullin, Rasoul and Simon;
Senators: McPike and Surovell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-225, 4.1-227, 4.1-304, 4.1-306, and 18.2-308.09 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. Definitions.

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this title, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered 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

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58 recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33
59 U.S.C. § 59ii.

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

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

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

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

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

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

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

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

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

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

100 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned
101 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for
102 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
103 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned
104 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing
105 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for
106 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
107 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher
108 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine
109 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
110 manufactured by the institution shall be stored on the premises of such farm winery that shall be
111 separate and apart from all other facilities of the institution, and (d) such farm winery is operated in
112 strict conformance with the requirements of this clause (ii) and Board regulations. As used in this
113 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of
114 individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a
115 farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the
116 individual members of the cooperative as long as such land is located in the Commonwealth. For
117 purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or
118 classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this
119 definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for

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.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"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 beer 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.

"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

181 in a lump sum.

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

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

189 "Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and
190 which is the county seat of Smyth County.

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

195 "Principal stockholder" means any person who individually or in concert with his spouse and
196 immediate family members beneficially owns or controls, directly or indirectly, five percent or more of
197 the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse
198 and immediate family members has the power to vote or cause the vote of five percent or more of any
199 such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the
200 Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial
201 markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

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

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

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

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

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

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

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

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

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

242 "Special event" means an event sponsored by a duly organized nonprofit corporation or association

and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

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

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

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

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

§ 4.1-225. Grounds for which Board may suspend or revoke licenses.

The Board may suspend or revoke any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Has misrepresented a material fact in applying to the Board for such license;

b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth, of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;

d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business which have not been disclosed;

e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;

f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;

g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

h. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other than a busboy, cook or other kitchen help, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;

i. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect for law and order;

j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he knew or had reason to believe was (i) less than 21 years of age; ~~(ii) interdicted;~~ or ~~(iii) (ii)~~ intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as

provided under this title;

1. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

m. Has allowed any obscene literature, pictures or materials upon the licensed premises;

n. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises;

o. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled paraphernalia as those terms are defined in Articles 1 and 1.1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Articles 1 and 1.1 of Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.). The provisions of this subdivision shall also apply to any conduct related to the operation of the licensed business which facilitates the commission of any of the offenses set forth herein;

p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-344 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety; or

q. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises.

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city or town in which such establishment is located, with respect to sanitation, health, construction or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this title or § 18.2-258; or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the armed forces of the United States by prices charged or otherwise.

4. The licensee, his employees, or any entertainer performing on the licensed premises has been convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed premises and the licensee allowed such conduct to occur.

5. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.

7. Any other cause authorized by this title.

§ 4.1-227. Suspension or revocation of licenses; notice and hearings; imposition of penalties.

A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et seq.).

Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or

places, or copies or portions thereof, that are within the possession, custody, or control of the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee. In addition, any subpoena for the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought within ten working days, notwithstanding anything to the contrary in § 4.1-103.

If the Board fails to provide for inspection or copying under this section for the licensee after a written request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully been entitled to inspect or copy under this section.

The action of the Board in suspending or revoking any license or in imposing a civil penalty against the holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second violation occurring within five years immediately preceding the date of the second violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage, or intoxicated, or ~~interdicted~~ persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second violation occurring within five years immediately preceding the date of the second violation in lieu of such suspension or any portion thereof, or both. Upon making a finding that aggravating circumstances exist, the Board may also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$10,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent agreement as authorized in subdivision 22 of § 4.1-103. The notice shall advise the licensee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and (c)(1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. In case of an offense by the holder of a brewery license, the Board may (i) require that such holder pay the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-premises privileges of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first violation, \$50,000 for the second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed \$100,000. Such suspension or revocation shall not prohibit the licensee from manufacturing or selling beer manufactured by it to the owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and to persons outside the Commonwealth.

E. The Board shall, by regulation or written order:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;

2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;

3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or seller training certified in advance by the Board;

4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and

5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this title or Board regulations.

§ 4.1-304. Persons to whom alcoholic beverages may not be sold; proof of legal age; penalty.

A. No person shall, except pursuant to subdivisions 1 through 5 of § 4.1-200, sell any alcoholic beverages to any individual when at the time of such sale he knows or has reason to believe that the individual to whom the sale is made is (i) less than 21 years of age; *or* (ii) ~~interdicted~~, ~~or~~ (iii) intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. Any person who sells, except pursuant to subdivisions 1 through 5 of § 4.1-200, any alcoholic beverage to an individual who is less than 21 years of age and at the time of the sale does not require the individual to present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the United States or the District of Columbia, military identification card, United States passport or foreign government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any other valid government-issued identification card bearing the individual's photograph, signature, height, weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor. Notwithstanding the provisions of § 4.1-202, the Board shall not take administrative action against a licensee for the conduct of his employee who violates this subsection.

C. No person shall be convicted of both subsections A and B for the same sale.

§ 4.1-306. Purchasing alcoholic beverages for one to whom they may not be sold; penalty; forfeiture.

A. Any person who purchases alcoholic beverages for another person, and at the time of such purchase knows or has reason to believe that the person for whom the alcoholic beverage was purchased was (i) ~~interdicted~~, ~~or~~ (ii) intoxicated, is guilty of a Class 1 misdemeanor.

A1. Any person who purchases for, or otherwise gives, provides, or assists in the provision of alcoholic beverages to another person, when he knows or has reason to know that such person was less than 21 years of age, except (i) pursuant to subdivisions 1 through 7 of § 4.1-200; (ii) where possession of the alcoholic beverages by a person less than 21 years of age is due to such person's making a delivery of alcoholic beverages in pursuance of his employment or an order of his parent; or (iii) by any state, federal, or local law-enforcement officer when possession of an alcoholic beverage is necessary in the performance of his duties, is guilty of a Class 1 misdemeanor.

B. In addition to any other penalty authorized by law, any person found guilty of a violation of this section shall have his license to operate a motor vehicle suspended for a period of not more than one year. The court, in its discretion, may authorize any person convicted of a violation of this section the use of a restricted permit to operate a motor vehicle in accordance with the provisions of subsection D of § 16.1-278.9 or subsection E of § 18.2-271.1.

C. Any alcoholic beverages purchased in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-338.

§ 18.2-308.09. Disqualifications for a concealed handgun permit.

The following persons shall be deemed disqualified from obtaining a permit:

1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.

3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his application for a concealed handgun permit.

4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a permit may be obtained in accordance with subsection C of that section.

7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.

8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic cannabinoids, or any controlled substance.

9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the District of Columbia, the United States, or its territories within the three-year period immediately preceding the application; ~~or who is a habitual drunkard as determined pursuant to § 4.1-333.~~

10. An alien other than an alien lawfully admitted for permanent residence in the United States.

11. An individual who has been discharged from the armed forces of the United States under dishonorable conditions.

12. An individual who is a fugitive from justice.

13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath before a notary public of a competent person having personal knowledge of the specific acts.

14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation of § 18.2-282 within the three-year period immediately preceding the application.

15. An individual who has been convicted of stalking.

16. An individual whose previous convictions or adjudications of delinquency were based on an offense that would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions." Disqualification under this subdivision shall not apply to an individual with previous adjudications of delinquency who has completed a term of service of no less than two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge.

17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.

18. An individual who has received mental health treatment or substance abuse treatment in a residential setting within five years prior to the date of his application for a concealed handgun permit.

19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) or former § 18.2-248.1:1 or of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.

20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) or former § 18.2-248.1:1 or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

2. That §§ 4.1-322, 4.1-333, and 4.1-334 of the Code of Virginia are repealed.