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HOUSE BILL NO. 2301

Offered January 9, 2019

Prefiled January 8, 2019

A BILL to amend and reenact §§ 4.1-100, 4.1-206, 4.1-231, 4.1-233, and 15.2-2821 of the Code of Virginia, relating to alcoholic beverage control; retail cigar shop license.

Patrons—Collins, Landes, Torian and Lopez

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-206, 4.1-231, 4.1-233, and 15.2-2821 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 recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Cigar shop" means any bona fide retail store that (i) caters to patrons who purchase and smoke

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59 premium cigars; (ii) annually receives at least 60 percent of its gross revenue from the sale of premium
60 tobacco products, to include at least \$200,000 and 40 percent or more of its gross revenue, whichever
61 is greater, from the sale of premium cigars; (iii) has on the premises at least one display humidor that
62 stocks no less than 5,000 premium cigars; and (iv) is open to the public on a regular basis. Such shop
63 shall be a permanent structure where stock is displayed and offered for sale and that has facilities to
64 properly secure any stock of alcoholic beverages. For the purposes of this definition, "premium cigars"
65 means any handmade cigar valued at \$2 or more at retail and "premium tobacco products" means
66 cigars, pipes, pipe tobacco, humidors, and other accessories for cigars and pipes. "Premium tobacco
67 products" does not include cigarettes.

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

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

80 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum of
81 25 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain
82 stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a
83 physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial
84 owners' association that is responsible for the management, maintenance, and operation of the common
85 areas thereof.

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

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

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

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

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

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

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

108 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned
109 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for
110 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
111 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned
112 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing
113 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for
114 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
115 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher
116 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine
117 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
118 manufactured by the institution shall be stored on the premises of such farm winery that shall be
119 separate and apart from all other facilities of the institution, and (d) such farm winery is operated in
120 strict conformance with the requirements of this clause (ii) and Board regulations. As used in this

definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

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

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

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

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

"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.

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

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

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

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

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

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

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

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

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

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

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

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

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

beverages.

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

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

"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.

§ 4.1-206. Alcoholic beverage licenses.

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

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

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

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

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

premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. 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.

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

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

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

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

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

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

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

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic

beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

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

15. Commercial lifestyle center license, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.

16. Confectionery license, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

17. *Retail cigar shop license, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the retail cigar shop and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the retail cigar shop regularly occupied and utilized as such.*

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

§ 4.1-231. Taxes on state licenses.

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:

a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;

b. Fruit distiller's license, \$3,725;

c. Banquet facility license or museum license, \$190;

d. Bed and breakfast establishment license, \$35;

e. Tasting license, \$40 per license granted;

- 428 f. Equine sporting event license, \$130;
429 g. Motor car sporting event facility license, \$130;
430 h. Day spa license, \$100;
431 i. Delivery permit, \$120 if the permittee holds no other license under this title;
432 j. Meal-assembly kitchen license, \$100;
433 k. Canal boat operator license, \$100;
434 l. Annual arts venue event license, \$100;
435 m. Art instruction studio license, \$100;
436 n. Commercial lifestyle center license, \$300; and
437 o. Confectionery license, \$100; and
438 p. *Retail cigar shop license, \$100.*
439 2. Wine licenses. For each:
440 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the
441 license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
442 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per
443 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000
444 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than
445 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons
446 of wine per year;
447 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more
448 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by
449 the number of separate locations covered by the license;
450 c. Wine importer's license, \$370;
451 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
452 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
453 which shall include a delivery permit;
454 f. Wine shipper's license, \$230; and
455 g. Internet wine retailer license, \$150.
456 3. Beer licenses. For each:
457 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
458 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which
459 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
460 b. Bottler's license, \$1,430;
461 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
462 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
463 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
464 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
465 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
466 license;
467 d. Beer importer's license, \$370;
468 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
469 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
470 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
471 cars operated daily in the Commonwealth;
472 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
473 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
474 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
475 delivery permit;
476 h. Beer shipper's license, \$230;
477 i. Retail off-premises brewery license, \$120, which shall include a delivery permit; and
478 j. Internet beer retailer license, \$150.
479 4. Wine and beer licenses. For each:
480 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
481 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
482 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
483 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
484 a common carrier of passengers by airplane, \$750;
485 b. Retail on-premises wine and beer license to a hospital, \$145;
486 c. Retail on-premises wine and beer license to a historic cinema house, \$200;
487 d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
488 grocery store license, \$230, which shall include a delivery permit;
489 e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall

include a delivery permit;

f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;

g. Gourmet brewing shop license, \$230;

h. Wine and beer shipper's license, \$230;

i. Annual banquet license, \$150;

j. Fulfillment warehouse license, \$120;

k. Marketing portal license, \$150; and

l. Gourmet oyster house license, \$230.

5. Mixed beverage licenses. For each:

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

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

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

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

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

(i) With an average yearly membership of not more than 200 resident members, \$750;

(ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and

(iii) With an average yearly membership of more than 500 resident members, \$2,765.

c. Mixed beverage caterer's license, \$1,860;

d. Mixed beverage limited caterer's license, \$500;

e. Mixed beverage special events license, \$45 for each day of each event;

f. Mixed beverage club events licenses, \$35 for each day of each event;

g. Annual mixed beverage special events license, \$560;

h. Mixed beverage carrier license:

(i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(ii) \$560 for each common carrier of passengers by boat;

(iii) \$1,475 for each license granted to a common carrier of passengers by airplane.

i. Annual mixed beverage amphitheater license, \$560;

j. Annual mixed beverage motor sports race track license, \$560;

k. Annual mixed beverage banquet license, \$500;

l. Limited mixed beverage restaurant license:

(i) With a seating capacity at tables for up to 100 persons, \$460;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;

(iii) With a seating capacity at tables for more than 150 persons, \$1,330;

m. Annual mixed beverage motor sports facility license, \$560; and

n. Annual mixed beverage performing arts facility license, \$560.

6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

551 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
552 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
553 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
554 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer
555 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license
556 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining
557 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the
558 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases
559 shall be disregarded.

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

562 **§ 4.1-233. Taxes on local licenses.**

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

565 1. Alcoholic beverages. — For each:

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

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

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

572 d. Museum license, \$10;

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

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

575 g. Day spa license, \$20;

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

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

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

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

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

581 m. Commercial lifestyle center license, \$60; and

582 n. Confectionery license, \$20; and

583 o. *Retail cigar shop license*, \$20.

584 2. Beer. — For each:

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

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

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

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

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

593 3. Wine. — For each:

594 a. Winery license, \$50;

595 b. Wholesale wine license, \$50;

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

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

598 4. Wine and beer. — For each:

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

602 b. Hospital license, \$10;

603 c. Historic cinema house license, \$20;

604 d. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board
605 pursuant to subsection A of § 4.1-215, which shall be \$20 per license;

606 e. Gourmet brewing shop license, \$150;

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

608 g. Annual banquet license, \$15; and

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

610 5. Mixed beverages. — For each:

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

- (i) With a seating capacity at tables for up to 100 persons, \$200;
 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
 (iii) With a seating capacity at tables for more than 150 persons, \$500.
- b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
 c. Mixed beverage caterer's license, \$500;
 d. Mixed beverage limited caterer's license, \$100;
 e. Mixed beverage special events licenses, \$10 for each day of each event;
 f. Mixed beverage club events licenses, \$10 for each day of each event;
 g. Annual mixed beverage amphitheater license, \$300;
 h. Annual mixed beverage motor sports race track license, \$300;
 i. Annual mixed beverage banquet license, \$75;
 j. Limited mixed beverage restaurant license:
- (i) With a seating capacity at tables for up to 100 persons, \$100;
 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
 (iii) With a seating capacity at tables for more than 150 persons, \$400;
 k. Annual mixed beverage motor sports facility license, \$300; and
 l. Annual mixed beverage performing arts facility license, \$300.
- B. Common carriers. — No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.
- C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.
- The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.
- D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.
- E. Application of county tax within town. — Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.
- § 15.2-2821. Applicability.**
 Nothing in this chapter shall be construed to:
1. Permit smoking where it is otherwise prohibited or restricted by other applicable provisions of law; or
 2. Regulate smoking in retail tobacco stores, *including retail cigar shops licensed pursuant to subdivision A 17 of § 4.1-206*, tobacco warehouses, or tobacco manufacturing facilities.