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**HOUSE BILL NO. 2634****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws  
on January 24, 2019)

(Patron Prior to Substitute—Delegate Hurst)

*A BILL to amend and reenact §§ 4.1-100, 4.1-119, 4.1-121, 4.1-122, 4.1-124, and 4.1-221.1 of the Code of Virginia and to repeal § 4.1-126 of the Code of Virginia, relating to alcoholic beverage control; local referendums.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-100, 4.1-119, 4.1-121, 4.1-122, 4.1-124, and 4.1-221.1 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.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also

60 means the establishment so operated. A corporation or association shall not lose its status as a club  
61 because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.)  
62 of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided  
63 that no alcoholic beverages are served or consumed in the room where such charitable gaming is being  
64 conducted while such gaming is being conducted and that no alcoholic beverages are made available  
65 upon the premises to any person who is neither a member nor a bona fide guest of a member.

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

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

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

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

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

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

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

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

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

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

119 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty  
120 items relating to history, original and handmade arts and products, collectibles, crafts, and floral  
121 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~~ *prohibit* the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

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

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

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

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

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives

183 which are not commonly consumed unless combined with alcoholic beverages, whether or not such  
184 ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a  
185 Virginia corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

241 "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable  
242 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and  
243 gin, or any one or more of the last four named ingredients; but shall not include any such liquors  
244 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.

#### **§ 4.1-119. Operation of government stores.**

A. Subject to the ~~requirements~~ *provisions* of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. (Effective until July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

E. (Effective July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

#### **§ 4.1-121. Referendum on establishment of government stores.**

A. The qualified voters of any county, city, or town having a population of 1,000 or more may file a petition with the circuit court of the county or city, or of the county wherein the town or the greater part thereof is situated, asking that a referendum be held on the question of whether the sale by the Virginia Alcoholic Beverage Control Authority of *alcoholic beverages*, other than beer and wine not produced by farm wineries, should be ~~permitted~~ *prohibited* within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the jurisdiction on January 1 preceding its filing or by at least 100 qualified voters, whichever is greater. Upon the filing of a petition, the court shall order the election officials of the county, city, or town, on the date fixed in the order, to conduct a referendum on the question. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the county, city, or town once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale by the Virginia Alcoholic Beverage Control Authority of alcoholic beverages, other than beer and wine not produced by farm wineries, be ~~permitted~~ *prohibited* in ..... (name of county, city, or town)?"

The referendum shall be ordered and held and the results certified as provided in § 24.2-684. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to

the Board and to the governing body of the county, city, or town.

B. Once a referendum has been held, no other referendum on the same question shall be held in the county, city, or town within four years of the date of the prior referendum. However, a town shall not be prescribed from holding a referendum within such period although an election has been held in the county in which the town or a part thereof is located less than four years prior thereto.

**§ 4.1-122. Effect of local option referenda.**

A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a majority of the qualified voters vote "~~No~~" "*Yes*" on the question, then on and after ~~sixty~~ 60 days from the date on which the order of the court, setting forth the results of such referendum was entered of record, none of the alcoholic beverages voted against shall be sold in such county, city, or town except for delivery or shipment to persons outside of such county, city, or town authorized under this title to acquire the alcoholic beverages for resale. This subsection shall not apply to common carriers of passengers by train, boat or airplane selling wine and beer to bona fide passengers.

B. If in any such referendum held in any county, city, or town in which a majority of the qualified voters have previously voted ~~against permitting to prohibit~~ the sale of alcoholic beverages by the Board and in a subsequent election a majority of the voters of the county, city, or town vote "*Yes*" "~~No~~" on the question stated in § 4.1-121, then such alcoholic beverages ~~permitted to be sold by such referendum~~ may, in accordance with this title, be sold within the county, city, or town on and after ~~sixty~~ 60 days from the day on which the order of the court setting forth the results of such election is entered of record.

C. If any referendum is held under the provisions of § 4.1-124 in any county, town, or supervisor's election district of a county and the majority of voters voting in such referendum voted "*Yes*," the sale by the Board of alcoholic beverages, other than beer and wine not produced by farm wineries, shall be ~~permitted prohibited~~ in such county, town, or supervisor's election district of a county. Notwithstanding this section and any referendum held under § 4.1-121 to the contrary, persons licensed to sell mixed beverages in such county, town, or supervisor's election district of a county shall also be permitted to sell wine and beer for on-premises consumption, provided the appropriate license fees are paid for the privilege.

D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery or shipment of alcoholic beverages specified in § 4.1-200 to and by persons therein authorized to sell alcoholic beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations into any county, city, or town, except as otherwise prohibited by this title.

E. For the purpose of this section, when any referendum is held in any town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county.

**§ 4.1-124. Referendum on the sale of mixed beverages.**

A. The provisions of this title relating to the sale of mixed beverages shall ~~not become~~ *be* effective in any town, county, or supervisor's election district of a county ~~until unless~~ a majority of the voters voting in a referendum vote *affirmatively "Yes"* on the question of whether *the sale of mixed alcoholic beverages should be sold* by restaurants licensed under this title *should be prohibited*. The qualified voters of a town, county, or supervisor's election district of a county may file a petition with the circuit court of the county asking that a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should be ~~permitted prohibited~~ within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

Petition requirements for any county shall be based on the number of registered voters in the county, including the number of registered voters in any town having a population in excess of 1,000 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election officials of the county to conduct a referendum on the question.

The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be ~~permitted prohibited~~ in ..... (name of town, county, or supervisor's election district of county)?"

The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages ~~permitted to be sold prohibited from sale~~ by such referendum ~~may in~~

429 accordance with this title *shall not* be sold by restaurants licensed by the Board within the town, county,  
430 or supervisor's election district of a county on or after 30 days following the entry of the order if a  
431 majority of the voters voting in the referendum have voted "Yes."

432 The provisions of this section shall be applicable to towns having a population in excess of 1,000 to  
433 the same extent and subject to the same conditions and limitations as are otherwise applicable to  
434 counties under this section. Such towns shall be treated as separate local option units, and only residents  
435 of any such town shall be eligible to vote in any referendum held pursuant to this section for any such  
436 town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote  
437 in any referendum held pursuant to this section for any county in which the town is located.

438 ~~The Notwithstanding the provisions of this section shall not require, the sale of mixed beverages by~~  
439 ~~restaurants shall be prohibited in any town created as a result of a city-to-town reversion pursuant to~~  
440 ~~Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 to hold a referendum on the same question if a~~  
441 ~~referendum on the question of whether the sale of mixed beverages by restaurants licensed under this~~  
442 ~~title should be prohibited was previously held in the former city and a majority of the voters voting in~~  
443 ~~the former city had previously approved the sale of mixed beverages by restaurants licensed by the~~  
444 ~~Board in such city such referendum voted "Yes."~~

445 B. Once a referendum has been held, no other referendum on the same question shall be held in the  
446 town, county, or supervisor's election district of a county for a period of 23 months.

447 C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on  
448 property dedicated for industrial or commercial development and controlled through the provision of  
449 public utilities and covenanting of the land by any multijurisdictional industrial development authority,  
450 as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority  
451 operates under a partnership agreement between three or more counties, cities, or towns and such  
452 jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed  
453 beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of  
454 one of the counties and that the governing board of the authority authorizes an establishment located  
455 within the confines of such property to apply to the Board for such license. The appropriate license fees  
456 shall be paid for this privilege.

457 D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the  
458 sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not  
459 produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

460 E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant  
461 license to a restaurant located on the premises of and operated by a private club exclusively for its  
462 members and their guests, subject to the qualifications and restrictions on the issuance of such license  
463 imposed by § 4.1-210. However, no license authorized by this subsection shall be granted if the private  
464 club restricts its membership on the basis of race, color, creed, national origin or sex.

465 **§ 4.1-221.1. Limitation of tasting licenses.**

466 Samples of alcoholic beverages given or sold by a licensee shall not exceed two ounces per person  
467 of each product tasted, provided that (i) in the case of wine or beer, no more than four products shall be  
468 offered or (ii) in the case of spirits, no more than two products shall be offered. Tasting licenses for  
469 mixed beverages shall only be issued for events to be held in localities ~~which have approved that do not~~  
470 ~~prohibit~~ the sale of mixed beverages pursuant to § 4.1-124. No license shall be issued to any person to  
471 whom issuance of a retail license is prohibited. No more than four tasting licenses annually shall be  
472 issued to any person. The provisions of this section shall not apply to tastings conducted pursuant to  
473 § 4.1-201.1.

474 **2. That § 4.1-126 of the Code of Virginia is repealed.**

475 **3. That notwithstanding the provisions of § 4.1-124 of the Code of Virginia, as amended by this**  
476 **act, mixed beverage licenses may be granted to any establishment described in § 4.1-126 of the**  
477 **Code of Virginia, as it was in effect prior to the effective date of this act, subject to all other**  
478 **applicable provisions of Title 4.1 of the Code of Virginia and regulations of the Board of Directors**  
479 **of the Virginia Alcoholic Beverage Control Authority.**

480 **4. That the provisions of the first, second, and third enactments of this act shall become effective**  
481 **on July 1, 2020.**

482 **5. That a referendum may be held in any town, county, or supervisor's election district of a**  
483 **county between July 1, 2019, and June 30, 2020, on either or both of the following questions:**  
484 **"Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic**  
485 **Beverage Control Authority be prohibited in ..... (name of town, county, or supervisor's**  
486 **election district of county)?" and "Shall the sale by the Virginia Alcoholic Beverage Control**  
487 **Authority of alcoholic beverages, other than beer and wine not produced by farm wineries, be**  
488 **prohibited in ..... (name of county, city, or town)?" The result of any referendum held**  
489 **pursuant to this enactment shall become effective on July 1, 2020.**

490 **6. That the result of any referendum held by a town, county, or supervisor's election district of a**



491 county prior to July 1, 2019, under the provisions of § 4.1-121 or 4.1-124 of the Code of Virginia,  
492 as those sections were in effect prior to the effective date of the first enactment, shall remain valid  
493 and enforceable for a period of five years after the date upon which such referendum was held.