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SENATE BILL NO. 1171

Senate Amendments in [] - February 1, 2019

A *BILL to amend and reenact §§ 4.1-206, 4.1-231, 4.1-233, and 4.1-308 of the Code of Virginia, relating to alcoholic beverage control; local special events license.*

Patron Prior to Engrossment—Senator McPike

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-206, 4.1-231, 4.1-233, and 4.1-308 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-206. 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.

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

64 7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under
65 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the
66 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide
67 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any
68 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in
69 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,
70 regularly occupied and utilized as such.

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

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

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

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

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

104 13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the
105 licensee participating in a community art walk that is open to the public to serve lawfully acquired wine
106 or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic
107 beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the
108 licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any
109 one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue
110 regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

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

117 15. Commercial lifestyle center license, which may be issued only to a commercial owners'
118 association governing a commercial lifestyle center, which shall authorize any retail on-premises
119 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any
120 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. *Local special events license, which may be issued only to a locality, business improvement district, or nonprofit organization and which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the special event and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the special event to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the special event, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses [, but excluding any parking areas] . In determining the designated area for the special event, the Board shall consult with the locality. Local special events licensees shall be limited to 12 special events per year. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the special event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the local special events licensee. The local special events licensee shall post appropriate signage clearly demarcating for the public the boundaries of the special event; however, no physical barriers shall be required for this purpose. The local special events licensee shall provide adequate security for the special event to ensure compliance with the applicable provisions of this title and Board regulations.*

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

§ 4.1-231. Taxes on state licenses.

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

1. Alcoholic beverage licenses. For each:

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

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

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

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

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

f. Equine sporting event license, \$130;

g. Motor car sporting event facility license, \$130;

h. Day spa license, \$100;

i. Delivery permit, \$120 if the permittee holds no other license under this title;

- 182 j. Meal-assembly kitchen license, \$100;
183 k. Canal boat operator license, \$100;
184 l. Annual arts venue event license, \$100;
185 m. Art instruction studio license, \$100;
186 n. Commercial lifestyle center license, \$300; and
187 o. Confectionery license, \$100; and
188 p. *Local special events license*, \$300.
189 2. Wine licenses. For each:
190 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the
191 license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
192 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per
193 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000
194 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than
195 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons
196 of wine per year;
197 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more
198 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by
199 the number of separate locations covered by the license;
200 c. Wine importer's license, \$370;
201 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
202 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
203 which shall include a delivery permit;
204 f. Wine shipper's license, \$230; and
205 g. Internet wine retailer license, \$150.
206 3. Beer licenses. For each:
207 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
208 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which
209 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
210 b. Bottler's license, \$1,430;
211 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
212 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
213 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
214 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
215 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
216 license;
217 d. Beer importer's license, \$370;
218 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
219 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
220 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
221 cars operated daily in the Commonwealth;
222 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
223 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
224 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
225 delivery permit;
226 h. Beer shipper's license, \$230;
227 i. Retail off-premises brewery license, \$120, which shall include a delivery permit; and
228 j. Internet beer retailer license, \$150.
229 4. Wine and beer licenses. For each:
230 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
231 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
232 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
233 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
234 a common carrier of passengers by airplane, \$750;
235 b. Retail on-premises wine and beer license to a hospital, \$145;
236 c. Retail on-premises wine and beer license to a historic cinema house, \$200;
237 d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
238 grocery store license, \$230, which shall include a delivery permit;
239 e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall
240 include a delivery permit;
241 f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
242 Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
243 g. Gourmet brewing shop license, \$230;

- 244 h. Wine and beer shipper's license, \$230;
 245 i. Annual banquet license, \$150;
 246 j. Fulfillment warehouse license, \$120;
 247 k. Marketing portal license, \$150; and
 248 l. Gourmet oyster house license, \$230.
 249 5. Mixed beverage licenses. For each:
 250 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
 251 located on premises of and operated by hotels or motels, or other persons:
 252 (i) With a seating capacity at tables for up to 100 persons, \$560;
 253 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
 254 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
 255 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
 256 private, nonprofit clubs:
 257 (i) With an average yearly membership of not more than 200 resident members, \$750;
 258 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
 259 \$1,860; and
 260 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
 261 c. Mixed beverage caterer's license, \$1,860;
 262 d. Mixed beverage limited caterer's license, \$500;
 263 e. Mixed beverage special events license, \$45 for each day of each event;
 264 f. Mixed beverage club events licenses, \$35 for each day of each event;
 265 g. Annual mixed beverage special events license, \$560;
 266 h. Mixed beverage carrier license:
 267 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the
 268 Commonwealth by a common carrier of passengers by train;
 269 (ii) \$560 for each common carrier of passengers by boat;
 270 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
 271 i. Annual mixed beverage amphitheater license, \$560;
 272 j. Annual mixed beverage motor sports race track license, \$560;
 273 k. Annual mixed beverage banquet license, \$500;
 274 l. Limited mixed beverage restaurant license:
 275 (i) With a seating capacity at tables for up to 100 persons, \$460;
 276 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
 277 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
 278 m. Annual mixed beverage motor sports facility license, \$560; and
 279 n. Annual mixed beverage performing arts facility license, \$560.
 280 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
 281 imposed by this section on the license for which the applicant applied.
 282 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be
 283 subject to proration to the following extent: If the license is granted in the second quarter of any year,
 284 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be
 285 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by
 286 three-fourths.
 287 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000
 288 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license
 289 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the
 290 number of gallons permitted to be manufactured shall be prorated in the same manner.
 291 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000
 292 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or
 293 winery license, such person shall pay for such unlimited license a license tax equal to the amount that
 294 would have been charged had such license been applied for at the time that the license to manufacture
 295 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person
 296 shall be entitled to a refund of the amount of license tax previously paid on the limited license.
 297 Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12,
 298 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the
 299 nearest cent, multiplied by the number of months in the license period, and then increased by five
 300 percent. Such tax shall not be refundable, except as provided in § 4.1-232.
 301 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
 302 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
 303 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
 304 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer

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

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

§ 4.1-233. Taxes on local licenses.

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

1. Alcoholic beverages. — For each:

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

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

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

d. Museum license, \$10;

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

f. Equine sporting event license, \$10;

g. Day spa license, \$20;

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

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

j. Canal boat operator license, \$20;

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

l. Art instruction studio license, \$20;

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

n. Confectionery license, \$20; and

o. *Local special events license, \$60.*

2. Beer. — For each:

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

b. Bottler's license, \$500;

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

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

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

3. Wine. — For each:

a. Winery license, \$50;

b. Wholesale wine license, \$50;

c. Farm winery license, \$50; and

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

4. Wine and beer. — For each:

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

b. Hospital license, \$10;

c. Historic cinema house license, \$20;

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

e. Gourmet brewing shop license, \$150;

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

g. Annual banquet license, \$15; and

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

5. Mixed beverages. — For each:

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

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

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and

(iii) With a seating capacity at tables for more than 150 persons, \$500.

b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;

- c. Mixed beverage caterer's license, \$500;
- d. Mixed beverage limited caterer's license, \$100;
- e. Mixed beverage special events licenses, \$10 for each day of each event;
- f. Mixed beverage club events licenses, \$10 for each day of each event;
- g. Annual mixed beverage amphitheater license, \$300;
- h. Annual mixed beverage motor sports race track license, \$300;
- i. Annual mixed beverage banquet license, \$75;
- j. Limited mixed beverage restaurant license:
 - (i) With a seating capacity at tables for up to 100 persons, \$100;
 - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
 - (iii) With a seating capacity at tables for more than 150 persons, \$400;
- k. Annual mixed beverage motor sports facility license, \$300; and
- l. Annual mixed beverage performing arts facility license, \$300.

B. Common carriers. — No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.

E. Application of county tax within town. — Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.

§ 4.1-308. Drinking alcoholic beverages, or offering to another, in public place; penalty; exceptions.

A. If any person takes a drink of alcoholic beverages or offers a drink thereof to another, whether accepted or not, at or in any public place, he is guilty of a Class 4 misdemeanor.

B. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any rooms or areas approved by the Board in a licensed establishment, provided such establishment or the person who operates the same is licensed to sell alcoholic beverages at retail for on-premises consumption and the alcoholic beverages drunk or offered were purchased therein.

C. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any room or area approved by the Board at an event for which a banquet license or, mixed beverage special events license, or local special events license has been granted. Nor shall this section prevent, upon authorization of the licensee, any person from drinking his own lawfully acquired alcoholic beverages or offering a drink thereof to another in approved areas and locations at events for which a coliseum or stadium license has been granted.

D. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another on a chartered boat being used for the transportation of passengers for compensation which is not licensed by the Board and which does not sell alcoholic beverages.

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