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SENATE BILL NO. 496

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact §§ 4.1-100 and 4.1-210 of the Code of Virginia, relating to alcoholic beverage control; agritourism resort.*

Patron—Edwards

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100 and 4.1-210 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:

"Agritourism resort" means a facility (i) having not less than 13 overnight guest rooms in a building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and recreational and educational activities related to farming, livestock, and other rural activities.

"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.

"Bespoke clothier establishment" means a permanent retail establishment that offers, by appointment only, custom made apparel and that offers a membership program to customers. Such establishment shall be a permanent structure where measurements and fittings are performed on-site but apparel is produced

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59 offsite and delivered directly to the customer. Such establishment shall have facilities to properly secure
60 any stock of alcoholic beverages.

61 "Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

62 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43
63 ounces.

64 "Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for
65 recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33
66 U.S.C. § 59ii.

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

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

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

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

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

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

100 "Coworking establishment" means a facility that has at least 100 members, a majority of whom are
101 21 years of age or older, to whom it offers shared office space and related amenities, including desks,
102 conference rooms, Internet access, printers, copiers, telephones, and fax machines.

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

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

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

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

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

separate and apart from all other facilities of the institution, and (d) such farm winery is operated in 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.

(Effective until July 1, 2020) "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 (i) may be manufactured by a licensed distiller or a distiller located outside the Commonwealth and (ii) 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.

(Effective July 1, 2020) "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,

182 and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may
183 also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar
184 products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated
185 as wine for all purposes of this title, except that low alcohol beverage coolers (i) may be manufactured
186 by a licensed distiller or a distiller located outside the Commonwealth and (ii) shall not be sold in
187 localities that prohibit the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol
188 beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

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

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

195 "Member of a bespoke clothier establishment" means a person who maintains a membership in the
196 bespoke clothier establishment for a period of not less than one month by the payment of monthly,
197 quarterly, or annual dues in the manner established by the rules of the bespoke clothier establishment.
198 The minimum membership fee shall be not less than \$25 for any term of membership.

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

207 "Member of a coworking establishment" means a person who maintains a membership in the
208 coworking establishment for a period of not less than one month by the payment of monthly, quarterly,
209 or annual dues in the manner established by the rules of the coworking establishment. "Member of a
210 coworking establishment" does not include an employee or any person with an ownership interest in the
211 coworking establishment.

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

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

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

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

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

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

236 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for
237 private meetings or private parties limited in attendance to members and guests of a particular group,
238 association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or
239 similar facilities while such restaurant is closed to the public and in use for private meetings or parties
240 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such
241 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in
242 use for private meetings or parties limited in attendance to employees and nonpaying guests of the
243 owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats

which are not licensed by the Board and on which alcoholic beverages are not sold.

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

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

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

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

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; 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 that 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. "Wine" 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.

§ 4.1-210. Mixed beverages licenses.

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

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such

305 areas are under the control of the licensee and approved by the Board. Such noncontiguous designated
306 areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

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

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

329 If the restaurant is located on the premises of and operated by a municipal golf course, the Board
330 shall recognize the seasonal nature of the business and waive any applicable monthly food sales
331 requirements for those months when weather conditions may reduce patronage of the golf course,
332 provided that prepared food, including meals, is available to patrons during the same months. The gross
333 receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic
334 beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent
335 of the gross receipts from the sale of mixed beverages and food on an annualized basis.

336 *If the restaurant is located on the premises of and operated by an agritourism resort, such license*
337 *shall authorize the licensee to (1) sell alcoholic beverages for on-premises consumption, without regard*
338 *to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas*
339 *upon the licensed premises approved by the Board and other designated areas of the resort, including*
340 *outdoor areas under the control of the licensee; and (2) permit the possession and consumption of*
341 *lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in*
342 *bedrooms and private guest rooms.*

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

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

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

360 5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or
361 association operating either a performing arts facility or an art education and exhibition facility; (ii) a
362 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and
363 objects significant in American history and culture; (iii) persons operating an agricultural event and
364 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space
365 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped
366 with roofs, exterior walls, and open or closed-door access; or (iv) a locality for special events conducted

on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

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

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

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

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

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

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

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

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

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

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

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

451 17. Annual mixed beverage performing arts facility license to persons operating food concessions at
452 any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided
453 that the performing arts facility (i) is occupied under a bona fide long-term lease or concession
454 agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance
455 with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or
456 prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet
457 or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and
458 (iv) has a total capacity in excess of 900 patrons. Such license shall authorize the sale, on the dates of
459 performances or private or special events, of alcoholic beverages for on-premises consumption in areas
460 upon the licensed premises approved by the Board.

461 18. A combined mixed beverage restaurant and caterer's license, which may be granted to any
462 restaurant, *agritourism resort*, or hotel that meets the qualifications for both a mixed beverage restaurant
463 pursuant to subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same
464 business location, and which license shall authorize the licensee to operate as both a mixed beverage
465 restaurant and mixed beverage caterer at the same business premises designated in the license, with a
466 common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such
467 licensee shall meet the separate food qualifications established for the mixed beverage restaurant license
468 pursuant to subdivision A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

469 19. Annual mixed beverage performing arts facility license to persons operating food concessions at
470 any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the
471 theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100
472 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic
473 beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

474 B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18,
475 or 19 shall automatically include a license to sell and serve wine and beer for on-premises consumption.
476 The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.