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HOUSE BILL NO. 2136

Offered January 13, 2021

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A BILL to amend and reenact §§ 4.1-206.3, 4.1-209, as it is currently effective, 4.1-233, and 4.1-233.1 of the Code of Virginia, relating to alcoholic beverage control; mobile retailer license.

Patron—Batten

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-206.3, 4.1-209, as it is currently effective, 4.1-233, and 4.1-233.1 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-206.3. (Effective July 1, 2021) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

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 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.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

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

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas

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HB2136

59 upon the licensed premises approved by the Board and other designated areas of the resort, including
60 outdoor areas under the control of the licensee, and (B) permit the possession and consumption of
61 lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in
62 bedrooms and private guest rooms.

63 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to
64 obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers
65 for off-premises consumption; however, the licensee shall be required to pay the local fee required for
66 such additional license pursuant to § 4.1-233.1.

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

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

80 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,
81 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in
82 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated
83 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its
84 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air
85 carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same
86 airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the
87 alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express
88 carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the
89 inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be
90 delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records
91 of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The
92 granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a
93 license to sell and serve wine and beer for on-premises consumption or in closed containers for
94 off-premises consumption; however, the licensee shall be required to pay the local fee required for such
95 additional license pursuant to § 4.1-233.1.

96 5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell
97 mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans,
98 during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in
99 all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for
100 on-premises consumption. Such license may be granted to persons operating food concessions at an
101 outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River
102 and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon
103 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic
104 beverages on the premises in all areas and locations covered by the license. The granting of a license
105 pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and
106 serve wine and beer for on-premises consumption or in closed containers for off-premises consumption;
107 however, the licensee shall be required to pay the local fee required for such additional license pursuant
108 to § 4.1-233.1.

109 6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve
110 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs
111 shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the
112 restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall
113 the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages,
114 exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a
115 license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell
116 and serve wine and beer for on-premises consumption or in closed containers for off-premises
117 consumption; however, the licensee shall be required to pay the local fee required for such additional
118 license pursuant to § 4.1-233.1.

119 7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to
120 sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable

containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. 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;

g. 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; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. 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.

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

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

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

13. Mixed beverage port 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 operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) 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 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. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

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

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. 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.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans 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. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans 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. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans 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. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county.

305 For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities
306 conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000
307 square feet of floor space.

308 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events
309 to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,
310 dining areas, and such additional locations designated by the Board in such facilities, for on-premises
311 consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this
312 subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such
313 licenses may be granted to persons operating concert or dinner-theater venues on property fronting
314 Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High
315 School.

316 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or
317 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be
318 lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The
319 privileges of this license shall be limited to the premises of the historic cinema house regularly occupied
320 and utilized as such.

321 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises
322 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such
323 licenses may be granted to persons operating a nonprofit museum exempt from taxation under §
324 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating
325 the consuming public about historic beer products. The privileges of this license shall be limited to the
326 premises of the museum, regularly occupied and utilized as such.

327 10. *Mobile retailers, which shall authorize the licensee to sell wine and beer during events to*
328 *patrons within areas designated by the Board for on-premises consumption or in closed containers for*
329 *off-premises consumption, subject to any requirements or limitations imposed by the Board. Persons*
330 *licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or*
331 *beer is served; however, such licensees shall not be subject to a monthly food sale requirement. Such*
332 *licenses may be granted to persons operating a mobile retail venture that sells wine or beer to patrons*
333 *at special events or private gatherings through trucks or trailers equipped with no more than four*
334 *beverage taps.*

335 C. The Board may grant the following off-premises wine and beer licenses:

336 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store,
337 delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as
338 defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and
339 beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308,
340 to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for
341 on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of
342 wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day.
343 The licensee may also give samples of wine and beer in designated areas at events held by the licensee
344 for the purpose of featuring and educating the consuming public about the alcoholic beverages being
345 tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale
346 licensees or authorized representatives of such licensees may participate in such tastings, including the
347 pouring of samples. The licensee shall comply with any food inventory and sales volume requirements
348 established by Board regulation.

349 2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom
350 wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging,
351 and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for
352 off-premises consumption in accordance with subdivision 6 of § 4.1-200.

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

357 D. The Board may grant the following banquet, special event, and tasting licenses:

358 1. Per-day event licenses.

359 a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or
360 associations in charge of special events, which shall authorize the licensee to sell or give wine and beer
361 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms
362 or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also
363 be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises
364 consumption to persons to whom wine may be lawfully sold and (ii) shall be limited to no more than
365 one such fundraiser per year. Except as provided in § 4.1-215, a separate license shall be required for
366 each day of each banquet or special event. For the purposes of this subdivision, when the location

named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

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

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee 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. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

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

2. Annual licenses.

a. Annual 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 members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. 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.

c. Local special events licenses to a locality, business improvement district, or nonprofit organization, 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. In determining the designated area for the special event, the Board shall consult with the locality. Local special events licensees shall be limited to 16 special events per year, and the duration of any special event shall not exceed three consecutive days. Such limitations on the number of special events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, local special events licensees shall be subject to all other applicable provisions of this title and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. 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.

d. 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 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. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

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

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

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

§ 4.1-209. (Effective until July 1, 2021) Wine and beer licenses; advertising.

A. The Board may grant the following licenses relating to wine and beer:

1. Retail on-premises wine and beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (i) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. 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;

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them, for on-premises consumption when carrying passengers;

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding. For purposes of supplying its airplanes, as well as any airplane of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load wine and beer onto the same airplanes and to transport and store wine and beer at or in close proximity to the airport where the wine and beer 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 wine and beer may be stored and from which the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all wine and beer to be transported, stored, and delivered by its authorized representative;

e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained;

f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers or in single original metal cans, during any event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia, racetracks 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;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which (i) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach, (ii) has capacity for more than 3,500 persons and is located in the Counties

551 of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham, or the Cities of Charlottesville,
552 Danville, or Roanoke, or (iii) has capacity for more than 9,500 persons and is located in Henrico
553 County. Such license shall authorize the licensee to sell wine and beer during the performance of any
554 event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons within
555 all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises
556 consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully
557 acquired alcoholic beverages on the premises in all areas and locations covered by the license;

558 h. Persons operating food concessions at exhibition or exposition halls, convention centers or similar
559 facilities located in any county operating under the urban county executive form of government or any
560 city which is completely surrounded by such county, which shall authorize the licensee to sell wine and
561 beer during the event, in paper, plastic or similar disposable containers or in single original metal cans,
562 to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,
563 and such additional locations designated by the Board in such facilities, for on-premises consumption.
564 Upon authorization of the licensee, any person may keep and consume his own lawfully acquired
565 alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of
566 this subsection, "exhibition or exposition hall" and "convention centers" mean facilities conducting
567 private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet
568 of floor space;

569 i. Persons operating a concert and dinner-theater venue on property fronting Natural Bridge School
570 Road in Natural Bridge Station, Virginia, and formerly operated as Natural Bridge High School, which
571 shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating
572 areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional
573 locations designated by the Board in such facilities, for on-premises consumption. Persons licensed
574 pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is
575 served; and

576 j. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or
577 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be
578 lawfully sold, for on-premises consumption. The privileges of this license shall be limited to the
579 premises of the historic cinema house regularly occupied and utilized as such; and

580 k. *Mobile retailers, which shall authorize the licensee to sell wine and beer during events to patrons*
581 *within areas designated by the Board for on-premises consumption or in closed containers for*
582 *off-premises consumption, subject to any requirements or limitations imposed by the Board. Persons*
583 *licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or*
584 *beer is served; however, such licensees shall not be subject to a monthly food sale requirement. Such*
585 *licenses may be granted to persons operating a mobile retail venture that sells wine or beer to patrons*
586 *at special events or private gatherings through trucks or trailers equipped with no more than four*
587 *beverage taps.*

588 2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer
589 in closed containers for off-premises consumption.

590 3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed
591 containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any
592 person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed two ounces by
593 volume or (ii) a sample of beer not to exceed four ounces by volume, for on-premises consumption. The
594 licensee may also give samples of wine and beer in designated areas at events held by the licensee for
595 the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.
596 Additionally, with the consent of the licensee, farm wineries, wineries, breweries, distillers, and
597 wholesale licensees may participate in tastings held by licensees authorized to conduct tastings, including
598 the pouring of samples to any person to whom alcoholic beverages may be lawfully sold.
599 Notwithstanding Board regulations relating to food sales, the licensee shall maintain each year an
600 average monthly inventory and sales volume of at least \$1,000 in products such as cheeses and gourmet
601 food.

602 4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in
603 closed containers for off-premises consumption.

604 5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which
605 shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition,
606 shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

607 6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or
608 associations in charge of special events, which shall authorize the licensee to sell or give wine and beer
609 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms
610 or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also
611 be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises
612 consumption to persons to whom wine may be lawfully sold and (ii) shall be limited to no more than

one such fundraiser per year. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior premises of the gift shop in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.

8. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

9. Annual 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 wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

10. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine or beer shipper's licenses, (ii) store such wine or beer on behalf of the owner, and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

11. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine or beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine or beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, where the licensee also offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products. Such license shall authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed containers for off-premises consumption. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly food sale requirement of oysters and other seafood for such license. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold.

B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to this section may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol, Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the athlete is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic beverage so advertised enhances athletic prowess.

C. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to this section may deliver such wine or beer in closed containers for off-premises consumption

674 to such person's vehicle if located in a designated parking area of the retailer's premises where such
675 person has electronically ordered wine or beer in advance of the delivery or (ii) if the licensee holds a
676 delivery permit issued pursuant to § 4.1-212.1, to such other locations as may be permitted by Board
677 regulation.

678 D. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this
679 section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its
680 customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in
681 designated areas at events held by the licensee for the purpose of featuring and educating the consuming
682 public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm
683 wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct
684 tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully
685 sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four
686 ounces per person.

687 **§ 4.1-233. (Repealed effective July 1, 2021) Taxes on local licenses.**

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

690 1. Alcoholic beverages. — For each:

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

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

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

697 d. Museum license, \$10;

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

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

700 g. Day spa license, \$20;

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

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

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

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

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

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

707 n. Confectionery license, \$20;

708 o. Local special events license, \$60;

709 p. Coworking establishment license, \$50; and

710 q. Bespoke clothier establishment license, \$20.

711 2. Beer. — For each:

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

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

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

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

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

720 3. Wine. — For each:

721 a. Winery license, \$50;

722 b. Wholesale wine license, \$50;

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

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

725 4. Wine and beer. — For each:

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

729 b. Hospital license, \$10;

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

731 d. *Mobile retailer license*, \$20;

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

734 e. f. Gourmet brewing shop license, \$150;

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

- 736 g. *h.* Annual banquet license, \$15; and
 737 ~~h.~~ *i.* Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
 738 5. Mixed beverages. — For each:
 739 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
 740 by hotels or motels, or other persons:
 741 (i) With a seating capacity at tables for up to 100 persons, \$200;
 742 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
 743 (iii) With a seating capacity at tables for more than 150 persons, \$500.
 744 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
 745 c. Mixed beverage caterer's license, \$500;
 746 d. Mixed beverage limited caterer's license, \$100;
 747 e. Mixed beverage special events licenses, \$10 for each day of each event;
 748 f. Mixed beverage club events licenses, \$10 for each day of each event;
 749 g. Annual mixed beverage amphitheater license, \$300;
 750 h. Annual mixed beverage motor sports race track license, \$300;
 751 i. Annual mixed beverage banquet license, \$75;
 752 j. Limited mixed beverage restaurant license:
 753 (i) With a seating capacity at tables for up to 100 persons, \$100;
 754 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
 755 (iii) With a seating capacity at tables for more than 150 persons, \$400;
 756 k. Annual mixed beverage motor sports facility license, \$300; and
 757 l. Annual mixed beverage performing arts facility license, \$300.
 758 B. Common carriers. — No local license tax shall be either charged or collected for the privilege of
 759 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the
 760 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises
 761 consumption only.
 762 C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in
 763 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local
 764 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,
 765 may include alcoholic beverages in the base for measuring such local license taxes the same as if the
 766 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter
 767 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local
 768 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license
 769 taxes authorized by this chapter.
 770 The governing body of any county, city or town, in adopting an ordinance under this section, shall
 771 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation
 772 under the ordinance, and in computing the local wholesale merchants' license tax on such beer
 773 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be
 774 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license
 775 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine
 776 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale
 777 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall
 778 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary
 779 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax
 780 paid by such wholesale wine licensee.
 781 D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on
 782 any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such
 783 wholesaler maintains no place of business in such county, city or town.
 784 E. Application of county tax within town. — Any county license tax imposed under this section shall
 785 not apply within the limits of any town located in such county, where such town now, or hereafter,
 786 imposes a town license tax on the same privilege.
 787 **§ 4.1-233.1. (Effective July 1, 2021) Fees on local licenses.**
 788 A. In addition to the state license taxes, the annual local license taxes that may be collected shall not
 789 exceed the following sums:
 790 1. Manufacturer licenses. For each:
 791 a. Distiller's license and limited distiller's license, if more than 5,000 gallons but not more than
 792 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during
 793 such year, \$1,000; and no local license shall be required for any person who manufactures not more
 794 than 5,000 gallons of alcohol or spirits, or both, during such license year;
 795 b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured
 796 during the year in which the license is granted, \$250, and if more than 10,000 barrels manufactured

- 797 during such year, \$1,000;
- 798 c. Winery license, \$50; and
- 799 d. Farm winery license, \$50.
- 800 2. Wholesale licenses. For each:
- 801 a. Wholesale beer license, in a city, \$250, and in a county or town, \$75; and
- 802 b. Wholesale wine license, \$50.
- 803 3. Retail licenses — mixed beverage. For each:
- 804 a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants
- 805 located on premises of and operated by hotels or motels, or other persons:
- 806 (1) With a seating capacity at tables for up to 100 persons, \$200;
- 807 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350;
- 808 (3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, \$500;
- 809 (4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons,
- 810 \$650; and
- 811 (5) With a seating capacity at tables for more than 1,000 persons, \$800;
- 812 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
- 813 private, nonprofit clubs, \$350;
- 814 c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a
- 815 casino gaming establishment, \$800 plus an additional \$2 for each gaming station located on the premises
- 816 of the casino gaming establishment;
- 817 d. Mixed beverage caterer's license, \$500;
- 818 e. Mixed beverage limited caterer's license, \$100;
- 819 f. Annual mixed beverage motor sports facility license, \$300;
- 820 g. Limited mixed beverage restaurant license:
- 821 (1) With a seating capacity at tables for up to 100 persons, \$100;
- 822 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250; or
- 823 (3) With a seating capacity at tables for more than 150 persons, \$400;
- 824 h. Annual mixed beverage performing arts facility license, \$300;
- 825 i. Bed and breakfast license, \$40;
- 826 j. Museum license, \$10;
- 827 k. Motor car sporting event facility license, \$10;
- 828 l. Commercial lifestyle center license, \$60; and
- 829 m. Annual mixed beverage special events license, \$300.
- 830 4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer
- 831 license issued to:
- 832 a. Hotels, restaurants, and clubs, in a city, \$150, and in a county or town, \$37.50;
- 833 b. Hospitals, \$10;
- 834 c. Rural grocery stores, \$37.50; ~~and~~
- 835 d. Historic cinema houses, \$20; *and*
- 836 e. *Mobile retailers*, \$20.
- 837 5. Retail licenses — off-premises wine and beer. For each:
- 838 a. Retail off-premises wine and beer license, in a city, \$150, and in a county or town, \$37.50;
- 839 b. Gourmet brewing shop license, \$150; and
- 840 c. Confectionery license, \$20.
- 841 6. Retail licenses — banquet, special event, and tasting licenses. For each:
- 842 a. Per-day event licenses. For each:
- 843 (1) Banquet license, \$5 per license granted by the Board, except for banquet licenses granted by the
- 844 Board pursuant to subsection A of § 4.1-215, which shall be \$20 per license;
- 845 (2) Mixed beverage special events license, \$10 for each day of each event;
- 846 (3) Mixed beverage club events license, \$10 for each day of each event; and
- 847 (4) Tasting license, \$10.
- 848 b. Annual licenses. For each:
- 849 (1) Annual banquet license, \$15;
- 850 (2) Local special events license, \$60;
- 851 (3) Annual mixed beverage banquet license, \$75;
- 852 (4) Equine sporting event license, \$10; and
- 853 (5) Annual arts venue event license, \$10.
- 854 7. Retail licenses — marketplace. For each marketplace license, \$200.
- 855 8. Retail licenses — shipper, bottler, and related licenses. For each:
- 856 a. Wine and beer shipper's license, \$10; and
- 857 b. Bottler license, \$500.
- 858 B. Common carriers. No local license tax shall be either charged or collected for the privilege of

859 selling alcoholic beverages in (i) passenger trains, boats, buses, or airplanes or (ii) rooms designated by
860 the Board of establishments of air carriers of passengers at airports in the Commonwealth for
861 on-premises consumption only.

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

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

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

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