

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 4.1-100 of the Code of Virginia, relating to alcoholic beverage control;*
3 *low alcohol beverage coolers.*

4 [H 1843]
5 Approved

6 **Be it enacted by the General Assembly of Virginia:**
7 **1. That § 4.1-100 of the Code of Virginia is amended and reenacted as follows:**

8 § 4.1-100. Definitions.

9 As used in this title unless the context requires a different meaning:

10 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any
11 fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic
12 ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with
13 formulas approved by the government of the United States.

14 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties
15 containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages,
16 and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being
17 consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be
18 considered as belonging to that variety which has the higher percentage of alcohol, however obtained,
19 according to the order in which they are set forth in this definition.

20 "Barrel" means any container or vessel having a capacity of more than forty-three ounces.

21 "Bed and breakfast establishment" means any establishment (i) having no more than fifteen
22 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations;
23 and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to
24 whom overnight lodging is provided.

25 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of
26 barley, malt, and hops or of any similar products in drinkable water and containing one-half of one
27 percent or more of alcohol by volume.

28 "Board" means the Virginia Alcoholic Beverage Control Board.

29 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than
30 forty-three ounces.

31 "Club" means any private nonprofit corporation or association which is the owner, lessee, or
32 occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other
33 like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also
34 means the establishment so operated. A corporation or association shall not lose its status as a club
35 because of the conduct of bingo games or raffles conducted pursuant to Article 1.1 (§ 18.2-340.1 et seq.)
36 of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided
37 that no alcoholic beverages are served or consumed in the room where such bingo games or raffles are
38 being conducted while such games or raffles are being conducted and that no alcoholic beverages are
39 made available upon the premises to any person who is neither a member nor a bona fide guest of a
40 member.

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

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

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

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

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

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

54 "Farm winery" means an establishment located on a farm in the Commonwealth with a producing
55 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the
56 premises where the owner or lessee manufactures wine that contains not more than fourteen percent

57 alcohol by volume. As used in this definition, the terms "owner" and "lessee" shall include a cooperative
58 formed by an association of individuals for the purpose of manufacturing wine. In the event such
59 cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the
60 land owned or leased by the individual members of the cooperative as long as such land is located in
61 the Commonwealth.

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

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

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

75 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
76 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
77 four or more bedrooms. It shall also mean the person who operates such hotel.

78 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
79 pursuant to this title.

80 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
81 observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

82 "Licensee" means any person to whom a license has been granted by the Board.

83 "Licensed" means the holding of a valid license issued by the Board.

84 "*Low alcohol beverage cooler*" means a drink containing one-half of one percent or more of alcohol
85 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits
86 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit
87 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
88 fermenting fruit or fruit juices. *Low alcohol beverage coolers shall be treated as wine for all purposes*
89 *of this title; except that low alcohol beverage coolers shall not be sold in localities that have not*
90 *approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers*
91 *shall not be sold for on-premises consumption other than by mixed beverage licensees.*

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

95 "Member of a club" means a person who maintains his membership in the club by the payment of
96 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof. It shall
97 also mean a lifetime member whose financial contribution is not less than ten times the annual dues of
98 resident members of the club, the full amount of such contribution being paid in advance in a lump
99 sum.

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

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

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

109 The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private
110 meetings or private parties limited in attendance to members and guests of a particular group,
111 association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or
112 similar facilities while such restaurant is closed to the public and in use for private meetings or parties
113 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such
114 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in
115 use for private meetings or parties limited in attendance to employees and nonpaying guests of the
116 owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats
117 which are not licensed by the Board and on which alcoholic beverages are not sold.

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

121 "Resort complex" means a facility with a hotel owning year-round sports and recreational facilities
122 located contiguously on the same property. The hotel must have a minimum of 250 private guest rooms
123 contained on not less than 100 acres. The Board may consider the purpose, characteristics, and operation
124 of the applicant establishment in determining whether it shall be considered as a resort complex. All
125 other pertinent qualifications established by the Board for a hotel operation shall be observed by such
126 licensee.

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

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

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

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

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

141 "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable
142 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and
143 gin, or any one or more of the last four named ingredients; but shall not include any such liquors
144 completely denatured in accordance with formulas approved by the United States government.

145 "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of
146 fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
147 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product
148 of distillation. The term includes any wine to which wine spirits have been added, as provided in the
149 Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an
150 alcohol content of twenty-one percent by volume.

151 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and
152 not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of
153 wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain
154 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
155 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
156 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

157 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for
158 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
159 required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by
160 such retail licensee.