

LD2815753

SENATE BILL NO. 1041

Offered January 23, 1995

A BILL to amend and reenact §§ 4.1-100, 4.1-126, 4.1-209, 4.1-231, 4.1-233, 18.2-334.2, 18.2-340.1, 18.2-340.2:1, 18.2-340.4, 18.2-340.6, and 18.2-340.9 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.4:1, relating to amusement parks authorized to conduct bingo games with alcohol beverages.

Patrons—Walker, Holland, C.A., Houck, Lambert, Potts and Stolle; Delegates: Copeland, Croshaw, Hamilton, Heilig, Jones, J.C., Moss, Purkey, Robinson, Spruill, Tata, Wagner and Wardrup

Referred to the Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-126, 4.1-209, 4.1-231, 4.1-233, 18.2-334.2, 18.2-340.1, 18.2-340.2:1, 18.2-340.4, 18.2-340.6, and 18.2-340.9 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 18.2-340.4:1 as follows:

§ 4.1-100. Definitions.

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

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

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

"Amusement park" means a family-oriented leisure, recreational, tourist, and entertainment complex which (i) has been in existence and operating on a regular basis for a period of at least five years immediately prior to applying for a license, (ii) consists of at least fifty contiguous acres of land, (iii) employs at least 200 people, (iv) has a total cost of construction of at least \$10 million, and (v) has a valid permit to conduct bingo games and raffles issued in accordance with Article 1.1 (§ 18.2-340.1 et seq.) of Chapter 8 of Title 18.2.

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

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

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

"Board" means the Virginia Alcoholic Beverage Control Board.

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

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

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

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding

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60 alcoholic beverages.

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

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

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

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

69 "Farm winery" means an establishment located on a farm in the Commonwealth with a producing
70 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the
71 premises where the owner or lessee manufactures wine that contains not more than fourteen percent
72 alcohol by volume. As used in this definition, the terms "owner" and "lessee" shall include a cooperative
73 formed by an association of individuals for the purpose of manufacturing wine. In the event such
74 cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the
75 land owned or leased by the individual members of the cooperative as long as such land is located in
76 the Commonwealth.

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

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

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

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

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

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

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

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

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

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

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

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

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

116 The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private
117 meetings or private parties limited in attendance to members and guests of a particular group,
118 association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or
119 similar facilities while such restaurant is closed to the public and in use for private meetings or parties
120 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such
121 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in

use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

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

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

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

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

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

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

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

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

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

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

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

§ 4.1-126. Licenses for establishments in national forests, the Blue Ridge Parkway, and on certain adjoining lands; and certain other establishments.

A. Notwithstanding the provisions of § 4.1-124, mixed beverage licenses may be granted to establishments located (i) on property owned by the federal government in Jefferson National Forest, George Washington National Forest or the Blue Ridge Parkway, (ii) at altitudes of 3,800 feet or more above sea level on property adjoining the Jefferson National Forest, (iii) at an altitude of 2,800 feet or more above sea level on property adjoining the Blue Ridge Parkway at Mile Marker No. 189, (iv) on property within one-quarter mile of Mile Marker No. 174 on the Blue Ridge Parkway, (v) on property developed by a nonprofit economic development company or an existing industrial development authority and, (vi) on the old Jonesboro Road between Routes 823 and 654, located approximately 5,500 feet from a city having a population between 17,500 and 18,500, and (vii) in amusement parks.

B. In granting any license under subdivisions (iii) and (iv) of subsection A, the Board shall consider whether the (i) voters of the jurisdiction in which the establishment is located have voted by referendum under the provisions of § 4.1-124 to prohibit the sale of mixed beverages and (ii) granting of a license will give that establishment an unfair business advantage over other establishments in the same

jurisdiction. If an unfair business advantage will result, then no license shall be granted.

§ 4.1-209. Wine and beer licenses.

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 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;

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 boats for which certificates as a sight-seeing carrier by boat, or a special or charter party by boat have been issued by the State Corporation Commission pursuant to § 56-457.8, 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;

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, or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia 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; ~~and~~

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 20,000 persons and is located in any county with a population between 210,000 and 216,000. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license; *and*

h. *Amusement parks, which shall authorize the licensee to sell wine and beer, either with or without meals, only during the conduct of bingo games authorized in accordance with Article 1.1 (§ 18.2-340.1 et seq.) of Chapter 8 of Title 18.2, for on-premises consumption only in designated areas .*

2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and to deliver or ship the same to purchasers in accordance with Board regulations.

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer 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 one ounce by volume or (ii) a sample of beer not to exceed two ounces by volume, for on-premises consumption.

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

5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition, shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and to deliver or ship the same to the purchasers, in accordance with Board regulations.

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. A separate license shall be required for each day of each banquet or special event. 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 unchilled, only within the interior premises of the gift shop in closed containers for off-premises consumption and to deliver or ship the wine and beer to purchasers in accordance with Board regulations.

- § 4.1-231. Taxes on state licenses.
- A. The annual taxes on state licenses shall be as follows:
1. Alcoholic beverage licenses. - For each:
 - a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$350; and if more than 5,000 gallons manufactured during such year, \$2,860;
 - b. Fruit distiller's license, \$2,860;
 - c. Banquet facility license, \$145; and
 - d. Bed and breakfast establishment license, \$25.
 2. Wine licenses. - For each:
 - a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$350, and if more than 5,000 gallons manufactured during such year, \$2,860;
 - b. Wholesale wine license, \$715 for any wholesaler who sells 150,000 gallons of wine or less per year, \$1,100 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and \$1,430 for any wholesaler who sells more than 300,000 gallons of wine per year;
 - c. Wine importer's license, \$285;
 - d. Retail off-premises winery license, \$110; and
 - e. Farm winery license, \$145.
 3. Beer licenses. - For each:
 - a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$1,650, and if more than 10,000 barrels manufactured during such year, \$3,300;
 - b. Bottler's license, \$1,100;
 - c. Wholesale beer license, \$715 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,100 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,430 for any wholesaler who sells more than 600,000 cases of beer a year;
 - d. Beer importer's license, \$285;
 - e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$110; for each such license to a common carrier of passengers by train or boat, \$110 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;
 - f. Retail off-premises beer license, \$90; and
 - g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$230.
 4. Wine and beer licenses. - For each:
 - a. Retail on-premises wine and beer license to a hotel, restaurant, club, *amusement park*, or other person, except a common carrier of passengers by train, boat or airplane, \$230; for each such license to a common carrier of passengers by train or boat, \$230 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$575;
 - b. Retail on-premises wine and beer license to a hospital, \$110;
 - c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$175;
 - d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$460; and
 - e. Banquet license, \$30 per license granted by the Board.
 5. Mixed beverage licenses. - For each:
 - a. Mixed beverage restaurant licenses granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:
 - (i) With a seating capacity at tables of not more than 100 persons, \$430;
 - (ii) With a seating capacity at tables of more than 100 but not more than 150 persons, \$750; and
 - (iii) With a seating capacity at tables of more than 150 persons, \$1,100.
 - b. Mixed beverage restaurant licenses for restaurants located on the premises of and operated by private, nonprofit clubs:
 - (i) With an average yearly membership of not more than 200 resident members, \$575;
 - (ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,430; and
 - (iii) With an average yearly membership of more than 500 resident members, \$2,125.
 - c. Mixed beverage caterer's licenses, \$1,430.
 - d. Mixed beverage special events licenses, \$35 for each day of each event.
 - e. Annual mixed beverage special events licenses, \$430.
 - f. Mixed beverage carrier licenses:
 - (i) \$145 for each of the average number of dining cars, buffet cars or club cars operated daily in the

Commonwealth by a common carrier of passengers by train;

(ii) \$430 for each common carrier of passengers by boat; and

(iii) \$1,135 for each license granted to a common carrier of passengers by airplane.

g. *Mixed beverage license granted to an amusement park, \$400.*

6. Temporary licenses. - For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits, or wine, or both, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than twelve months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

§ 4.1-233. Taxes on local licenses.

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

1. Alcoholic beverages. - For each:

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

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

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

2. Beer. - For each:

a. Brewery license, \$1,000;

b. Bottler's license, \$500;

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

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

3. Wine. - For each:

a. Winery license, \$1,000; and

b. Wholesale wine license, \$50.

4. Wine and beer. - For each:

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

b. Hospital license, \$10; and

c. Banquet license, \$5 for each license granted.

5. Mixed beverages. - For each:

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

(i) With a seating capacity at tables of not more than 100 persons, \$200;

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

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

- b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
 c. Mixed beverage caterer's license, \$500; and
 d. Mixed beverage special events licenses, \$10 for each day of each event; and
 e. *Mixed beverage license for an amusement park, \$350.*

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

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

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

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

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

§ 18.2-334.2. Same; bingo games, raffles and duck races conducted by certain organizations.

Nothing in this article shall apply to any bingo game, instant bingo, raffle, or duck race conducted solely by organizations as defined in ~~subdivisions~~ *subdivision 1 (a) and 1 (b)* of § 18.2-340.1 and meeting the qualifications set forth in § 18.2-340.3 and having received a permit as set forth in § 18.2-340.2.

§ 18.2-340.1. Definitions.

The following words shall have the following meanings:

1. "Organization" means any one of the following:

(a) A voluntary fire department or rescue squad or auxiliary unit thereof which has been recognized by an ordinance or resolution of the political subdivision where the voluntary fire department or rescue squad is located as being a part of the safety program of such political subdivision.

(b) An organization operated exclusively for religious, charitable, community or educational purposes; an association of war veterans or auxiliary units thereof organized in the United States; or a fraternal association operating under the lodge system.

(c) *An amusement park operating as a family-oriented leisure, recreational, tourist, and entertainment complex which (i) has been in existence and operating on a regular basis for a period of at least five years immediately prior to applying for a permit to conduct bingo games, (ii) consists of at least fifty contiguous acres of land, (iii) employs at least 200 people, and (iv) has a total park construction cost of at least \$10 million.*

2. "Bingo" means a specific game of chance played with individual cards having randomly numbered squares ranging from one to seventy-five, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random. Such cards shall have five vertical rows headed respectively by the letters

B.I.N.G.O., with each row having five randomly numbered squares.

3. "Raffle" means a lottery in which the prize is won by (i) a random drawing of the name or prearranged number of one or more persons purchasing chances or (ii) a random contest in which the winning name or preassigned number of one or more persons purchasing chances is determined by a race involving inanimate objects floating on a body of water, commonly referred to as a "duck race."

429 However, nothing in this article shall prohibit an organization from using the State Lottery Department's
430 Pick-3 number as the basis for determining the winner of a lottery. For purposes of this definition,
431 "raffle" shall include determining the winner of a lottery by use of prepackaged pull-tab devices which
432 are devices made completely of paper or paper products with concealed numbers or symbols that must
433 be exposed by the player to determine wins or losses and may include the use of a seal which conceals
434 a number or symbol that has been designated in advance as a prize winner including but not limited to
435 pull-tab devices commonly known as tip boards or seal cards.

436 4. "Instant bingo" means a specific game of chance played by the random selection of one or more
437 individually prepacked cards, with winners being determined by the preprinted appearance of the letters
438 B.I.N.G.O. in any prescribed order on the reverse side of such card.

439 5. "Jackpot" means a bingo card played as a part of a bingo game defined in subdivision 2 in which
440 all numbers on the card are covered, each number being selected at random, and with no more than one
441 free or "wild" number.

442 6. "Landlord" means any person or his agent, firm, association, organization, partnership, or
443 corporation, or employee thereof, which owns and leases, or leases any premise devoted in whole or in
444 part to the conduct of bingo games, and any person residing in the same household as a landlord.

445 § 18.2-340.2:1. Local control of management and operation of bingo games and raffles.

446 A. The governing body of any county, city or town may adopt an ordinance which limits the number
447 of organizations for which a person may manage, operate or conduct bingo games or raffles.

448 B. *The provisions of this section shall not apply to amusement parks.*

449 § 18.2-340.4. Frequency and conduct of bingo games; exceptions.

450 A. No organization may hold bingo games more frequently than two calendar days in any one
451 calendar week, except that a special permit may be granted an organization which entitles the
452 organization to conduct more frequent operations during carnivals, fairs and other similar events at its
453 principal meeting place or any other site selected by such organization which is located in the
454 jurisdiction issuing the permit and which is not in violation of any local zoning ordinance.

455 B. *The provisions of subsection A shall not apply to amusement parks.*

456 C. The sponsoring organization shall accept only cash or, at its option, checks in payment of any
457 charges or assessments for players to participate in bingo games. However, no organization shall accept
458 postdated checks in payment of any charges or assessments for players to participate in bingo games. No
459 organization or any person on the premises shall extend lines of credit or accept any credit or debit card
460 or other electronic fund transfer in payment of any charges or assessments for players to participate in
461 bingo.

462 § 18.2-340.4:1. *Conduct of bingo by amusement parks; hours of operation; advertising; and prizes.*

463 *No county, city or town shall restrict (i) the number of bingo games conducted by an amusement*
464 *park or (ii) the advertising of such games by an amusement park.*

465 *Notwithstanding any provisions in this article to the contrary, amusement parks may award bingo*
466 *prize money or merchandise valued between \$10,000 and \$20,000.*

467 § 18.2-340.6. Reports of gross receipts and disbursements required; form of reports; failure to file;
468 certificate of compliance; right of entry upon premises; records; independent accounting procedure;
469 exceptions.

470 A. Complete records of all receipts and disbursements shall be kept and shall be filed annually under
471 oath with a local official designated by the local governing body. The annual or quarterly financial
472 report and other items required to be filed under this section shall be a matter of public record. All
473 accountings shall be made on or before December 1 of each calendar year for which a permit has been
474 issued. The accounting shall include a record of the gross receipts and disbursements of an organization
475 for the year period which commenced on October 1 of the previous year and a record of all money in
476 the possession of the organization that was derived from bingo or instant bingo, regardless of when the
477 money was received. However, any organization whose gross receipts exceed \$50,000 during any
478 calendar quarter shall be required to file an additional accounting of its receipts and disbursements
479 during such quarter no later than sixty days following the last day of the quarter. "Gross receipts," as
480 used in this section, shall mean the total amount of money received from bingo and "instant bingo"
481 operations before the deduction of expenses or prizes.

482 B. 1. All reports of receipts and disbursements shall be made on the following form and
483 acknowledged in the presence of a duly authorized notary public. This form may be expanded to include
484 any other information desired by the local governing body or its designated local official. The failure to
485 file reports when due shall cause the automatic revocation of the permit and no organization shall
486 conduct any bingo game or raffle thereafter until the report is properly filed and a new permit is
487 obtained.

488 2. The financial report shall be accompanied by a certificate, verified under oath, by the Board of
489 Directors that the proceeds of any bingo games or raffles have been used for those lawful, religious,
490 charitable, community or educational purposes for which the organization is specifically chartered or

organized and that the operation of bingo games or raffles has been in accordance with the provisions of this article.

3. Any organization having annual gross receipts from bingo games or raffles in excess of \$250,000, as shown on its annual financial report, shall attach to such report an opinion of a licensed independent certified public accountant that (i) the annual financial report presents fairly, in all material respects, beginning cash, receipts, operating cost, use of proceeds, and ending cash; (ii) the proceeds of any bingo games or raffles have been used, in all material respects, for those lawful, religious, charitable, community, or educational purposes for which the organization is specifically chartered or organized; and (iii) the gross receipts have been used in all material respects in accordance with the provisions of this article. The failure to file the opinion of a licensed independent certified public accountant, when required, shall cause the automatic revocation of the permit and no organization shall conduct any bingo game or raffle thereafter until the opinion required by this subdivision is properly filed with the report and a new permit is obtained. The opinion required by this section is in addition to the audit and audit fee required by § 18.2-340.7.

C. Notwithstanding the provisions of this article requiring an annual audit, the provisions of this section shall not be construed to prohibit any local designated official from performing unannounced audits or restrict any right of such official to secure records required to be maintained by the provisions of this article. Any such official shall have the authority to go upon the premises on which any organization is conducting a bingo game for the purpose of carrying out the duties imposed by this article. The application for the bingo permit shall constitute permission from, and authority granted by, such organization to any law-enforcement officer or any official designated by the local governing body pursuant to § 18.2-340.7 to enter upon such premises.

D. The organization shall maintain a written record for three years of the dates on which bingo is played, the number of people in attendance on each date and the amount of the receipts and prizes paid on each day. The organization shall also maintain a record of the name and address of each individual to whom a door prize, regular or special bingo game prize or jackpot from the playing of bingo is awarded, as well as the amount of the award. The organization playing bingo shall also maintain an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games.

BINGO GAMES - RAFFLES FINANCIAL REPORT

All holders of a Bingo Game-Raffle Permit, issued pursuant to § 18.2-340.3, must file a record of all receipts and disbursements in accordance with the provisions of this article. FAILURE TO FILE A REPORT OF SUCH RECORDS WHEN DUE SHALL CAUSE THE AUTOMATIC REVOCATION OF THE PERMIT.

Name of Organization	Type of Organization	Phone
Address		
Address where Bingo/Raffle is conducted		
City,	State,	Zip Code
Person Preparing Report		Phone
Indicate Period for Which This Report Is Filed		
Beginning Bank Balance		
from Bingo/Raffle		\$.....
Cash on Hand		\$.....
	TOTAL	(A)\$.....
Receipts:		
Admission (Regular & Extra Cards)		\$.....
Instant Bingo Sales	
Misc. Sales (Excluding Bev. & Food)	
Raffles	
Other	
	TOTAL	(B)\$.....
TOTAL CASH AVAILABLE (A & B)\$.....		
Operating Cost:		
(Excluding Bev. & Food)		\$.....
Bingo Supplies	

550 Instant Bingo Supplies
 551 Other Supplies & Equipment
 552 Permit Fee
 553 Prizes Awarded
 554 Jackpot Award
 555 Instant Bingo
 556 Rent
 557 Audit Fee
 558 Other (Attach detailed explanation)
 559 TOTAL (C)\$.....
 560 Use of Proceeds (Attach Detailed Schedule Indicating Payment, Date,
 561 Check or Invoice Numbers and Amounts)
 562 TOTAL (D)\$.....
 563 (C & D)\$.....
 564 Ending Bank Balance from Bingo/Raffle
 565 (E)\$.....
 566 Cash on Hand
 567 (F)\$.....

568 TOTAL CASH ACCOUNTED FOR (C + D + E + F)\$.....

569 OATH - I, the undersigned applicant, do swear (or affirm)
 570 that the foregoing figures and statements are true, full, and correct
 571 to the best of my knowledge and belief.

572
 573 Authorized Agent Date

574 SUBSCRIBED AND SWORN TO BEFORE ME THIS DAY OF, 19....

575 My commission expires:
 576 NOTARY PUBLIC

577
 578 E. A local governing body may by ordinance require an independent accounting procedure to be
 579 followed by the organization and may further designate a local official to promulgate such independent
 580 accounting procedures.

581 F. Any local governing body may, by ordinance, waive the requirements of § 18.2-340.6 B 3
 582 provided the local governing body has by ordinance required an independent accounting procedure to be
 583 followed by the organization and has designated a local official to promulgate such independent
 584 accounting procedures as set forth in § 18.2-340.6 E.

585 *G. The provisions of subdivisions 2 and 3 (ii) and (iii) of subsection B shall not apply to amusement*
 586 *parks.*

587 § 18.2-340.9. Prohibited practices; exceptions.

588 In addition to those other practices prohibited by this article, the following acts or practices shall also
 589 be prohibited under the provisions of this article:

590 A. Except for reasonable and proper operating costs, including costs associated with providing
 591 clerical assistance in the conduct of bingo games or raffles for organizations composed of or for deaf or
 592 blind persons, publicizing the time and place of bingo games and raffles, and prizes, no part of the gross
 593 receipts derived by an organization, as herein defined, permitted to conduct bingo games or raffles may
 594 be used for any purpose other than (i) those lawful religious, charitable, community or educational
 595 purposes for which the organization is specifically chartered or organized and (ii) expenses relating to
 596 the acquisition, construction, maintenance, or repair of any interest in the real property involving the
 597 operation of the organization and used for lawful religious, charitable, community or educational
 598 purposes.

599 B. No organization shall enter into a contract with, or otherwise employ for compensation any
 600 person, firm, association, organization, partnership, or corporation of any classification whatsoever for
 601 the purpose of organizing, managing, or conducting bingo games or raffles. However, this subsection
 602 shall not prohibit the joint operation of bingo games under § 18.2-340.13.

603 C. No person, firm, association, organization, partnership, or corporation shall pay or receive for use
 604 of any premises devoted, in whole or in part, to the conduct of bingo games or raffles any consideration
 605 in excess of the current fair market rental value of such property. For purposes of this article, no fair
 606 market rental value consideration shall be based upon or determined by reference to a percentage of the
 607 proceeds derived from the operation of bingo games or raffles nor shall such consideration be based
 608 upon or determined by any reference to the number of people in attendance at such bingo games or

609 raffles. Each day in violation of this subsection shall constitute a separate Class 1 misdemeanor as set
610 forth in § 18.2-340.10.

611 D. No building or other premises shall be utilized in whole or in part for the purpose of conducting
612 bingo games more frequently than two calendar days in any one calendar week, and the local governing
613 body of any county, town, or city may adopt an ordinance establishing a reasonable limitation on the
614 number of bingo games that may be conducted in any one calendar day. However, the provisions of this
615 subsection shall not apply to the playing of bingo pursuant to a special permit issued in accordance with
616 § 18.2-340.4. The local governing body of any county, town, or city may adopt an ordinance
617 establishing reasonable hours during which bingo games held pursuant to this article may be played
618 within such jurisdiction. No building or other premises owned by an organization as defined in
619 § 18.2-340.1 of this article and qualified as a tax-exempt organization pursuant to § 501 (c) of the
620 Internal Revenue Code shall be utilized in whole or in part for the purpose of conducting bingo games
621 more frequently than four calendar days in any one calendar week. One building or premises owned by
622 any county, city, or town shall be exempt from the provisions of this subsection.

623 E. Except for persons employed as clerical assistants by organizations composed of or for deaf or
624 blind persons, only bona fide members of any such organization who have been members of such
625 organization for at least ninety days prior to such participation shall participate in the management,
626 operation or conduct of any bingo game or raffle. Notwithstanding the foregoing, employees of a
627 corporate sponsor of a qualified organization may participate in the management, operation or conduct
628 of one raffle per year. Except as provided herein, no person shall receive any remuneration for
629 participating in the management, operation or conduct of any such game or raffle. Persons employed by
630 organizations composed of or for deaf or blind persons may receive remuneration not to exceed thirty
631 dollars per event for providing clerical assistance in the conduct of bingo games or raffles only for such
632 organizations. Persons eighteen years of age and under who sell raffle tickets to raise funds for youth
633 activities in which they participate may receive nonmonetary incentive awards or prizes from the
634 organization provided that organization is nonprofit. The spouse of any such bona fide member or a fire
635 fighter or rescue squad member employed by a political subdivision with which the volunteer fire fighter
636 or rescue squad member is associated may participate in the operation and conduct of a bingo game or
637 raffle if a bona fide member is present.

638 F. No landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the
639 conduct, management, or operation of any bingo games; (ii) sell, lease or otherwise provide for
640 consideration any bingo supplies, including, but not limited to, bingo cards, instant bingo cards, markers,
641 or other game pieces; or (iii) require as a condition of the lease or by contract that a particular
642 manufacturer, distributor or supplier of bingo supplies or equipment be used by the organization. If
643 equipment or services are included by a landlord in any lease or contract, the lease or contract shall
644 itemize the amount attributable to the rent of the premises, equipment, and each service to be provided
645 by the landlord.

646 The provisions of this subsection shall not apply to any charitable organization conducting bingo
647 games on their own behalf and which owns the premises where such bingo games are held.

648 G. No organization shall enter into any contract with or otherwise employ or compensate any
649 member of that organization regarding the sale of bingo supplies or equipment.

650 H. No organization shall award any bingo prize money or any merchandise valued in excess of the
651 following amounts: (i) no bingo door prize shall exceed \$25, (ii) no regular bingo or special bingo game
652 prize shall exceed \$100, (iii) no instant bingo prize for a single card shall exceed \$500, and (iv) no
653 bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of bingo jackpot
654 prizes awarded in any one calendar day exceed \$1,000.

655 Except as provided herein, no organization shall award any raffle prize valued at more than
656 \$100,000. The \$100,000 limitation shall not apply to a raffle conducted no more than once per calendar
657 year by an organization qualified as a tax-exempt organization pursuant to § 501 (c) (3) of the Internal
658 Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100 percent of
659 the moneys received from such a raffle, less deductions for the fair market value for the cost of
660 acquisition of the land and materials, are donated to lawful religious, charitable, community, or
661 educational organizations specifically chartered or organized under the laws of the Commonwealth and
662 qualified as a § 501 (c) (3) tax-exempt organization.

663 The award of any prize money for any bingo game or raffle shall not be deemed to be part of any
664 gaming contract within the purview of § 11-14.

665 I. Any bingo game in which all the gross receipts from players for that game are paid as prize
666 money back to the players shall not be subject to the limitations of subdivision H of this section, but
667 there shall not be more than one such game per calendar day of play and the prize money from any
668 such game shall not exceed \$1,000.

669 J. Any organization composed of or for deaf or blind persons that employs a person not a member to

670 provide clerical assistance in the conduct of bingo games or raffles shall have in force fidelity insurance,
671 as defined in § 38.2-120, written by an insurer licensed to do business in the Commonwealth.

672 K. No person shall participate in the management, operation or conduct of any bingo game or raffle
673 if, within the preceding five years, he has been convicted of a felony or crime of moral turpitude.
674 Further, no person shall participate in the management, operation or conduct of any bingo game or raffle
675 if that person, within the past five years, has participated in the management, operation, or conduct of
676 any bingo game or raffle which was found by a local permitting authority or by a court of competent
677 jurisdiction to have been operated in violation of state law or local ordinance.

678 *L. The provisions of this section shall not apply to amusement parks.*