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SENATE BILL NO. 848

Senate Amendments in [] — January 31, 1995

A BILL to amend and reenact §§ 4.1-100, 4.1-208, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; gourmet brewing shop license.

Patron—Barry (By Request)

Referred to the Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-208, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. Definitions.

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

"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.

"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 alcoholic beverages.

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

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

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

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

"Farm winery" means an establishment located on a farm in the Commonwealth with a producing

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60 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the
61 premises where the owner or lessee manufactures wine that contains not more than fourteen percent
62 alcohol by volume. As used in this definition, the terms "owner" and "lessee" shall include a cooperative
63 formed by an association of individuals for the purpose of manufacturing wine. In the event such
64 cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the
65 land owned or leased by the individual members of the cooperative as long as such land is located in
66 the Commonwealth.

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

75 [*"Gourmet brewing shop" means an establishment with facilities for manufacturing, fermenting, and*
76 *bottling beer on the premises, where, in consideration of payment, beer is manufactured, bottled and*
77 *sold to persons who select the specific ingredients which serve as the basis for the beer so*
78 *manufactured, bottled and sold. "Gourmet brewing shop" means an establishment which sells to persons*
79 *whom beer may lawfully be sold, ingredients for brewing beer, including packaging, and rents to such*
80 *persons facilities for manufacturing, fermenting, and bottling beer.]*

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

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

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

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

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

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

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

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

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

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

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

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

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

121 "Residence" means any building or part of a building or structure where a person resides, but does

122 not include any part of a building which is not actually and exclusively used as a private residence, nor
123 any part of a hotel or club other than a private guest room thereof.

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

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

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

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

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

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

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

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

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

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

164 § 4.1-208. Beer licenses.

165 The Board may grant the following licenses relating to beer:

166 1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or
167 ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons
168 licensed to sell the beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale,
169 only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the
170 United States sailing for ports of call of a foreign country or another state and (iv) persons outside the
171 Commonwealth for resale outside the Commonwealth.

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

177 3. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and
178 shipments of beer and to sell and deliver or ship it, in accordance with Board regulations, in closed
179 containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the
180 purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of
181 call of a foreign country or another state and (iii) persons outside the Commonwealth for resale outside
182 the Commonwealth.

183 No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth
184 who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's
185 license and purchases beer for resale pursuant to the privileges of such beer importer's license.

186 4. Beer importers' licenses, which shall authorize persons licensed within or outside the
187 Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board
188 regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for
189 the purpose of resale.

190 5. Retail on-premises beer licenses to:

191 a. Hotels, restaurants and clubs, which shall authorize the licensee to sell beer, either with or without
192 meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private
193 guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms
194 and areas.

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

198 c. Persons operating boats for which certificates as a sight-seeing carrier by boat, or a special or
199 charter party by boat have been issued by the State Corporation Commission pursuant to § 56-457.8,
200 which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by
201 them for on-premises consumption when carrying passengers.

202 d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or
203 town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments.
204 No license shall be granted unless it appears affirmatively that a substantial public demand for such
205 licensed establishment exists and that public convenience and the purposes of this title will be promoted
206 by granting the license.

207 e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize
208 the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of
209 professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons
210 within all seating areas, concourses, walkways, concession areas, and additional locations designated by
211 the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon
212 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic
213 beverages on the premises in all areas and locations covered by the license.

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

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

224 7. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 5 a and d, which
225 shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall
226 authorize the licensee to sell beer in closed containers for off-premises consumption and to deliver or
227 ship the beer to purchasers in accordance with Board regulations.

228 [*8. Gourmet brewing shop licenses, which shall authorize the licensee to manufacture, bottle and*
229 *sell at retail beer, the specific ingredients of which have been selected by the purchaser, in closed*
230 *containers for off-premises consumption. Such license shall also authorize the licensee to give to any*
231 *person to whom beer may be lawfully sold, a sample of beer not to exceed two ounces by volume,*
232 *§ 4.1-308 notwithstanding, for on-premises consumption. 8. Gourmet brewing shop licenses which shall*
233 *authorize the licensee to sell to any person to whom beer may be lawfully sold, ingredients for brewing*
234 *beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and*
235 *bottling beer, for off-premises consumption at such persons' residence and in compliance with § 4.1-200*
236 *(6).]*

237 § 4.1-231. Taxes on state licenses.

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

239 1. Alcoholic beverage licenses. - For each:

240 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured
241 during the year in which the license is granted, \$350; and if more than 5,000 gallons manufactured
242 during such year, \$2,860;

243 b. Fruit distiller's license, \$2,860;

244 c. Banquet facility license, \$145; and

- 245 d. Bed and breakfast establishment license, \$25.
- 246 2. Wine licenses. - For each:
- 247 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the
- 248 license is granted, \$350, and if more than 5,000 gallons manufactured during such year, \$2,860;
- 249 b. Wholesale wine license, \$715 for any wholesaler who sells 150,000 gallons of wine or less per
- 250 year, \$1,100 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine
- 251 per year, and \$1,430 for any wholesaler who sells more than 300,000 gallons of wine per year;
- 252 c. Wine importer's license, \$285;
- 253 d. Retail off-premises winery license, \$110; and
- 254 e. Farm winery license, \$145.
- 255 3. Beer licenses. - For each:
- 256 a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which
- 257 the license is granted, \$1,650, and if more than 10,000 barrels manufactured during such year, \$3,300;
- 258 b. Bottler's license, \$1,100;
- 259 c. Wholesale beer license, \$715 for any wholesaler who sells 300,000 cases of beer a year or less,
- 260 and \$1,100 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a
- 261 year, and \$1,430 for any wholesaler who sells more than 600,000 cases of beer a year;
- 262 d. Beer importer's license, \$285;
- 263 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
- 264 carrier of passengers by train or boat, \$110; for each such license to a common carrier of passengers by
- 265 train or boat, \$110 per annum for each of the average number of boats, dining cars, buffet cars or club
- 266 cars operated daily in the Commonwealth;
- 267 f. Retail off-premises beer license, \$90; and
- 268 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
- 269 town or in a rural area outside the corporate limits of any city or town, \$230; ; and
- 270 h. *Gourmet brewing shop*, \$175.
- 271 4. Wine and beer licenses. - For each:
- 272 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
- 273 common carrier of passengers by train, boat or airplane, \$230; for each such license to a common
- 274 carrier of passengers by train or boat, \$230 per annum for each of the average number of boats, dining
- 275 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
- 276 a common carrier of passengers by airplane, \$575;
- 277 b. Retail on-premises wine and beer license to a hospital, \$110;
- 278 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
- 279 grocery store license, \$175;
- 280 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$460; and
- 281 e. Banquet license, \$30 per license granted by the Board.
- 282 5. Mixed beverage licenses. - For each:
- 283 a. Mixed beverage restaurant licenses granted to persons operating restaurants, including restaurants
- 284 located on premises of and operated by hotels or motels, or other persons:
- 285 (i) With a seating capacity at tables of not more than 100 persons, \$430;
- 286 (ii) With a seating capacity at tables of more than 100 but not more than 150 persons, \$750; and
- 287 (iii) With a seating capacity at tables of more than 150 persons, \$1,100.
- 288 b. Mixed beverage restaurant licenses for restaurants located on the premises of and operated by
- 289 private, nonprofit clubs:
- 290 (i) With an average yearly membership of not more than 200 resident members, \$575;
- 291 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
- 292 \$1,430; and
- 293 (iii) With an average yearly membership of more than 500 resident members, \$2,125.
- 294 c. Mixed beverage caterer's licenses, \$1,430.
- 295 d. Mixed beverage special events licenses, \$35 for each day of each event.
- 296 e. Annual mixed beverage special events licenses, \$430.
- 297 f. Mixed beverage carrier licenses:
- 298 (i) \$145 for each of the average number of dining cars, buffet cars or club cars operated daily in the
- 299 Commonwealth by a common carrier of passengers by train;
- 300 (ii) \$430 for each common carrier of passengers by boat; and
- 301 (iii) \$1,135 for each license granted to a common carrier of passengers by airplane.
- 302 6. Temporary licenses. - For each temporary license authorized by § 4.1-211, one-half of the tax
- 303 imposed by this section on the license for which the applicant applied.
- 304 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be
- 305 subject to proration to the following extent: If the license is granted in the second quarter of any year,

306 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be
 307 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by
 308 three-fourths.

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

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

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

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

331 § 4.1-233. Taxes on local licenses.

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

334 1. Alcoholic beverages. - For each:

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

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

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

339 2. Beer. - For each:

340 a. Brewery license, \$1,000;

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

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

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

345 e. *Gourmet brewing shop*, \$150.

346 3. Wine. - For each:

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

348 b. Wholesale wine license, \$50.

349 4. Wine and beer. - For each:

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

353 b. Hospital license, \$10; and

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

355 5. Mixed beverages. - For each:

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

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

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

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

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

362 c. Mixed beverage caterer's license, \$500; and

363 d. Mixed beverage special events licenses, \$10 for each day of each event.

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

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

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

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

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