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SENATE BILL NO. 129

Offered January 10, 1996

A BILL to amend and reenact §§ 4.1-100, 4.1-208, 4.1-209, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; gourmet brewing shop licenses.

Patrons—Colgan; Delegate: Parrish

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, 4.1-209, 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 which sells to persons to whom *wine or beer* may
76 lawfully be sold, ingredients for *making wine or* brewing beer, including packaging, and rents to such
77 persons facilities for manufacturing, fermenting and bottling such *wine or beer*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

§ 4.1-208. Beer licenses.

The Board may grant the following licenses relating to beer:

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

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

3. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and

183 shipments of beer and to sell and deliver or ship it, in accordance with Board regulations, in closed
184 containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the
185 purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of
186 call of a foreign country or another state and (iii) persons outside the Commonwealth for resale outside
187 the Commonwealth.

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

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

195 5. Retail on-premises beer licenses to:

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

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

203 c. Persons operating boats for which certificates as a sight-seeing carrier by boat, or a special or
204 charter party by boat have been issued by the Department of Motor Vehicles pursuant to § 46.2-2607,
205 which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by
206 them for on-premises consumption when carrying passengers.

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

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

219 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar
220 facility which has seating for more than 20,000 persons and is located in any county with a population
221 between 210,000 and 216,000 or in any city with a population between 392,000 and 394,000. Such
222 license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or
223 similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas,
224 or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may
225 keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and
226 locations covered by the license.

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

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

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

238 § 4.1-209. Wine and beer licenses.

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

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

241 a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with
242 or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas,
243 private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such
244 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 Department of Motor Vehicles pursuant to § 46.2-2607, 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 or in any city with a population between 392,000 and 394,000. 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.

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.

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

§ 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

306 during such year, \$2,860;
307 b. Fruit distiller's license, \$2,860;
308 c. Banquet facility license, \$145; and
309 d. Bed and breakfast establishment license, \$25.
310 2. Wine licenses. - For each:
311 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the
312 license is granted, \$350, and if more than 5,000 gallons manufactured during such year, \$2,860;
313 b. Wholesale wine license, \$715 for any wholesaler who sells 150,000 gallons of wine or less per
314 year, \$1,100 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine
315 per year, and \$1,430 for any wholesaler who sells more than 300,000 gallons of wine per year;
316 c. Wine importer's license, \$285;
317 d. Retail off-premises winery license, \$110; and
318 e. Farm winery license, \$145.
319 3. Beer licenses. - For each:
320 a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which
321 the license is granted, \$1,650, and if more than 10,000 barrels manufactured during such year, \$3,300;
322 b. Bottler's license, \$1,100;
323 c. Wholesale beer license, \$715 for any wholesaler who sells 300,000 cases of beer a year or less,
324 and \$1,100 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a
325 year, and \$1,430 for any wholesaler who sells more than 600,000 cases of beer a year;
326 d. Beer importer's license, \$285;
327 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
328 carrier of passengers by train or boat, \$110; for each such license to a common carrier of passengers by
329 train or boat, \$110 per annum for each of the average number of boats, dining cars, buffet cars or club
330 cars operated daily in the Commonwealth;
331 f. Retail off-premises beer license, \$90; *and*
332 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
333 town or in a rural area outside the corporate limits of any city or town, \$230; ~~and~~.
334 ~~h. Gourmet brewing shop, \$175.~~
335 4. Wine and beer licenses. - For each:
336 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
337 common carrier of passengers by train, boat or airplane, \$230; for each such license to a common
338 carrier of passengers by train or boat, \$230 per annum for each of the average number of boats, dining
339 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
340 a common carrier of passengers by airplane, \$575;
341 b. Retail on-premises wine and beer license to a hospital, \$110;
342 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop ~~and~~,
343 convenience grocery store, *and gourmet brewing shop* license, \$175;
344 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$460; and
345 e. Banquet license, \$30 per license granted by the Board.
346 5. Mixed beverage licenses. - For each:
347 a. Mixed beverage restaurant licenses granted to persons operating restaurants, including restaurants
348 located on premises of and operated by hotels or motels, or other persons:
349 (i) With a seating capacity at tables for up to 100 persons, \$430;
350 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$750; and
351 (iii) With a seating capacity at tables for more than 150 persons, \$1,100.
352 b. Mixed beverage restaurant licenses for restaurants located on the premises of and operated by
353 private, nonprofit clubs:
354 (i) With an average yearly membership of not more than 200 resident members, \$575;
355 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
356 \$1,430; and
357 (iii) With an average yearly membership of more than 500 resident members, \$2,125.
358 c. Mixed beverage caterer's licenses, \$1,430.
359 d. Mixed beverage special events licenses, \$35 for each day of each event.
360 e. Annual mixed beverage special events licenses, \$430.
361 f. Mixed beverage carrier licenses:
362 (i) \$145 for each of the average number of dining cars, buffet cars or club cars operated daily in the
363 Commonwealth by a common carrier of passengers by train;
364 (ii) \$430 for each common carrier of passengers by boat; and
365 (iii) \$1,135 for each license granted to a common carrier of passengers by airplane.
366 6. Temporary licenses. - For each temporary license authorized by § 4.1-211, one-half of the tax
367 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, 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; ~~and~~.
 - e. ~~Gourmet brewing shop, \$150.~~
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; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop ~~and~~, convenience grocery store, *and gourmet brewing shop* 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 for up to 100 persons, \$200;
 - (ii) With a seating capacity at tables for 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.
- B. Common carriers. - No local license tax shall be either charged or collected for the privilege of

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

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

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

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

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