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SENATE BILL NO. 474

Offered January 22, 1996

A BILL to amend and reenact §§ 4.1-100, 4.1-126, 4.1-209, 4.1-231, 4.1-233, 18.2-340.16, 18.2-340.19, 18.2-340.24, 18.2-340.30, 18.2-340.32, and 18.2-340.33 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.28:1, relating to amusement parks authorized to conduct bingo games with alcoholic beverages.

Patrons—Stolle and Walker; Delegate: Croshaw

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, 18.2-340.16, 18.2-340.19, 18.2-340.24, 18.2-340.30, 18.2-340.32, and 18.2-340.33 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-340.28:1 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) is located in any city having a population between 393,000 and 394,000, (iii) consists of at least fifty contiguous acres of land, (iv) employs at least 200 people, and (v) has a valid permit to conduct charitable gaming as defined in § 18.2-340.16 issued in accordance with Article 1.1:1 (§ 18.2-340.15 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 alcoholic beverages.

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

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

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

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

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

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

84 "Gourmet brewing shop" means an establishment which sells to persons to whom beer may lawfully
85 be sold, ingredients for brewing beer, including packaging, and rents to such persons facilities for
86 manufacturing, fermenting and bottling such beer.

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

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

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

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

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

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

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

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

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

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

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

119 "Place or premises" means the real estate, together with any buildings or other improvements thereon,
120 designated in the application for a license as the place at which the manufacture, bottling, distribution,
121 use or sale of alcoholic beverages shall be performed, except that portion of any such building or other

improvement actually and exclusively used as a private residence.

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

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is 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; (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 certain 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

183 more above sea level on property adjoining the Blue Ridge Parkway at Mile Marker No. 189, (iv) on
184 property within one-quarter mile of Mile Marker No. 174 on the Blue Ridge Parkway, (v) on property
185 developed by a nonprofit economic development company or an existing industrial development
186 authority ~~and~~, (vi) on old Jonesboro Road between Routes 823 and 654, located approximately 5,500
187 feet from a city having a population between 17,500 and 18,500, *and (vii) in amusement parks.*

188 B. In granting any license under subdivisions (iii) and (iv) of subsection A, the Board shall consider
189 whether the (i) voters of the jurisdiction in which the establishment is located have voted by referendum
190 under the provisions of § 4.1-124 to prohibit the sale of mixed beverages and (ii) granting of a license
191 will give that establishment an unfair business advantage over other establishments in the same
192 jurisdiction. If an unfair business advantage will result, then no license shall be granted.

193 § 4.1-209. Wine and beer licenses.

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

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

196 a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with
197 or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas,
198 private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such
199 rooms and areas. However, with regard to a hotel classified by the Board as a resort complex, the Board
200 may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex
201 deemed appropriate by the Board;

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

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

209 d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or
210 intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by
211 passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated
212 rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding;

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

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

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

231 *h. Amusement parks, which shall authorize the licensee to sell wine and beer, either with or without*
232 *meals, only during the conduct of charitable gaming authorized in accordance with Article 1.1:1*
233 *(§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, for on-premises consumption only in designated areas.*

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

237 3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed
238 containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any
239 person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed one ounce by
240 volume or (ii) a sample of beer not to exceed two ounces by volume, for on-premises consumption.

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

243 5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which
244 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;

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; and

h. Gourmet brewing shop, \$175.

4. Wine and beer licenses. - For each:

a. Retail on-premises wine and beer license to a hotel, restaurant, club 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 on-premises wine and beer license to an amusement park, \$400;*

~~e.~~ d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$175;

~~d.~~ e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$460; and

~~e.f.~~ 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 for up to 100 persons, \$430;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$750; and

(iii) With a seating capacity at tables for 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.

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, 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;

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 license, in a city, \$150, and in a county or town, \$37.50;
 - b. Hospital license, \$10; ~~and~~
 - c. *Amusement park license, \$300; and*
 - ~~e.~~ d. 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 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.
- § 18.2-340.16. Definitions.
- As used in this article unless the context requires a different meaning:
- "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 columns headed respectively by the letters B.I.N.G.O., with each column having five randomly numbered squares, except the center column which shall contain one free space.
- "Bona fide member" means an individual who participates in activities of a qualified organization other than such organization's charitable gaming activities.
- "Charitable gaming" or "charitable games" means those raffles and games of chance explicitly authorized by this article.
- "Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers, instant bingo cards, pull-tab cards, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games.
- "Commission" means the Charitable Gaming Commission.
- "Gross receipts" means the total amount of money received by an organization from charitable

429 gaming before the deduction of expenses, including prizes.

430 "Instant bingo" means a specific game of chance played by the random selection of one or more
431 individually prepacked cards, made completely of paper or paper products, with winners being
432 determined by the preprinted appearance of concealed letters, numbers or symbols that must be exposed
433 by the player to determine wins and losses and may include the use of a seal card which conceals one
434 or more numbers or symbols that have been designated in advance as prize winners.

435 "Jackpot" means a bingo game, exclusive of a "winner-take-all" bingo game, in which (i) all numbers
436 on the card are covered, each number being selected at random, and with no more than one free space
437 and (ii) the prize amount is greater than \$100.

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

441 "*Net proceeds*" means gross proceeds minus expenses and prizes.

442 "Organization" means any one of the following:

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

446 2. An organization operated exclusively for religious, charitable, community or educational purposes;

447 3. An association of war veterans or auxiliary units thereof organized in the United States; or

448 4. A fraternal association or corporation operating under the lodge system; or

449 5. *An amusement park operating as a family-oriented leisure, recreational, tourist, and entertainment*
450 *complex which (i) has been in existence and operating on a regular basis for a period of at least five*
451 *years immediately prior to applying for a permit, (ii) is located in any city having a population between*
452 *393,000 and 394,000, (iii) consists of at least fifty contiguous acres of land, and (iv) employs at least*
453 *200 people.*

454 "Qualified organization" means any organization to which a valid permit has been issued by the
455 Commission to conduct charitable gaming or any organization which is exempt pursuant to
456 § 18.2-340.23.

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

461 For the purpose of this article, "raffle" shall include the use of individually prepackaged cards made
462 completely of paper or paper products, with winners being determined by the appearance of preprinted
463 concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses,
464 such cards being commonly referred to as "pull tabs."

465 "Supplier" means any person who offers to sell, sells or otherwise provides charitable gaming
466 supplies to any qualified organization.

467 § 18.2-340.19. Regulations of the Commission.

468 A. The Commission shall adopt regulations which:

469 1. Require, as a condition of receiving a permit, that the applicant use a predetermined percentage of
470 its gross receipts for (i) those lawful religious, charitable, community or educational purposes for which
471 the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition,
472 construction, maintenance or repair of any interest in real property involved in the operation of the
473 organization and used for lawful religious, charitable, community or educational purposes. The
474 regulation may provide for a graduated scale of percentages of gross receipts to be used in the foregoing
475 manner based upon factors the Commission finds appropriate to and consistent with the purpose of
476 charitable gaming.

477 2. Require the organization to have at least fifty percent of its membership consist of residents of the
478 Commonwealth and specify the conditions under which a complete list of the organization's membership
479 may be required in order for the Commission to ascertain the percentage of Virginia residents; however,
480 if an organization (i) does not consist of bona fide members and (ii) is exempt under § 501 (c) (3) of
481 the United States Internal Revenue Code, the Commission shall exempt such organizations from the
482 regulations adopted pursuant to this subdivision.

483 Membership lists furnished to the Commission in accordance with this subdivision shall not be a
484 matter of public record and shall be exempt from disclosure under the provisions of the Freedom of
485 Information Act (§ 2.1-340 et seq.).

486 3. Prescribe fees for processing applications for charitable gaming permits. Such fees may reflect the
487 nature and extent of the charitable gaming activity proposed to be conducted.

488 4. Establish requirements for the audit of all reports required in accordance with § 18.2-340.30.

489 B. *Regulations adopted pursuant to the provisions of subdivisions 1 and 2 of subsection A shall not*
490 *apply to amusement parks.*

§ 18.2-340.24. (Effective July 1, 1996) Eligibility for permit; exceptions; where valid.

A. To be eligible for a permit to conduct charitable gaming, an organization shall:

1. Have been in existence and met on a regular basis in the county, city or town or in a county, city or town adjacent to the county, city or town wherein the organization proposes to conduct charitable gaming for a period of at least three years immediately prior to applying for a permit.

The three-year residency requirement shall not apply (i) to any lodge or chapter of a national or international fraternal order or to a national or international civic organization which is exempt under § 501 (c) (3) of the United States Internal Revenue Code and which has a lodge or chapter holding a charitable gaming permit issued under the provisions of this article anywhere within the Commonwealth; (ii) to booster clubs which have been operating for less than three years and which have been established solely to raise funds for school-sponsored activities in public schools which are less than three years old; (iii) to recently established volunteer fire and rescue companies or departments, after county, city or town approval; or (iv) to an organization which relocates its meeting place on a permanent basis from one jurisdiction to another, complies with the requirements of subdivision 2 of this section, and was the holder of a valid permit at the time of its relocation.

2. Be operating currently and have always been operated as a nonprofit organization.

B. Any organization whose gross receipts from all charitable gaming exceeds or can be expected to exceed \$75,000 in any calendar year shall have been granted tax-exempt status pursuant to § 501 (c) of the United States Internal Revenue Code. At the same time tax-exempt status is sought from the Internal Revenue Service, the same documentation may be filed with the Commission for an interim certification of tax-exempt status. If such documentation is filed, the Commission may, after reviewing such documentation it deems necessary, issue its determination of tax-exempt status within sixty days of receipt of such documentation. The Commission may charge a reasonable fee, not to exceed \$500. This interim certification of tax-exempt status shall be valid until the Internal Revenue Service issues its determination of tax-exempt status, or for eighteen months, whichever is earlier.

C. A permit shall be valid only for the locations designated in the permit.

D. The provisions of subsections A and B shall not apply to amusement parks.

§ 18.2-340.28:1. *Conduct of charitable gaming by amusement parks; net proceeds to certain volunteer rescue squads; records.*

Five percent of the net proceeds from the conduct of charitable gaming by an amusement park shall be donated to a voluntary rescue squad or auxiliary unit thereof which has been recognized, by an ordinance or resolution of any city having a population between 393,000 and 394,000 where the voluntary rescue squad is located, as being a part of the safety program of such city. Such proceeds shall be disbursed monthly.

An amusement park shall keep all records required by § 18.2-340.30 and Commission regulations.

§ 18.2-340.30. (Effective July 1, 1996) Reports of gross receipts and disbursements required; form of reports; failure to file.

A. Each qualified organization shall keep a complete record of all receipts from its charitable gaming operation and all disbursements related to such operation. Each qualified organization shall file at least annually, on a form prescribed by the Commission, a report of all such receipts and disbursements, the amount of money on hand attributable to charitable gaming as of the end of the period covered by the report and any other information related to its charitable gaming operation that the Commission may require. In addition, the Commission, by regulation, may require any qualified organization whose receipts exceed a specified amount during any three-month period to file a report of its receipts and disbursements for such period. All reports filed per this section shall be a matter of public record.

B. All reports required by this section shall be acknowledged in the presence of a notary public and filed on or before the date prescribed by the Commission.

C. The financial report shall be accompanied by a certificate, verified under oath, by the board of directors or the executive committee, if any, of the organization stating that the proceeds of charitable gaming have been used only for those purposes specified in § 18.2-340.19 and that the operation of the charitable games has been in accordance with the provisions of this article.

D. Any qualified organization having annual gross receipts from charitable gaming 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 in all material respects (i) the annual financial report fairly presents beginning cash, receipts, operating costs, use of proceeds, and ending cash; (ii) the proceeds of all charitable games have been used for those purposes specified in § 18.2-340.19; and (iii) the gross receipts have been used in accordance with the provisions of this article. The opinion required by this subsection shall be in addition to any other opinion that may be required by the Commission.

E. Each qualified organization shall designate an individual who shall be responsible for filing an annual and, if required, quarterly financial report if the organization goes out of business or otherwise ceases to conduct charitable gaming activities. The Commission shall require such reports as it deems

necessary until all proceeds of any charitable gaming have been used for the purposes specified in § 18.2-340.19 or have been disbursed in a manner approved by the Commission.

F. Each qualified organization shall maintain (i) for three years a written record of the dates on which bingo games are played, the number of people in attendance on each date and the amount of the gross receipts and prizes paid on each day; (ii) a record of the name and address of each individual to whom a regular or special bingo game prize or jackpot from the playing of bingo is awarded, as well as the amount of the award; and (iii) an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games.

G. The failure to file reports when due and, when required, the opinion of a licensed independent certified public accountant in accordance with subsection D, shall cause the automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter until the report or the opinion is properly filed and a new permit is obtained.

H. The provisions of subsections C and D (ii) and (iii) shall not apply to amusement parks.

§ 18.2-340.32. (Effective July 1, 1996) Authority of local governments.

The governing body of any county, city or town may adopt an ordinance consistent with this article and the regulations of the Commission which (i) prohibits the playing of instant bingo and (ii) establishes reasonable hours during which bingo games may be played within such jurisdiction. If the governing body of any town adopts an ordinance pursuant to the provisions of this section, such town shall not be subject to any ordinance adopted by the county within which such town lies. *However, no such ordinance shall apply to charitable gaming conducted by amusement parks.*

§ 18.2-340.33. (Effective July 1, 1996) Prohibited practices.

A. In addition to those other practices prohibited by this article, the following acts or practices are prohibited:

1. No part of the gross receipts derived by a qualified organization may be used for any purpose other than (i) reasonable and proper operating costs, (ii) publicizing the time and date of charitable gaming, (iii) prizes, (iv) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized, and (v) expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes.

2. No qualified organization shall enter into a contract with, or otherwise employ for compensation any person for the purpose of organizing, managing, or conducting any charitable games. However, organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs associated with providing clerical assistance in the conduct of charitable gaming.

The provisions of this subdivision shall not prohibit the joint operation of bingo games held in accordance with § 18.2-340.29.

3. No person shall pay or receive for use of any premises devoted, in whole or in part, to the conduct of any charitable games, any consideration in excess of the current fair market rental value of such property. Fair market rental value consideration shall not be based upon or determined by reference to a percentage of the proceeds derived from the operation of any charitable games or to the number of people in attendance at such charitable games.

4. No building or other premises shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than two calendar days in any one calendar week. However, no building or other premises owned by a qualified organization and qualified as a tax-exempt organization pursuant to § 501 (c) of the Internal Revenue Code shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than four calendar days in any one calendar week.

The provisions of this subdivision shall not apply to the playing of bingo games pursuant to a special permit issued in accordance with § 18.2-340.27.

5. No person shall participate in the management, operation or conduct of any charitable game unless such person is and, for a period of at least ninety days immediately preceding such participation, has been a bona fide member of the organization; however, the provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor of a qualified organization, provided such employees' participation is limited to the management, operation or conduct of no more than one raffle per year; or (iii) the spouse of any such bona fide member of a qualified organization provided at least one bona fide member is present.

6. No person shall receive any remuneration for participating in the management, operation or conduct of any charitable game, except that:

a. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed thirty dollars per event for providing clerical assistance in the conduct of charitable games only for such organizations; and

b. Persons under the age of nineteen who sell raffle tickets for a qualified organization to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from

the organization.

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

The provisions of this subdivision shall not apply to any qualified organization conducting bingo games on its own behalf at premises owned by it.

8. No qualified organization shall enter into any contract with or otherwise employ or compensate any member of the organization on account of the sale of bingo supplies or equipment.

9. No organization shall award any bingo prize money or any merchandise valued in excess of the following amounts:

a. No bingo door prize shall exceed \$25;

b. No regular bingo or special bingo game prize shall exceed \$100;

c. No instant bingo prize for a single card shall exceed \$500; and

d. No bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of bingo jackpot prizes awarded in any one calendar day exceed \$1,000.

The provisions of this subdivision shall not apply to any bingo game in which all the gross receipts from players for that game are paid as prize money back to the players provided there is no more than one such game per calendar day of play and the prize money from any such game does not exceed \$1,000, such games being commonly referred to as "winner-take-all" games.

10. No organization shall award any raffle prize valued at more than \$100,000.

The provisions of this subdivision shall not apply to (i) a raffle conducted no more than once per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501 (c) (3) of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or educational organizations specifically chartered or organized under the laws of the Commonwealth and qualified as a § 501 (c) (3) tax-exempt organization or (ii) pull-tab devices when played as permitted in § 18.2-340.26, which prize award for a single card shall not exceed \$500.

11. No qualified organization composed of or for deaf or blind persons which employs a person not a member to provide clerical assistance in the conduct of any charitable games shall conduct such games unless it has in force fidelity insurance, as defined in § 38.2-120, written by an insurer licensed to do business in the Commonwealth.

12. No person shall participate in the management, operation or conduct of any charitable game if, within the preceding five years, he has been convicted of a felony or crime of moral turpitude. In addition, no person shall participate in the management, operation or conduct of any charitable game if that person, within the preceding five years, has participated in the management, operation, or conduct of any charitable game which was found by the Commission or a court of competent jurisdiction to have been operated in violation of state law, local ordinance or Commission regulation.

13. Qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 shall not circumvent any restrictions and prohibitions which would otherwise apply if a single organization were conducting such games. These restrictions and prohibitions shall include, but not be limited to, the frequency with which bingo games may be held, the value of merchandise or money awarded as prizes, or any other practice prohibited under this section.

14. A qualified organization shall not purchase any charitable gaming supplies for use in this Commonwealth from any person who is not currently registered with the Commission as a supplier pursuant to § 18.2-340.34.

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