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**HOUSE BILL NO. 354**

Offered January 13, 2010

Prefiled January 12, 2010

*A BILL to amend and reenact §§ 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; hotel manager's reception license.*

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 Patron—Englin
 

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 Referred to Committee on General Laws
 

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**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted as follows:**

§ 4.1-206. Alcoholic beverage licenses.

The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

2. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

3. Banquet facility licenses to volunteer fire departments and volunteer rescue squads, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a fire or rescue squad station or both, regularly occupied as such and recognized by the governing body of the county, city or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a fire or rescue squad station, provided such other premises are occupied and under the control of the fire department or rescue squad while the privileges of its license are being exercised.

4. Bed and breakfast licenses, which shall authorize the licensee to serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises.

5. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

6. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

7. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

8. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the

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59 licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any  
60 such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served  
61 or consumed. The privileges of this license shall be limited to the premises of the day spa regularly  
62 occupied and utilized as such.

63 9. Motor car sporting event facility licenses, which shall authorize the licensee to permit the  
64 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof  
65 during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly  
66 or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the  
67 licensee's premises designated by the Board that are regularly occupied and utilized for motor car  
68 sporting events.

69 10. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the  
70 premises of the licensee to any such bona fide customer attending either a private gathering or a special  
71 event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce  
72 glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the  
73 wine or beer served or consumed. The privileges of this license shall be limited to the premises of the  
74 meal-assembly kitchen regularly occupied and utilized as such.

75 11. Canal boat operator license, which shall authorize the licensee to permit the consumption of  
76 lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer  
77 attending either a private gathering or a special event; however, the licensee shall not sell or otherwise  
78 charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license  
79 shall be limited to the premises of the licensee, including the canal, the canal boats while in operation,  
80 and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and  
81 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations  
82 covered by the license.

83 12. *Hotel manager's reception licenses, which shall authorize the licensee to serve wine and beer in*  
84 *areas designated by the Board during receptions held by the licensee to persons to whom overnight*  
85 *lodging is being provided and their guests or invitees, with or without meals, for on-premises*  
86 *consumption only in such areas, and without regard to the amount of gross receipts from the sale of*  
87 *food prepared and consumed on the premises. However, the licensee shall not give more than two*  
88 *five-ounce glasses of wine or two 12-ounce glasses of beer to any such person, nor shall the licensee*  
89 *sell or otherwise charge a fee to such person for the wine or beer served or consumed. No reception*  
90 *held by the licensee shall be longer in duration than one hour and the licensee shall be present at all*  
91 *times during the reception.*

92 § 4.1-231. Taxes on state licenses.

93 A. The annual fees on state licenses shall be as follows:

94 1. Alcoholic beverage licenses. For each:

95 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured  
96 during the year in which the license is granted, \$450; and if more than 5,000 gallons manufactured  
97 during such year, \$3,725;

98 b. Fruit distiller's license, \$3,725;

99 c. Banquet facility license or museum license, \$190;

100 d. Bed and breakfast establishment license, \$35;

101 e. Tasting license, \$40 per license granted;

102 f. Equine sporting event license, \$130;

103 g. Motor car sporting event facility license, \$130;

104 h. Day spa license, \$100;

105 i. Delivery permit, \$120 if the permittee holds no other license under this title;

106 j. Meal-assembly kitchen license, \$100; ~~and~~

107 k. Canal boat operator license, \$100; ~~and~~

108 l. *Hotel manager's reception license, \$100.*

109 2. Wine licenses. For each:

110 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the  
111 license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;

112 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per  
113 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000  
114 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than  
115 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons  
116 of wine per year;

117 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more  
118 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by  
119 the number of separate locations covered by the license;

120 c. Wine importer's license, \$370;

- 121 d. Retail off-premises winery license, \$145, which shall include a delivery permit;  
 122 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of  
 123 which shall include a delivery permit;  
 124 f. Wine shipper's license, \$65; and  
 125 g. Internet wine retailer license, \$150.
- 126 3. Beer licenses. For each:  
 127 a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which  
 128 the license is granted, \$2,150, and if more than 10,000 barrels manufactured during such year, \$4,300;  
 129 b. Bottler's license, \$1,430;  
 130 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or  
 131 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of  
 132 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;  
 133 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be  
 134 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the  
 135 license;  
 136 d. Beer importer's license, \$370;  
 137 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common  
 138 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by  
 139 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club  
 140 cars operated daily in the Commonwealth;  
 141 f. Retail off-premises beer license, \$120, which shall include a delivery permit;  
 142 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a  
 143 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a  
 144 delivery permit; and  
 145 h. Beer shipper's license, \$65.
- 146 4. Wine and beer licenses. For each:  
 147 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a  
 148 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common  
 149 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining  
 150 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to  
 151 a common carrier of passengers by airplane, \$750;  
 152 b. Retail on-premises wine and beer license to a hospital, \$145;  
 153 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience  
 154 grocery store license, \$230, which shall include a delivery permit;  
 155 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall  
 156 include a delivery permit;  
 157 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the  
 158 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be  
 159 \$100 per license;  
 160 f. Gourmet brewing shop license, \$230;  
 161 g. Wine and beer shipper's license, \$65; and  
 162 h. Annual banquet license, \$150.
- 163 5. Mixed beverage licenses. For each:  
 164 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants  
 165 located on premises of and operated by hotels or motels, or other persons:  
 166 (i) With a seating capacity at tables for up to 100 persons, \$560;  
 167 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and  
 168 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.  
 169 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by  
 170 private, nonprofit clubs:  
 171 (i) With an average yearly membership of not more than 200 resident members, \$750;  
 172 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,  
 173 \$1,860; and  
 174 (iii) With an average yearly membership of more than 500 resident members, \$2,765.  
 175 c. Mixed beverage caterer's license, \$1,860;  
 176 d. Mixed beverage limited caterer's license, \$500;  
 177 e. Mixed beverage special events license, \$45 for each day of each event;  
 178 f. Mixed beverage club events licenses, \$35 for each day of each event;  
 179 g. Annual mixed beverage special events license, \$560;  
 180 h. Mixed beverage carrier license:  
 181 (i) \$190 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) \$560 for each common carrier of passengers by boat;  
(iii) \$1,475 for each license granted to a common carrier of passengers by airplane.  
i. Annual mixed beverage amphitheater license, \$560;  
j. Annual mixed beverage motor sports race track license, \$560;  
k. Annual mixed beverage banquet license, \$500; and  
l. Limited mixed beverage restaurant license:  
(i) With a seating capacity at tables for up to 100 persons, \$460;  
(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875; and  
(iii) With a seating capacity at tables for more than 150 persons, \$1,330.  
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 12 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;  
c. Bed and breakfast establishment license, \$40;  
d. Museum license, \$10;  
e. Tasting license, \$5 per license granted;  
f. Equine sporting event license, \$10;  
g. Day spa license, \$20;  
h. Motor car sporting event facility license, \$10;  
i. Meal-assembly kitchen license, \$20; and  
j. Canal boat operator license, \$20; and  
k. *Hotel manager's reception license, \$20.*  
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. Beer shipper's license, \$10.

- 244 3. Wine. - For each:
- 245 a. Winery license, \$50;
- 246 b. Wholesale wine license, \$50;
- 247 c. Farm winery license, \$50; and
- 248 d. Wine shipper's license, \$10.
- 249 4. Wine and beer. - For each:
- 250 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail
- 251 off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery
- 252 store license, in a city, \$150, and in a county or town, \$37.50;
- 253 b. Hospital license, \$10;
- 254 c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board
- 255 pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20
- 256 per license;
- 257 d. Gourmet brewing shop license, \$150;
- 258 e. Wine and beer shipper's license, \$10; and
- 259 f. Annual banquet license, \$15.
- 260 5. Mixed beverages. - For each:
- 261 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
- 262 by hotels or motels, or other persons:
- 263 (i) With a seating capacity at tables for up to 100 persons, \$200;
- 264 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
- 265 (iii) With a seating capacity at tables for more than 150 persons, \$500.
- 266 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
- 267 c. Mixed beverage caterer's license, \$500;
- 268 d. Mixed beverage limited caterer's license; \$100;
- 269 e. Mixed beverage special events licenses, \$10 for each day of each event;
- 270 f. Mixed beverage club events licenses, \$10 for each day of each event;
- 271 g. Annual mixed beverage amphitheater license, \$300;
- 272 h. Annual mixed beverage motor sports race track license, \$300;
- 273 i. Annual mixed beverage banquet license, \$75; and
- 274 j. Limited mixed beverage restaurant license:
- 275 (i) With a seating capacity at tables for up to 100 persons, \$100;
- 276 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250; and
- 277 (iii) With a seating capacity at tables for more than 150 persons, \$400.
- 278 B. Common carriers. - No local license tax shall be either charged or collected for the privilege of
- 279 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the
- 280 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises
- 281 consumption only.
- 282 C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in
- 283 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local
- 284 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,
- 285 may include alcoholic beverages in the base for measuring such local license taxes the same as if the
- 286 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter
- 287 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local
- 288 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license
- 289 taxes authorized by this chapter.
- 290 The governing body of any county, city or town, in adopting an ordinance under this section, shall
- 291 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation
- 292 under the ordinance, and in computing the local wholesale merchants' license tax on such beer
- 293 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be
- 294 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license
- 295 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine
- 296 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale
- 297 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall
- 298 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary
- 299 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax
- 300 paid by such wholesale wine licensee.
- 301 D. Delivery. - No county, city or town shall impose any local alcoholic beverages license tax on any
- 302 wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such
- 303 wholesaler maintains no place of business in such county, city or town.
- 304 E. Application of county tax within town. - Any county license tax imposed under this section shall

**305** not apply within the limits of any town located in such county, where such town now, or hereafter,  
**306** imposes a town license tax on the same privilege.