

15104244D

HOUSE BILL NO. 2119

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on January 29, 2015)

(Patron Prior to Substitute—Delegate Knight)

A BILL to amend and reenact §§ 4.1-101.1, 4.1-111, 4.1-203, 4.1-206, 4.1-207, 4.1-208, 4.1-209, 4.1-210, 4.1-213, 4.1-230, 4.1-231, 4.1-232, 4.1-240, and 4.1-326 of the Code of Virginia, relating to alcoholic beverage control; customer service.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-101.1, 4.1-111, 4.1-203, 4.1-206, 4.1-207, 4.1-208, 4.1-209, 4.1-210, 4.1-213, 4.1-230, 4.1-231, 4.1-232, 4.1-240, and 4.1-326 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-101.1. Certified mail; subsequent mail or notices may be sent by regular mail; electronic communications as alternative to regular mail; limitation.

A. Whenever in this title the Board is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board may be sent by regular mail.

B. Except as provided in subsection C, whenever in this title the Board is required or permitted to send any mail, notice, or other official communication by regular mail to persons licensed under Chapter 2 (§ 4.1-200 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official communication by email, text message, or other electronic means to the email address, telephone number, or other contact information provided to the Board by the licensee, provided that the Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by the Board confirming the electronic delivery.

C. No notice required by § 4.1-227 to (i) a licensee of a hearing that may result in the suspension or revocation of his license or the imposition of a civil penalty or (ii) a person holding a permit shall be sent by the Board by email, text message, or other electronic means, nor shall any decision by the Board to suspend or revoke a license or permit or impose a civil penalty be sent by the Board by email, text message, or other electronic means.

§ 4.1-111. Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from

HOUSE SUBSTITUTE

HB2119H1

60 licensees for purchases at government stores, including provision for the collection, where appropriate,
61 of related fees, penalties, and service charges.

62 8. Require that banquet licensees in charge of public events as defined by Board regulations report to
63 the Board the income and expenses associated with the public event on a form prescribed by the Board
64 when the banquet licensee engages another person to organize, conduct or operate the event on behalf of
65 the banquet licensee. Such regulations shall be applicable only to public events where alcoholic
66 beverages are being sold.

67 9. Provide alternative methods for licensees to maintain and store business records that are subject to
68 Board inspection, including methods for Board-approved electronic and off-site storage.

69 10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing
70 one-half of one percent or more of alcohol by volume in the same location where wine and beer are
71 available for sale within the licensed premises.

72 11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and
73 sell flavored distilled spirits.

74 12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to
75 subsection C of § 4.1-232.

76 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic
77 beverages, not inconsistent with the provisions of this title, so that such advertising does not encourage
78 or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages
79 may not be lawfully sold. Such regulations shall:

80 a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i)
81 the general prohibition against tied interests between retail licensees and manufacturers or wholesale
82 licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of
83 wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the
84 general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and
85 retail licensees as set forth in Board regulation; and

86 b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this title and (ii) the
87 display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under
88 Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as
89 defined in § 55-526, but only in accordance with this title.

90 14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer
91 pursuant to an agreement with a brand owner not under common control with the manufacturing
92 brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require
93 that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a
94 written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board
95 are maintained by the parties.

96 C. The Board may promulgate regulations that:

97 1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be
98 based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit
99 status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the
100 purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its
101 not-for-profit status. The granting of such waiver shall be limited to two events per year for each
102 applicant.

103 2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the
104 course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of
105 § 4.1-325.2.

106 3. *Provide incentives to licensees with a proven history of compliance with state and federal laws*
107 *and regulations to encourage licensees to conduct their business and related activities in a manner that*
108 *is beneficial to the Commonwealth.*

109 D. Board regulations shall be uniform in their application, except those relating to hours of sale for
110 licensees.

111 E. Courts shall take judicial notice of Board regulations.

112 F. The Board's power to regulate shall be broadly construed.

113 **§ 4.1-203. Separate license for each place of business; transfer or amendment; posting;**
114 **expiration; carriers.**

115 A. Each license granted by the Board shall designate the place where the business of the licensee
116 will be carried on. Except as otherwise provided in §§ 4.1-207 and 4.1-208, a separate license shall be
117 required for each separate place of business.

118 B. No license shall be transferable from one person to another, or from one location to another. The
119 Board may permit a licensee to amend the classification of an existing license without complying with
120 the posting and publishing procedures required by § 4.1-230 if the effect of the amendment is to reduce
121 materially the privileges of an existing license. However, if (i) the Board determines that the amendment

122 is a device to evade the provisions of this chapter, (ii) a majority of the corporate stock of a retail
123 licensee is sold to a new entity, or (iii) there is a change of business at the premises of a retail licensee,
124 the Board may, within 30 days of receipt of written notice by the licensee of a change in ownership or a
125 change of business, require the licensee to comply with any or all of the requirements of § 4.1-230. If
126 the Board fails to exercise its authority within the 30-day period, the licensee shall not be required to
127 reapply for a license. The licensee shall submit such written notice to the Secretary of the Board.

128 C. Each license shall be posted in a location conspicuous to the public at the place where the
129 licensee carries on the business for which the license is granted.

130 D. The privileges conferred by any license granted by the Board, except for temporary licenses,
131 banquet and mixed beverage special events licenses, shall continue until the last day of the twelfth
132 month next ensuing or the last day of the designated month *and year* of expiration, except the license
133 may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a
134 license, by operation of law, voluntary surrender or order of the Board.

135 *The Board may grant licenses for one year or for multiple years, not to exceed three years, based on*
136 *the fees set forth in § 4.1-231. Qualification for a multiyear license shall be determined on the basis of*
137 *criteria established by the Board. Fees for multiyear licenses shall not be refundable except as provided*
138 *in § 4.1-232. The Board may provide a discount for two-year or three-year licenses, not to exceed five*
139 *percent of the applicable license fee, which extends for one fiscal year and shall not be altered or*
140 *rescinded during such period.*

141 The Board may permit a licensee who fails to pay:

142 1. The required license tax covering the continuation or reissuance of his license by midnight of the
143 fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable, to
144 pay the tax in lieu of posting and publishing notice and reapplying, provided payment of the tax is made
145 within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such
146 tax, whichever is greater; and

147 2. The tax and civil penalty pursuant to subdivision 1 to pay the tax in lieu of posting and publishing
148 notice and reapplying, provided payment of the tax is made within 45 days following the 30 days
149 specified in subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such tax,
150 whichever is greater.

151 Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-114.

152 E. Subsections A and C shall not apply to common carriers of passengers by train, boat, or airplane.

153 **§ 4.1-206. Alcoholic beverage licenses.**

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

155 1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other
156 than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in
157 closed containers, to the Board and to persons outside the Commonwealth for resale outside the
158 Commonwealth. When the Board has established a government store on the distiller's licensed premises
159 pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to
160 consumers to participate in an organized tasting event conducted in accordance with subsection G of
161 § 4.1-119 and Board regulations.

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

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

176 4. Bed and breakfast licenses, which shall authorize the licensee to serve alcoholic beverages in
177 dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is
178 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and
179 without regard to the amount of gross receipts from the sale of food prepared and consumed on the
180 premises. *For purposes of this subdivision, "other designated areas" includes outdoor dining areas,*
181 *whether or not contiguous to the licensed premises, which may have more than one means of ingress*
182 *and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the*

183 *control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be*
184 *approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.*

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

190 6. Museum licenses, which may be issued to nonprofit museums exempt from taxation under
191 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the
192 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide
193 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any
194 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in
195 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,
196 regularly occupied and utilized as such.

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

203 8. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully
204 acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii)
205 serve wine or beer on the premises of the licensee to any such bona fide customer; however, the
206 licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any
207 such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served
208 or consumed. The privileges of this license shall be limited to the premises of the day spa regularly
209 occupied and utilized as such.

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

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

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

230 12. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the
231 licensee participating in a community art walk that is open to the public to serve lawfully acquired wine
232 or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic
233 beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the
234 licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any
235 one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue
236 regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

237 **§ 4.1-207. Wine licenses.**

238 The Board may grant the following licenses relating to wine:

239 1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or
240 ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the
241 wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth
242 for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate
243 distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit
244 juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate

245 a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and
 246 (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board.

247 2. Wholesale wine licenses, including those granted pursuant to § 4.1-207.1, which shall authorize the
 248 licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine
 249 from one or more premises identified in the license, in accordance with Board regulations, in closed
 250 containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the
 251 Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for
 252 sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for
 253 ports of call of a foreign country or another state.

254 No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth
 255 who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's
 256 license and purchases wine for resale pursuant to the privileges of such wine importer's license.

257 3. Wine importers' licenses, which shall authorize persons located within or outside the
 258 Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed
 259 containers, to persons in the Commonwealth licensed to sell wine at wholesale for the purpose of resale,
 260 and to persons outside the Commonwealth for resale outside the Commonwealth.

261 4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the
 262 licensee to sell wine at the place of business designated in the winery license, in closed containers, for
 263 off-premises consumption.

264 5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 18
 265 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board
 266 regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured
 267 at wholesale for the purpose of resale, ~~§ 4.1-326 notwithstanding~~, or (iii) persons outside the
 268 Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine
 269 and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons
 270 licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b)
 271 operate a contract winemaking facility on the premises of the licensee in accordance with Board
 272 regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon
 273 permits issued by the Board. For the purposes of this title, a farm winery license shall be designated
 274 either as a Class A or Class B farm winery license in accordance with the limitations set forth in
 275 § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a
 276 winery or farm winery licensee operating a contract winemaking facility.

277 Such licenses shall also authorize the licensee to sell wine at retail at the places of business
 278 designated in the licenses, which may include no more than five additional retail establishments of the
 279 licensee. Wine may be sold at these business places for on-premises consumption and in closed
 280 containers for off-premises consumption. In addition, wine may be pre-mixed by the licensee to be
 281 served and sold for on-premises consumption at these business places.

282 6. Internet wine retailer license, which shall authorize persons located within or outside the
 283 Commonwealth to sell and ship wine, in accordance with § 4.1-209.1 and Board regulations, in closed
 284 containers to persons in the Commonwealth to whom wine may be lawfully sold for off-premises
 285 consumption. Such licensee shall not be required to comply with the monthly food sale requirement
 286 established by Board regulations.

287 **§ 4.1-208. Beer licenses.**

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

289 1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or
 290 ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons
 291 licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale
 292 within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a
 293 company under common control of such brewery, or upon property of such brewery or a parent,
 294 subsidiary or a company under common control of such brewery contiguous to such premises, or in a
 295 development contiguous to such premises owned and operated by such brewery or a parent, subsidiary
 296 or a company under common control of such brewery; and (iii) persons outside the Commonwealth for
 297 resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the
 298 brands of beer that the brewery owns at premises described in the brewery license for on-premises
 299 consumption and in closed containers for off-premises consumption.

300 Such license may also authorize individuals holding a brewery license to (a) operate a facility
 301 designed for and utilized exclusively for the education of persons in the manufacture of beer, including
 302 sampling by such individuals of beer products, within a theme or amusement park located upon the
 303 premises occupied by such brewery, or upon property of such person contiguous to such premises, or in
 304 a development contiguous to such premises owned and operated by such person or a wholly owned
 305 subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises,

306 provided that such samples shall be provided only to individuals for consumption on the premises of
307 such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

308 2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per
309 calendar year, provided (i) the brewery is located on a farm in the Commonwealth on land zoned
310 agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including
311 barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on
312 the farm. The licensed premises shall be limited to the portion of the farm on which agricultural
313 products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its
314 beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured,
315 exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local
316 governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm
317 to be included as part of the licensed premises.

318 Limited brewery licensees shall be treated as breweries for all purposes of this title except as
319 otherwise provided in this subdivision.

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

325 4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and
326 shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the
327 license, in accordance with Board regulations, in closed containers to (i) persons licensed under this
328 chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered
329 under the laws of the United States sailing for ports of call of a foreign country or another state, and
330 (iii) persons outside the Commonwealth for resale outside the Commonwealth.

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

334 5. Beer importers' licenses, which shall authorize persons licensed within or outside the
335 Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board
336 regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for
337 the purpose of resale.

338 6. Retail on-premises beer licenses to:

339 a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without
340 meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private
341 guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms
342 and areas. *For purposes of this subdivision, "other designated areas" includes outdoor dining areas,*
343 *whether or not contiguous to the licensed premises, which may have more than one means of ingress*
344 *and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the*
345 *control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be*
346 *approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.*

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

350 c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee
351 to sell beer, either with or without meals, on such boats operated by them for on-premises consumption
352 when carrying passengers.

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

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

365 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar
366 facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta,
367 Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer

368 during the performance of any event, in paper, plastic or similar disposable containers to patrons within
 369 all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises
 370 consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully
 371 acquired alcoholic beverages on the premises in all areas and locations covered by the license.

372 g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar
 373 facilities located in any county operating under the urban county executive form of government or any
 374 city which is completely surrounded by such county, which shall authorize the licensee to sell beer
 375 during the event, in paper, plastic or similar disposable containers to patrons or attendees within all
 376 seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations
 377 designated by the Board in such facilities, for on-premises consumption. Upon authorization of the
 378 licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
 379 premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or
 380 exposition halls" and "convention centers" mean facilities conducting private or public trade shows or
 381 exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

382 7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed
 383 containers for off-premises consumption.

384 8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize
 385 the licensee to sell beer at the place of business designated in the brewery license, in closed containers
 386 which shall include growlers and other reusable containers, for off-premises consumption.

387 9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which
 388 shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall
 389 authorize the licensee to sell beer in closed containers for off-premises consumption.

390 **§ 4.1-209. Wine and beer licenses; advertising.**

391 A. The Board may grant the following licenses relating to wine and beer:

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

393 a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with
 394 or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas,
 395 private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such
 396 rooms and areas. However, with regard to a hotel classified by the Board as (i) a resort complex, the
 397 Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort
 398 complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the
 399 sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated
 400 areas to persons to whom overnight lodging is being provided, for on-premises consumption in such
 401 rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and
 402 consumed on the premises, provided that at least one meal is provided each day by the hotel to such
 403 guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title
 404 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under
 405 this subdivision, any resident may, upon authorization of the licensee, keep and consume his own
 406 lawfully acquired alcoholic beverages on the premises in all areas covered by the license. *For purposes*
 407 *of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous*
 408 *to the licensed premises, which may have more than one means of ingress and egress to an adjacent*
 409 *public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and*
 410 *approved by the Board. Such noncontiguous designated areas shall not be approved for any retail*
 411 *license issued pursuant to subdivision A 5 of § 4.1-201;*

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

415 c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee
 416 to sell wine and beer, either with or without meals, on such boats operated by them for on-premises
 417 consumption when carrying passengers;

418 d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or
 419 intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by
 420 passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated
 421 rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding.
 422 For purposes of supplying its airplanes, as well as any airplane of a licensed express carrier flying under
 423 the same brand, an air carrier licensee may appoint an authorized representative to load wine and beer
 424 onto the same airplanes and to transport and store wine and beer at or in close proximity to the airport
 425 where the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express
 426 carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the
 427 inventory of wine and beer may be stored and from which the wine and beer will be delivered onto
 428 airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all wine

429 and beer to be transported, stored, and delivered by its authorized representative;

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

433 f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall
434 authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers, during any
435 event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways,
436 concession areas and additional locations designated by the Board in such coliseums, stadia, racetracks
437 or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may
438 keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and
439 locations covered by the license;

440 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar
441 facility which (i) has seating for more than 20,000 persons and is located in Prince William County or
442 the City of Virginia Beach, (ii) has capacity for more than 3,500 persons and is located in the Counties
443 of Albemarle, Augusta, *Nelson*, Pittsylvania, or Rockingham, or the Cities of Charlottesville, Danville, or
444 Roanoke, or (iii) has capacity for more than 9,500 persons and is located in Henrico County. Such
445 license shall authorize the licensee to sell wine and beer during the performance of any event, in paper,
446 plastic or similar disposable containers to patrons within all seating areas, concourses, walkways,
447 concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee,
448 any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all
449 areas and locations covered by the license; and

450 h. Persons operating food concessions at exhibition or exposition halls, convention centers or similar
451 facilities located in any county operating under the urban county executive form of government or any
452 city which is completely surrounded by such county, which shall authorize the licensee to sell wine and
453 beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all
454 seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations
455 designated by the Board in such facilities, for on-premises consumption. Upon authorization of the
456 licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
457 premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or
458 exposition hall" and "convention centers" mean facilities conducting private or public trade shows or
459 exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

460 2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer
461 in closed containers for off-premises consumption.

462 3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed
463 containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any
464 person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed two ounces by
465 volume or (ii) a sample of beer not to exceed four ounces by volume, for on-premises consumption. The
466 licensee may also give samples of wine and beer in designated areas at events held by the licensee for
467 the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.
468 Additionally, with the consent of the licensee, farm wineries, wineries, breweries, and wholesale
469 licensees may participate in tastings held by licensees authorized to conduct tastings, including the
470 pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Notwithstanding
471 Board regulations relating to food sales, the licensee shall maintain each year an average monthly
472 inventory and sales volume of at least \$1,000 in products such as cheeses and gourmet food.

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

475 5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which
476 shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition,
477 shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

478 6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or
479 associations in charge of special events, which shall authorize the licensee to sell or give wine and beer
480 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms
481 or areas. Except as provided in § 4.1-215, a separate license shall be required for each day of each
482 banquet or special event. For the purposes of this subdivision, when the location named in the original
483 application for a license is outdoors, the application may also name an alternative location in the event
484 of inclement weather. However, no such license shall be required of any hotel, restaurant, or club
485 holding a retail wine and beer license.

486 7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior
487 premises of the gift shop in closed containers for off-premises consumption and, the provisions of
488 § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a
489 sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces
490 by volume for on-premises consumption. The licensee may also give samples of wine and beer in

491 designated areas at events held by the licensee for the purpose of featuring and educating the consuming
492 public about the alcoholic beverages being tasted.

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

497 9. Annual banquet licenses, to duly organized private nonprofit fraternal, patriotic or charitable
498 membership organizations that are exempt from state and federal taxation and in charge of banquets
499 conducted exclusively for its members and their guests, which shall authorize the licensee to serve wine
500 and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such
501 rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per
502 calendar year. For the purposes of this subdivision, when the location named in the original application
503 for a license is outdoors, the application may also name an alternative location in the event of inclement
504 weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail
505 wine and beer license.

506 10. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a
507 place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer
508 owned by holders of wine or beer shipper's licenses, (ii) store such wine or beer on behalf of the owner,
509 and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board
510 regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or
511 not, or any person under common control of such licensee, shall acquire or hold any financial interest,
512 direct or indirect, in the business for which any fulfillment warehouse license is issued.

513 11. Marketing portal licenses, which shall authorize agricultural cooperative associations organized
514 under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place
515 of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive
516 orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom
517 wine or beer may be lawfully sold, on behalf of holders of wine or beer shipper's licenses. Upon receipt
518 of an order for wine or beer, the licensee shall forward it to a holder of a wine or beer shipper's license
519 for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

520 12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina
521 and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on
522 the premises, where the licensee also offers to the public events for the purpose of featuring and
523 educating the consuming public about local oysters and other seafood products. Such license shall
524 authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas
525 approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed
526 containers for off-premises consumption. Samples of wine shall not exceed two ounces per person.
527 Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly
528 food sale requirement of oysters and other seafood for such license. Additionally, with the consent of
529 the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees
530 authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic
531 beverages may be lawfully sold.

532 B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license
533 pursuant to this section may display within their licensed premises point-of-sale advertising materials
534 that incorporate the use of any professional athlete or athletic team, provided that such advertising
535 materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol,
536 Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior
537 to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the athlete
538 is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic
539 beverage so advertised enhances athletic prowess.

540 C. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this
541 section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its
542 customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in
543 designated areas at events held by the licensee for the purpose of featuring and educating the consuming
544 public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm
545 wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct
546 tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully
547 sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four
548 ounces per person.

549 **§ 4.1-210. Mixed beverages licenses.**

550 A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to
551 mixed beverages:

552 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed
553 beverages for consumption in dining areas and other designated areas of such restaurant. Such license
554 may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale
555 of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the
556 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale
557 of mixed beverages and food. For the purposes of this paragraph subdivision, other designated areas
558 shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor
559 dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare,
560 provided such areas are under the control of the licensee and approved by the Board. *Such*
561 *noncontiguous designated areas shall not be approved for any retail license issued pursuant to*
562 *subdivision A 5 of § 4.1-201.*

563 If the restaurant is located on the premises of a hotel or motel with not less than four permanent
564 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,
565 bedrooms and other private rooms of such hotel or motel, such licensee may (i) sell and serve mixed
566 beverages for consumption in such designated areas, bedrooms and other private rooms and (ii) sell
567 spirits packaged in original closed containers purchased from the Board for on-premises consumption to
568 registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private
569 rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale
570 and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed
571 appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own
572 lawfully acquired spirits in bedrooms or private rooms.

573 If the restaurant is located on the premises of and operated by a private, nonprofit or profit club
574 exclusively for its members and their guests, or members of another private, nonprofit or profit club in
575 another city with which it has an agreement for reciprocal dining privileges, such license shall also
576 authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club
577 prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the
578 Board and located on another portion of the premises of the same hotel or motel building, this fact shall
579 not prohibit the granting of a license by the Board to such club qualifying in all other respects. The
580 club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold
581 to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross
582 receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club
583 shall be excluded in any consideration of the qualifications of such restaurant for a license from the
584 Board.

585 2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the
586 business of providing food and beverages to others for service at private gatherings or at special events,
587 which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption.
588 The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic
589 beverages served at gatherings and events referred to in this subdivision shall amount to at least 45
590 percent of the gross receipts from the sale of mixed beverages and food.

591 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly
592 engaged in the business of providing food and beverages to others for service at private gatherings or at
593 special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell
594 and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of
595 food cooked and prepared for service and nonalcoholic beverages served at gatherings and events
596 referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of
597 mixed beverages and food.

598 4. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in
599 charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for
600 on-premises consumption in areas approved by the Board on the premises of the place designated in the
601 license. A separate license shall be required for each day of each special event.

602 5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or
603 association operating either a performing arts facility or an art education and exhibition facility, (ii) a
604 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings and
605 objects significant in American history and culture, or (iii) persons operating an agricultural event and
606 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space
607 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped
608 with roofs, exterior walls, and open or closed-door access. The operation in all cases shall be upon
609 premises owned by such licensee or occupied under a bona fide lease the original term of which was for
610 more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages
611 during scheduled events and performances for on-premises consumption in areas upon the licensed
612 premises approved by the Board.

613 6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat

614 or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the
 615 Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms
 616 of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its
 617 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air
 618 carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes
 619 and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits
 620 will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier
 621 licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits
 622 may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and
 623 any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported,
 624 stored, and delivered by its authorized representative.

625 7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and beer
 626 club license to sell and serve mixed beverages for on-premises consumption by club members and their
 627 guests in areas approved by the Board on the club premises. A separate license shall be required for
 628 each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar
 629 year.

630 8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any
 631 outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000
 632 persons and is located in Prince William County or the City of Virginia Beach. Such license shall
 633 authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic
 634 or similar disposable containers to patrons within all seating areas, concourses, walkways, concession
 635 areas, or similar facilities, for on-premises consumption.

636 9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any
 637 outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000
 638 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize
 639 the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar
 640 disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or
 641 similar facilities, for on-premises consumption.

642 10. Annual mixed beverage motor sports facility license to persons operating food concessions at any
 643 outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on
 644 1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed
 645 beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events
 646 or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing
 647 areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization
 648 of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
 649 premises in all areas and locations covered by the license.

650 11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic or
 651 charitable membership organizations that are exempt from state and federal taxation and in charge of
 652 banquets conducted exclusively for its members and their guests, which shall authorize the licensee to
 653 serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of
 654 the place designated in the license. Such license shall authorize the licensee to conduct no more than 12
 655 banquets per calendar year.

656 12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve
 657 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs
 658 shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the
 659 restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall
 660 the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages,
 661 exceed 10 percent of the total annual gross sales of all food and alcoholic beverages.

662 13. Annual mixed beverage motor sports facility licenses to persons operating concessions at an
 663 outdoor motor sports facility that hosts a NASCAR national touring race, which shall authorize the
 664 licensee to sell mixed beverages, in paper, plastic, or similar disposable containers during scheduled
 665 events, as well as events or performances immediately subsequent thereto, to patrons in all dining
 666 facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises
 667 consumption.

668 14. Annual mixed beverage performing arts facility license to corporations or associations operating a
 669 performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii)
 670 is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than
 671 one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards.
 672 Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for
 673 on-premises consumption in areas upon the licensed premises approved by the Board.

674 B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, or 14 shall

675 automatically include a license to sell and serve wine and beer for on-premises consumption. The
 676 licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

677 **§ 4.1-213. Manufacture and sale of cider.**

678 A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) the Board, (ii)
 679 any wholesale wine licensee, *and* (iii) ~~any retail licensee approved by the Board for the purpose of~~
 680 ~~selling cider, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.~~

681 B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver and
 682 ship the cider in accordance with Board regulations to (i) the Board, (ii) any wholesale wine licensee,
 683 (iii) any retail licensee approved by the Board for the purpose of selling cider, and (iv) persons outside
 684 the Commonwealth for resale outside the Commonwealth.

685 C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner
 686 and to the same persons, and subject to the same limitations and conditions, as such license authorizes
 687 him to sell other alcoholic beverages.

688 D. Cider containing less than seven percent of alcohol by volume may be sold in any containers that
 689 comply with federal regulations for wine or beer, provided such containers are labeled in accordance
 690 with Board regulations. Cider containing seven percent or more of alcohol by volume may be sold in
 691 any containers that comply with federal regulations for wine, provided such containers are labeled in
 692 accordance with Board regulations.

693 E. No additional license fees shall be charged for the privilege of handling cider.

694 F. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold, or
 695 both, in the Commonwealth.

696 G. The Board shall adopt regulations relating to the manufacture, possession, transportation and sale
 697 of cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale of
 698 cider and to ensure that the markup required to be paid will be collected.

699 H. For the purposes of this section:

700 "Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must
 701 before or during fermentation.

702 "Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural
 703 sugar content of apples or pears (i) containing not more than 10 percent of alcohol by volume without
 704 chaptalization or (ii) containing not more than seven percent of alcohol by volume regardless of
 705 chaptalization.

706 I. This section shall not limit the privileges set forth in subdivision A 8 of § 4.1-200, nor shall any
 707 person be denied the privilege of manufacturing and selling sweet cider.

708 **§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.**

709 A. Every person intending to apply for any license authorized by this chapter shall file with the
 710 Board an application on forms provided by the Board and a statement in writing, under oath, setting
 711 forth any information required by the Board. Applications for banquet, tasting, mixed beverage special
 712 events, or club events licenses shall not be required to be under oath, but the information contained
 713 therein shall be certified as true by the applicant.

714 B. In addition, each applicant for a license under the provisions of this chapter, except applicants for
 715 annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine or
 716 beer shipper's, wine and beer shipper's, delivery permit, *annual arts venue*, or museum licenses issued
 717 under the provisions of Chapter 2 (§ 4.1-200 et seq.) ~~of this title~~, or beer or wine importer's licenses
 718 ~~located outside the Commonwealth~~, shall post a notice of his application with the Board on the front
 719 door of the building, place or room where he proposes to engage in such business for no more than 30
 720 days and not less than 10 days. Such notice shall be of a size and contain such information as required
 721 by the Board, including a statement that any objections shall be submitted to the Board not more than
 722 30 days following initial publication of the notice required pursuant to this subsection.

723 The applicant shall also cause notice to be published at least once a week for two consecutive weeks
 724 in a newspaper published in or having a general circulation in the county, city or town wherein such
 725 applicant proposes to engage in such business. Such notice shall contain such information as required by
 726 the Board, including a statement that any objections to the issuance of the license be submitted to the
 727 Board not later than 30 days from the date of the initial newspaper publication. In the case of wine or
 728 beer shipper's licensees, wine and beer shipper's licensees, delivery permittees or operators of boats,
 729 dining cars, buffet cars, club cars, and airplanes, the posting and publishing of notice shall not be
 730 required.

731 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club
 732 events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, *beer or wine*
 733 *importer's*, *annual arts venue*, or museum licenses, the Board shall conduct a background investigation,
 734 to include a criminal history records search, which may include a fingerprint-based national criminal
 735 history records search, on each applicant for a license. However, the Board may waive, for good cause
 736 shown, the requirement for a criminal history records search and completed personal data form for

737 officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited
 738 liability company, or limited partnership.

739 Except for applicants for wine shipper's, beer shipper's, wine and beer shipper's licenses, and delivery
 740 permits, the Board shall notify the local governing body of each license application through the county
 741 or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit
 742 objections to the granting of a license within 30 days of the filing of the application.

743 C. Each applicant shall pay the required application fee *and appropriate annual license fee* at the
 744 time the application is filed. Each license application fee, including annual banquet and annual mixed
 745 beverage banquet, shall be \$65, plus the actual cost charged to the Department of State Police by the
 746 Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any
 747 fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for
 748 each criminal history records search required by the Board, except for banquet, tasting, mixed beverage
 749 special events, or mixed beverage club events licenses, in which case the application fee shall be \$15.
 750 Application fees shall be in addition to the state license fee required pursuant to § 4.1-231 and shall not
 751 be refunded.

752 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; *however*
 753 *all licensees shall file and maintain with the Board a current, accurate record of the information*
 754 *required by the Board pursuant to subsection A and notify the Board of any changes to such*
 755 *information in accordance with Board regulations.*

756 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the
 757 Board. In the case of applications to solicit the sale of wine and beer or spirits, each application shall be
 758 accompanied by a fee of \$165 and \$390, respectively. The fee for each such permit shall be subject to
 759 proration to the following extent: If the permit is granted in the second quarter of any year, the fee shall
 760 be decreased by one-fourth; if granted in the third quarter of any year, the fee shall be decreased by
 761 one-half; and if granted in the fourth quarter of any year, the fee shall be decreased by three-fourths.
 762 Each such permit shall expire on June 30 next succeeding the date of issuance, unless sooner suspended
 763 or revoked by the Board. Such permits shall confer upon their holders no authority to make solicitations
 764 in the Commonwealth as otherwise provided by law.

765 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for
 766 applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied
 767 by the number of months for which the permit is granted.

768 The fee for a keg registration permit shall be \$65 annually.

769 The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs bond
 770 or internal revenue bond in warehouses located in the Commonwealth shall be \$260 annually.

771 **§ 4.1-231. Taxes on state licenses.**

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

773 1. Alcoholic beverage licenses. For each:

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

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

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

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

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

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

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

783 h. Day spa license, \$100;

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

785 j. Meal-assembly kitchen license, \$100;

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

787 l. Annual arts venue event license, \$100.

788 2. Wine licenses. For each:

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

791 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per
 792 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000
 793 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than
 794 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons
 795 of wine per year;

796 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more
 797 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by

- 798 the number of separate locations covered by the license;
- 799 c. Wine importer's license, \$370;
- 800 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
- 801 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
- 802 which shall include a delivery permit;
- 803 f. Wine shipper's license, \$95; and
- 804 g. Internet wine retailer license, \$150.
- 805 3. Beer licenses. For each:
- 806 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
- 807 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which
- 808 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
- 809 b. Bottler's license, \$1,430;
- 810 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
- 811 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
- 812 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
- 813 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
- 814 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
- 815 license;
- 816 d. Beer importer's license, \$370;
- 817 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
- 818 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
- 819 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
- 820 cars operated daily in the Commonwealth;
- 821 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
- 822 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
- 823 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
- 824 delivery permit;
- 825 h. Beer shipper's license, \$95; and
- 826 i. Retail off-premises brewery license, \$120, which shall include a delivery permit.
- 827 4. Wine and beer licenses. For each:
- 828 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
- 829 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
- 830 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
- 831 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
- 832 a common carrier of passengers by airplane, \$750;
- 833 b. Retail on-premises wine and beer license to a hospital, \$145;
- 834 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
- 835 grocery store license, \$230, which shall include a delivery permit;
- 836 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall
- 837 include a delivery permit;
- 838 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
- 839 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be
- 840 \$100 per license;
- 841 f. Gourmet brewing shop license, \$230;
- 842 g. Wine and beer shipper's license, \$95;
- 843 h. Annual banquet license, \$150;
- 844 i. Fulfillment warehouse license, \$120;
- 845 j. Marketing portal license, \$150; and
- 846 k. Gourmet oyster house license, \$230.
- 847 5. Mixed beverage licenses. For each:
- 848 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
- 849 located on premises of and operated by hotels or motels, or other persons:
- 850 (i) With a seating capacity at tables for up to 100 persons, \$560;
- 851 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
- 852 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
- 853 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
- 854 private, nonprofit clubs:
- 855 (i) With an average yearly membership of not more than 200 resident members, \$750;
- 856 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
- 857 \$1,860; and
- 858 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
- 859 c. Mixed beverage caterer's license, \$1,860;

- 860 d. Mixed beverage limited caterer's license, \$500;
- 861 e. Mixed beverage special events license, \$45 for each day of each event;
- 862 f. Mixed beverage club events licenses, \$35 for each day of each event;
- 863 g. Annual mixed beverage special events license, \$560;
- 864 h. Mixed beverage carrier license:
- 865 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the
- 866 Commonwealth by a common carrier of passengers by train;
- 867 (ii) \$560 for each common carrier of passengers by boat;
- 868 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
- 869 i. Annual mixed beverage amphitheater license, \$560;
- 870 j. Annual mixed beverage motor sports race track license, \$560;
- 871 k. Annual mixed beverage banquet license, \$500;
- 872 l. Limited mixed beverage restaurant license:
- 873 (i) With a seating capacity at tables for up to 100 persons, \$460;
- 874 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
- 875 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
- 876 m. Annual mixed beverage motor sports facility license, \$560; and
- 877 n. Annual mixed beverage performing arts facility license, \$560.
- 878 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
- 879 imposed by this section on the license for which the applicant applied.

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

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

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

895 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of ~~less other~~
 896 than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed
 897 to the nearest cent, multiplied by the number of months in the license period, and then increased by five
 898 percent. *Such tax shall not be refundable, except as provided in § 4.1-232.*

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

908 *D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license*
 909 *purchased in person from the Board if such license is available for purchase online.*

910 **§ 4.1-232. Refund of state license tax.**

911 A. The Board may correct erroneous assessments made by it against any person and make refunds of
 912 any amounts collected pursuant to erroneous assessments, or collected as taxes on licenses, which are
 913 subsequently refused or application therefor withdrawn, and to allow credit for any license taxes paid by
 914 any licensee for any license ~~which~~ that is subsequently merged or changed into another license during
 915 the same license ~~year~~ period. No refund shall be made of any such amount, however, unless made
 916 within three years from the date of collection of the same.

917 B. In any case where a licensee has changed its name or form of organization during a license ~~year~~
 918 period without any change being made in its ownership, and because of such change is required to pay
 919 an additional license tax for such ~~year~~ period, the Board shall refund to such licensee the amount of
 920 such tax so paid in excess of the required license tax for such ~~year~~ period.

921 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of
922 state license taxes paid pursuant to subsection A of § 4.1-231 if the place of business designated in the
923 license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or
924 similar natural disaster or phenomenon.

925 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of
926 moneys appropriated to the Board and in the manner prescribed in § 4.1-116.

927 **§ 4.1-240. Collection of taxes and fees; service charge; storage of credit card, debit card, and**
928 **automated clearinghouse information.**

929 A. The Board may accept ~~credit or debit cards in~~ payment by any commercially acceptable means,
930 including checks, credit cards, debit cards, and electronic funds transfers, for the taxes, penalties, or
931 other fees imposed on a licensee in accordance with this title. In addition, the Board may assess a
932 service charge for the use of a credit or debit card. The service charge shall not exceed the amount
933 negotiated and agreed to in a contract with the Department.

934 B. Upon the request of a license applicant or licensee, the Board may collect and maintain a record
935 of the applicant's or licensee's credit card, debit card, or automated clearinghouse transfer information
936 and use such information for future payments of taxes, penalties, other fees, or amounts due for
937 products purchased from the Board. The Board may assess a service charge as provided in subsection A
938 for any payments made under this subsection. The Board may procure the services of a third-party
939 vendor for the secure storage of information collected pursuant to this subsection.

940 **§ 4.1-326. Sale of; purchase for resale; wine or beer from a person without a license; penalty.**

941 No licensee, other than a common carrier operating in interstate or foreign commerce, licensed to sell
942 wine or beer at retail shall purchase for resale or sell any wine or beer purchased from anyone other
943 than a wholesale wine, ~~farm winery, brewery, bottler's,~~ or wholesale beer licensee.

944 *Nothing in this section shall prohibit the holder of a retail license issued pursuant to subdivision A 5*
945 *of § 4.1-201 from the purchase or sale of wine or beer from the winery or brewery located on or*
946 *contiguous to the licensed retail premises.*

947 Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.