

16102102D

HOUSE BILL NO. 879

Offered January 13, 2016

Prefiled January 12, 2016

A BILL to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, of the Code of Virginia and 4.1-208, relating to alcoholic beverage control; farm wineries and limited brewery licenses; land zoned agricultural.

 Patron—Hugo

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-208 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. (Effective until July 1, 2018) Definitions.

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club

INTRODUCED

HB879

59 because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.)
60 of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided
61 that no alcoholic beverages are served or consumed in the room where such charitable gaming is being
62 conducted while such gaming is being conducted and that no alcoholic beverages are made available
63 upon the premises to any person who is neither a member nor a bona fide guest of a member.

64 Any such corporation or association which has been declared exempt from federal and state income
65 taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a
66 nonprofit corporation or association.

67 "Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding
68 alcoholic beverages.

69 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains
70 grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes,
71 processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with
72 the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility
73 for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied
74 the grapes, fruits, or other agricultural products used in the production of the wine. The contract
75 winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have
76 not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm
77 winery for its services.

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

82 "Day spa" means any commercial establishment that offers to the public both massage therapy,
83 performed by persons certified in accordance with § 54.1-3029, and barbering or cosmetology services
84 performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

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

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

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

89 "Farm winery" means (i) an establishment (i) located on a farm in the Commonwealth *on land*
90 *zoned agricultural* with a producing vineyard, orchard, or similar growing area and with facilities for
91 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
92 not more than 21 percent alcohol by volume or (ii) located in the Commonwealth *on land zoned*
93 *agricultural* with a producing vineyard, orchard, or similar growing area or agreements for purchasing
94 grapes or other fruits from agricultural growers within the Commonwealth; and with facilities for
95 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
96 not more than 21 percent alcohol by volume. ~~"Farm winery" includes or~~ (ii) an accredited public or
97 private institution of higher education provided that (a) no wine manufactured by the institution shall be
98 sold, (b) the wine manufactured by the institution shall be used solely for research and educational
99 purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm
100 winery that shall be separate and apart from all other facilities of the institution, and (d) such farm
101 winery is operated in strict conformance with the requirements of this ~~sentence clause~~ (ii) and Board
102 regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed
103 by an association of individuals for the purpose of manufacturing wine. In the event *that* such
104 cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the
105 land owned or leased by the individual members of the cooperative as long as such land is located in
106 the Commonwealth. *For the purposes of this definition, "on land zoned agricultural" means land zoned*
107 *as an agricultural district or classification. "On land zoned agricultural" shall not include any other*
108 *zoning classification or designation that permits agricultural uses.*

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

117 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may
118 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
119 persons facilities for manufacturing, fermenting and bottling such wine or beer.

120 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage

facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

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

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

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

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

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

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

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

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

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

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

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

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

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

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

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

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

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

182 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in
183 use for private meetings or parties limited in attendance to employees and nonpaying guests of the
184 owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats
185 which are not licensed by the Board and on which alcoholic beverages are not sold.

186 "Residence" means any building or part of a building or structure where a person resides, but does
187 not include any part of a building which is not actually and exclusively used as a private residence, nor
188 any part of a hotel or club other than a private guest room thereof.

189 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities
190 located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation
191 with voluntary membership which, as its primary function, makes available golf, ski and other
192 recreational facilities both to its members and the general public. The hotel or corporation shall have a
193 minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board
194 may consider the purpose, characteristics, and operation of the applicant establishment in determining
195 whether it shall be considered as a resort complex. All other pertinent qualifications established by the
196 Board for a hotel operation shall be observed by such licensee.

197 "Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant
198 license, any establishment provided with special space and accommodation, where, in consideration of
199 payment, meals or other foods prepared on the premises are regularly sold.

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

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

208 "Sangria" means a drink consisting of red or white wine mixed with some combination of
209 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other
210 similar spirits.

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

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

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

219 "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of
220 fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
221 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product
222 of distillation. The term includes any wine to which wine spirits have been added, as provided in the
223 Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an
224 alcohol content of 21 percent by volume.

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

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

235 **§ 4.1-100. (Effective July 1, 2018) Definitions.**

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

237 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any
238 fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic
239 ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with
240 formulas approved by the government of the United States.

241 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic
242 beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption
243 by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

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

"Day spa" means any commercial establishment that offers to the public both massage therapy,

305 performed by persons certified in accordance with § 54.1-3029, and barbering or cosmetology services
306 performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

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

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

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

311 "Farm winery" means (i) an establishment (i) (a) located on a farm in the Commonwealth *on land*
312 *zoned agricultural* with a producing vineyard, orchard, or similar growing area and with facilities for
313 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
314 not more than 21 percent alcohol by volume or (ii) (b) located in the Commonwealth *on land zoned*
315 *agricultural* with a producing vineyard, orchard, or similar growing area or agreements for purchasing
316 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for
317 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
318 not more than 21 percent alcohol by volume. ~~"Farm winery" includes~~ or (ii) an accredited public or
319 private institution of higher education provided that (a) no wine manufactured by the institution shall be
320 sold, (b) the wine manufactured by the institution shall be used solely for research and educational
321 purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm
322 winery that shall be separate and apart from all other facilities of the institution, and (d) such farm
323 winery is operated in strict conformance with the requirements of this ~~sentence~~ clause (ii) and Board
324 regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed
325 by an association of individuals for the purpose of manufacturing wine. In the event *that* such
326 cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the
327 land owned or leased by the individual members of the cooperative as long as such land is located in
328 the Commonwealth. *For the purposes of this definition, "on land zoned agricultural" means land zoned*
329 *as an agricultural district or classification. "On land zoned agricultural" shall not include any other*
330 *zoning classification or designation that permits agricultural uses.*

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

339 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may
340 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
341 persons facilities for manufacturing, fermenting and bottling such wine or beer.

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

346 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

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

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

352 "Internet wine retailer" means a person who owns or operates an establishment with adequate
353 inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone
354 orders are taken and shipped directly to consumers and which establishment is not a retail store open to
355 the public.

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

358 "Licensed" means the holding of a valid license granted by the Authority.

359 "Licensee" means any person to whom a license has been granted by the Authority.

360 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol
361 content of 25 percent by volume.

362 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol
363 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits
364 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit
365 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
366 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of

this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

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

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

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

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

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

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

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

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

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of

428 payment, meals or other foods prepared on the premises are regularly sold.

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

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

437 "Sangria" means a drink consisting of red or white wine mixed with some combination of
438 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other
439 similar spirits.

440 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the
441 Board has designated as a law-enforcement officer pursuant to § 4.1-105.

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

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

448 "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of
449 fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
450 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product
451 of distillation. The term includes any wine to which wine spirits have been added, as provided in the
452 Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an
453 alcohol content of 21 percent by volume.

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

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

464 **§ 4.1-208. Beer licenses.**

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

466 1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or
467 ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons
468 licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale
469 within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a
470 company under common control of such brewery, or upon property of such brewery or a parent,
471 subsidiary or a company under common control of such brewery contiguous to such premises, or in a
472 development contiguous to such premises owned and operated by such brewery or a parent, subsidiary
473 or a company under common control of such brewery; and (iii) persons outside the Commonwealth for
474 resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the
475 brands of beer that the brewery owns at premises described in the brewery license for on-premises
476 consumption and in closed containers for off-premises consumption.

477 Such license may also authorize individuals holding a brewery license to (a) operate a facility
478 designed for and utilized exclusively for the education of persons in the manufacture of beer, including
479 sampling by such individuals of beer products, within a theme or amusement park located upon the
480 premises occupied by such brewery, or upon property of such person contiguous to such premises, or in
481 a development contiguous to such premises owned and operated by such person or a wholly owned
482 subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises,
483 provided that such samples shall be provided only to individuals for consumption on the premises of
484 such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

485 2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per
486 calendar year, provided (i) the brewery is located on a farm in the Commonwealth on land zoned
487 agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including
488 barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on
489 the farm. The licensed premises shall be limited to the portion of the farm on which agricultural

products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. *For the purposes of this subdivision, "on land zoned agricultural" means land zoned as an agricultural district or classification. "On land zoned agricultural" shall not include any other zoning classification or designation that permits agricultural uses.*

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

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

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

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

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

6. Retail on-premises beer licenses to:

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

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

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

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

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

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

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

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

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

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

569 **2. That the provisions of this act shall not apply to any farm winery or limited brewery holding a**
570 **valid license in accordance with the provisions of Title 4.1 of the Code of Virginia granted by the**
571 **Alcoholic Beverage Control Board before July 1, 2016.**