

17104703D

## HOUSE BILL NO. 2418

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws  
on January 26, 2017)

(Patron Prior to Substitute—Delegate Robinson)

*A BILL to amend and reenact §§ 4.1-215, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; banquet licenses for breweries.***Be it enacted by the General Assembly of Virginia:****1. That §§ 4.1-215, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted as follows:****§ 4.1-215. Limitation on manufacturers, bottlers and wholesalers; exemptions.**

A. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall be granted to any (i) manufacturer, bottler or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler or wholesaler; (iii) partnership or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler or wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another subsidiary corporation which is a manufacturer, bottler or wholesaler of alcoholic beverages; or (v) manufacturer, bottler or wholesaler of alcoholic beverages who has a financial interest in a corporation which has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such manufacturer, bottler or wholesaler and such retailer are under common control, by stock ownership or otherwise.

2. Notwithstanding any other provision of this title, a:

a. A manufacturer of malt beverages ~~or wine~~, whether licensed in the Commonwealth or not, may obtain a banquet license ~~for a special event~~ as provided in § 4.1-209 upon application to the Board, provided that ~~such~~ *the event for which a banquet license is obtained* is (a) at a place approved by the Board and (b) conducted for the purposes of featuring and educating the consuming public about malt beverage ~~or wine~~ products. Such manufacturer shall be limited to ~~no more than four~~ *eight* banquet licenses for such ~~special~~ events per year *without regard to the number of breweries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer*. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event; or

b. A manufacturer of wine, whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-209 upon application to the Board, provided that the event for which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about wine products. Such manufacturer shall be limited to eight banquet licenses for such events per year without regard to the number of wineries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event.

3. Notwithstanding any other provision of this title, a manufacturer of distilled spirits, whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in subdivision A 4 of § 4.1-210 upon application to the Board, provided that such event is (1) at a place approved by the Board and (2) conducted for the purposes of featuring and educating the consuming public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than four banquet licenses for such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license shall authorize the manufacturer to give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas at the special event, provided that (A) no single sample shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits, and (B) no more than three ounces of spirits may be offered to any patron. Nothing in this paragraph shall prohibit such manufacturer from serving such samples as part of a mixed beverage.

B. This section shall not apply to:

1. Corporations operating dining cars, buffet cars, club cars or boats;
2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;
3. Farm winery licensees engaging in conduct authorized by subdivision 5 of § 4.1-207;
4. Manufacturers, bottlers or wholesalers of alcoholic beverages who do not (i) sell or otherwise

60 furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail  
61 license or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such  
62 person to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers or  
63 wholesalers;

64 5. Wineries, farm wineries, or breweries engaging in conduct authorized by § 4.1-209.1 or 4.1-212.1;  
65 or

66 6. One out-of-state winery, not under common control or ownership with any other winery, that is  
67 under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so  
68 long as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the  
69 restaurant before it is offered for sale to consumers.

70 C. The General Assembly finds that it is necessary and proper to require a separation between  
71 manufacturing interests, wholesale interests and retail interests in the production and distribution of  
72 alcoholic beverages in order to prevent suppliers from dominating local markets through vertical  
73 integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing  
74 techniques. The exceptions established by this section to the general prohibition against tied interests  
75 shall be limited to their express terms so as not to undermine the general prohibition and shall therefore  
76 be construed accordingly.

77 **§ 4.1-231. Taxes on state licenses.**

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

79 1. Alcoholic beverage licenses. For each:

80 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured  
81 during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than  
82 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured  
83 during such year, \$3,725;

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

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

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

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

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

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

90 h. Day spa license, \$100;

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

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

93 k. Canal boat operator license, \$100;

94 l. Annual arts venue event license, \$100; and

95 m. Art instruction studio license, \$100.

96 2. Wine licenses. For each:

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

99 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per  
100 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000  
101 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than  
102 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons  
103 of wine per year;

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

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

108 d. Retail off-premises winery license, \$145, which shall include a delivery permit;

109 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of  
110 which shall include a delivery permit;

111 f. Wine shipper's license, \$95; and

112 g. Internet wine retailer license, \$150.

113 3. Beer licenses. For each:

114 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the  
115 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which  
116 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;

117 b. Bottler's license, \$1,430;

118 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or  
119 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of  
120 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;

121 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be

the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;

d. Beer importer's license, \$370;

e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;

f. Retail off-premises beer license, \$120, which shall include a delivery permit;

g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;

h. Beer shipper's license, \$95; and

i. Retail off-premises brewery license, \$120, which shall include a delivery permit.

4. Wine and beer licenses. For each:

a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;

b. Retail on-premises wine and beer license to a hospital, \$145;

c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;

d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;

e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$100 per license;

f. Gourmet brewing shop license, \$230;

g. Wine and beer shipper's license, \$95;

h. Annual banquet license, \$150;

i. Fulfillment warehouse license, \$120;

j. Marketing portal license, \$150; and

k. Gourmet oyster house license, \$230.

5. Mixed beverage licenses. For each:

a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, \$560;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and

(iii) With a seating capacity at tables for more than 150 persons, \$1,430.

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(i) With an average yearly membership of not more than 200 resident members, \$750;

(ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and

(iii) With an average yearly membership of more than 500 resident members, \$2,765.

c. Mixed beverage caterer's license, \$1,860;

d. Mixed beverage limited caterer's license, \$500;

e. Mixed beverage special events license, \$45 for each day of each event;

f. Mixed beverage club events licenses, \$35 for each day of each event;

g. Annual mixed beverage special events license, \$560;

h. Mixed beverage carrier license:

(i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(ii) \$560 for each common carrier of passengers by boat;

(iii) \$1,475 for each license granted to a common carrier of passengers by airplane.

i. Annual mixed beverage amphitheater license, \$560;

j. Annual mixed beverage motor sports race track license, \$560;

k. Annual mixed beverage banquet license, \$500;

l. Limited mixed beverage restaurant license:

(i) With a seating capacity at tables for up to 100 persons, \$460;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;

183 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;

184 m. Annual mixed beverage motor sports facility license, \$560; and

185 n. Annual mixed beverage performing arts facility license, \$560.

186 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax  
187 imposed by this section on the license for which the applicant applied.

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

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

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

203 Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12,  
204 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the  
205 nearest cent, multiplied by the number of months in the license period, and then increased by five  
206 percent. Such tax shall not be refundable, except as provided in § 4.1-232.

207 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state  
208 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,  
209 shall be liable to state merchants' license taxation and state restaurant license taxation and other state  
210 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer  
211 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license  
212 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining  
213 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the  
214 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases  
215 shall be disregarded.

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

218 **§ 4.1-233. Taxes on local licenses.**

219 A. In addition to the state license taxes, the annual local license taxes which may be collected shall  
220 not exceed the following sums:

221 1. Alcoholic beverages. — For each:

222 a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured  
223 during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no  
224 local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol  
225 or spirits, or both, during such license year;

226 b. Fruit distiller's license, \$1,500;

227 c. Bed and breakfast establishment license, \$40;

228 d. Museum license, \$10;

229 e. Tasting license, \$5 per license granted;

230 f. Equine sporting event license, \$10;

231 g. Day spa license, \$20;

232 h. Motor car sporting event facility license, \$10;

233 i. Meal-assembly kitchen license, \$20;

234 j. Canal boat operator license, \$20;

235 k. Annual arts venue event license, \$20; and

236 l. Art instruction studio license, \$20.

237 2. Beer. — For each:

238 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the  
239 license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the  
240 license is granted, \$1,000;

241 b. Bottler's license, \$500;

242 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;

243 d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer  
244 license in a city, \$100, and in a county or town, \$25; and

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

**306** D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on  
**307** any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such  
**308** wholesaler maintains no place of business in such county, city or town.

**309** E. Application of county tax within town. — Any county license tax imposed under this section shall  
**310** not apply within the limits of any town located in such county, where such town now, or hereafter,  
**311** imposes a town license tax on the same privilege.