

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 4.1-230, 4.1-231, and 4.1-332 of the Code of Virginia, relating to*  
3 *alcoholic beverage control.*

4 [S 884]  
5 Approved

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

7 **1. That §§ 4.1-230, 4.1-231, and 4.1-332 of the Code of Virginia are amended and reenacted as**  
8 **follows:**

9 **§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.**

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

15 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a  
16 food establishment permit from the Department of Health or an inspection by the Department of  
17 Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a  
18 pending application for such permit, or proof of a pending request for such inspection. If the applicant  
19 provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or  
20 proof of a pending request for an inspection, a license may be issued to the applicant. If a license is  
21 issued on the basis of a pending application or inspection, such license shall authorize the licensee to  
22 purchase alcoholic beverages in accordance with the provisions of this title; however, the licensee shall  
23 not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

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

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

41 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club  
42 events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, beer or wine  
43 importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation,  
44 to include a criminal history records search, which may include a fingerprint-based national criminal  
45 history records search, on each applicant for a license. However, the Board may waive, for good cause  
46 shown, the requirement for a criminal history records search and completed personal data form for  
47 officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited  
48 liability company, or limited partnership.

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

53 C. Each applicant shall pay the required application fee at the time the application is filed. Each  
54 license application fee, including annual banquet and annual mixed beverage banquet, shall be \$65 \$195,  
55 plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or  
56 the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of

57 Investigation or the Central Criminal Records Exchange for each criminal history records search required  
 58 by the Board, except for banquet, tasting, ~~mixed beverage special events~~, or mixed beverage club events  
 59 licenses, in which case the application fee shall be \$15. *The application fee for banquet special event*  
 60 *and mixed beverage special event licenses shall be \$45.* Application fees shall be in addition to the state  
 61 license fee required pursuant to § 4.1-231 and shall not be refunded.

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

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

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

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

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

81 **§ 4.1-231. Taxes on state licenses.**

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

83 1. Alcoholic beverage licenses. For each:

84 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured  
 85 during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than  
 86 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured  
 87 during such year, \$3,725;

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

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

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

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

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

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

94 h. Day spa license, \$100;

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

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

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

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

99 m. Art instruction studio license, \$100; and

100 n. Commercial lifestyle center license, \$300.

101 2. Wine licenses. For each:

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

104 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per  
 105 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000  
 106 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than  
 107 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons  
 108 of wine per year;

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

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

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

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

116 f. Wine shipper's license, ~~\$95~~ \$230; and

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

- 118 3. Beer licenses. For each:
- 119 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
- 120 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which
- 121 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
- 122 b. Bottler's license, \$1,430;
- 123 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
- 124 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
- 125 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
- 126 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
- 127 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
- 128 license;
- 129 d. Beer importer's license, \$370;
- 130 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
- 131 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
- 132 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
- 133 cars operated daily in the Commonwealth;
- 134 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
- 135 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
- 136 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
- 137 delivery permit;
- 138 h. Beer shipper's license, ~~\$95~~ \$230; and
- 139 i. Retail off-premises brewery license, \$120, which shall include a delivery permit.
- 140 4. Wine and beer licenses. For each:
- 141 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
- 142 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
- 143 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
- 144 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
- 145 a common carrier of passengers by airplane, \$750;
- 146 b. Retail on-premises wine and beer license to a hospital, \$145;
- 147 c. Retail on-premises wine and beer license to a historic cinema house, \$200;
- 148 d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
- 149 grocery store license, \$230, which shall include a delivery permit;
- 150 e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall
- 151 include a delivery permit;
- 152 f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
- 153 Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
- 154 g. Gourmet brewing shop license, \$230;
- 155 h. Wine and beer shipper's license, ~~\$95~~ \$230;
- 156 i. Annual banquet license, \$150;
- 157 j. Fulfillment warehouse license, \$120;
- 158 k. Marketing portal license, \$150; and
- 159 l. Gourmet oyster house license, \$230.
- 160 5. Mixed beverage licenses. For each:
- 161 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
- 162 located on premises of and operated by hotels or motels, or other persons:
- 163 (i) With a seating capacity at tables for up to 100 persons, \$560;
- 164 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
- 165 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
- 166 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
- 167 private, nonprofit clubs:
- 168 (i) With an average yearly membership of not more than 200 resident members, \$750;
- 169 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
- 170 \$1,860; and
- 171 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
- 172 c. Mixed beverage caterer's license, \$1,860;
- 173 d. Mixed beverage limited caterer's license, \$500;
- 174 e. Mixed beverage special events license, \$45 for each day of each event;
- 175 f. Mixed beverage club events licenses, \$35 for each day of each event;
- 176 g. Annual mixed beverage special events license, \$560;
- 177 h. Mixed beverage carrier license:
- 178 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the

179 Commonwealth by a common carrier of passengers by train;  
 180 (ii) \$560 for each common carrier of passengers by boat;  
 181 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.  
 182 i. Annual mixed beverage amphitheater license, \$560;  
 183 j. Annual mixed beverage motor sports race track license, \$560;  
 184 k. Annual mixed beverage banquet license, \$500;  
 185 l. Limited mixed beverage restaurant license:  
 186 (i) With a seating capacity at tables for up to 100 persons, \$460;  
 187 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;  
 188 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;  
 189 m. Annual mixed beverage motor sports facility license, \$560; and  
 190 n. Annual mixed beverage performing arts facility license, \$560.  
 191 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax  
 192 imposed by this section on the license for which the applicant applied.

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

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

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

208 Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12,  
 209 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the  
 210 nearest cent, multiplied by the number of months in the license period, and then increased by five  
 211 percent. Such tax shall not be refundable, except as provided in § 4.1-232.

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

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

223 **§ 4.1-332. Nonpayment of excise tax on beer, wine coolers, and wine; additional penalties.**

224 A. No person shall sell (i) beer or wine coolers to retailers or consumers without paying the excise  
 225 tax imposed by § 4.1-236 or (ii) wine to retailers or consumers without paying the excise tax imposed  
 226 by subsection A of § 4.1-234. No retailer shall purchase, receive, transport, store or sell any beer or  
 227 wine coolers, or wine on which such retailer has reason to know such tax has not been paid and may  
 228 not be paid.

229 Any person convicted of a violation of this subsection shall be guilty of a Class 1 misdemeanor.

230 B. In addition to subsection A, on each manufacturer, bottler or wholesaler who fails to make any  
 231 return and pay the full amount of the tax required by § 4.1-236 or subsection A of § 4.1-234, as  
 232 applicable, there shall be imposed a civil penalty to be added to the tax in the amount of five percent of  
 233 the proper tax due if the failure is for not more than thirty days, with an additional five percent for each  
 234 additional thirty days, or fraction thereof, during which the failure continues. Such civil penalty shall not  
 235 exceed twenty-five percent in the aggregate. In the case of a false or fraudulent return, where willful  
 236 intent exists to defraud the Commonwealth of any excise tax due on beer and wine coolers, or wine, a  
 237 civil penalty of fifty percent of the amount of the proper tax due shall be assessed. All penalties and  
 238 interest shall be payable to the Board and if not so paid shall be collectible in the same manner as if  
 239 they were a part of the tax imposed.

**240** C. After reasonable notice to the manufacturer, bottler, wholesaler or retailer, the Board may suspend  
**241** or revoke the license of the manufacturer, bottler, wholesaler or retailer who has failed to make any  
**242** return or to pay the full amount of the excise tax.