

20108236D

## SENATE BILL NO. 389

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws  
on February 13, 2020)

(Patrons Prior to Substitute—Senators McPike and Reeves [SB 447])

A *BILL to amend and reenact §§ 3.2-102, 3.2-5115, 4.1-100, 4.1-103, 4.1-103.03, 4.1-111, 4.1-114, 4.1-119, as it is currently effective and as it shall become effective, 4.1-124, as it is currently effective and as it shall become effective, 4.1-132, 4.1-201, 4.1-201.1, 4.1-203, 4.1-204, 4.1-205, 4.1-209, 4.1-209.1, 4.1-211, 4.1-212, 4.1-212.1, 4.1-215, 4.1-216, 4.1-221.1, as it is currently effective and as it shall become effective, 4.1-223, 4.1-225.1, 4.1-227, 4.1-230, 4.1-232, 4.1-238, 4.1-310, 4.1-310.1, 4.1-325, 4.1-325.1, 4.1-325.2, 4.1-327, 15.2-912.3, 15.2-2288.3, 15.2-2288.3:1, 15.2-2288.3:2, 40.1-100, 58.1-339.12, and 58.1-609.3 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 4.1-206.1, 4.1-206.2, 4.1-206.3, 4.1-231.1, and 4.1-233.1; and to repeal §§ 4.1-206, 4.1-207, 4.1-207.1, 4.1-208, 4.1-210, 4.1-220, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; license and fee reform.*

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

1. That §§ 3.2-102, 3.2-5115, 4.1-100, 4.1-103, 4.1-103.03, 4.1-111, 4.1-114, 4.1-119, as it is currently effective and as it shall become effective, 4.1-124, as it is currently effective and as it shall become effective, 4.1-132, 4.1-201, 4.1-201.1, 4.1-203, 4.1-204, 4.1-205, 4.1-209, 4.1-209.1, 4.1-211, 4.1-212, 4.1-212.1, 4.1-215, 4.1-216, 4.1-221.1, as it is currently effective and as it shall become effective, 4.1-223, 4.1-225.1, 4.1-227, 4.1-230, 4.1-232, 4.1-238, 4.1-310, 4.1-310.1, 4.1-325, 4.1-325.1, 4.1-325.2, 4.1-327, 15.2-912.3, 15.2-2288.3, 15.2-2288.3:1, 15.2-2288.3:2, 40.1-100, 58.1-339.12, and 58.1-609.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 4.1-206.1, 4.1-206.2, 4.1-206.3, 4.1-231.1, and 4.1-233.1 as follows:

**§ 3.2-102. General powers and duties of the Commissioner.**

A. The Commissioner shall be vested with the powers and duties set out in § 2.2-601, the powers and duties herein provided, and such other powers and duties as may be prescribed by law, including those prescribed in Title 59.1. He shall be the executive officer of the Board, and shall see that its orders are carried out. He shall see to the proper execution of laws relating to the Department. Unless the Governor expressly reserves such power to himself, the Commissioner shall promote, protect, and develop the agricultural interests of the Commonwealth. The Commissioner shall develop, implement, and maintain programs within the Department including those that promote the development and marketing of the Commonwealth's agricultural products in domestic and international markets, including promotions, market development and research, marketing assistance, market information, and product grading and certification; promote the creation of new agribusiness including new crops, biotechnology and new uses of agricultural products, and the expansion of existing agribusiness within the Commonwealth; develop, promote, and maintain consumer protection programs that protect the safety and quality of the Commonwealth's food supply through food and dairy inspection activities, industry and consumer education, and information on food safety; preserve the Commonwealth's agricultural lands; ensure animal health and protect the Commonwealth's livestock industries through disease control and surveillance, maintaining animal health diagnostic laboratories, and encouraging the humane treatment and care of animals; protect public health and the environment through regulation and proper handling of pesticides, agricultural stewardship, and protection of endangered plant and insect species; protect crop and plant health and productivity; ensure consumer protection and fair trade practices in commerce; develop plans and emergency response protocols to protect the agriculture industry from bioterrorism, plant and animal diseases, and agricultural pests; assist as directed by the Governor in the Commonwealth's response to natural disasters; develop and implement programs and inspection activities to ensure that the Commonwealth's agricultural products move freely in trade domestically and internationally; and enter into agreements with federal, state, and local governments, land grant universities, and other organizations that include marketing, plant protection, pest control, pesticides, and meat and poultry inspection.

**B. In addition, the Commissioner shall:**

1. Establish and maintain a farm-to-school website. The purpose of the website shall be to facilitate and promote the purchase of Virginia farm products by schools, universities, and other educational institutions under the jurisdiction of the State Department of Education. The website shall present such current information as the availability of Virginia farm products, including the types and amount of products, and the names of and contact information for farmers, farm organizations, and businesses marketing such products; and

2. Establish and operate a nonprofit, nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of

60 Title 13.1 as a public instrumentality exercising public and essential governmental functions to promote,  
61 develop, and sustain markets for licensed Virginia wineries and farm wineries, as defined in § 4.1-100.  
62 Such corporation shall provide wholesale wine distribution services for wineries and farm wineries  
63 licensed in accordance with § ~~4.1-207~~ 4.1-206.1. The board of directors of such corporation shall be  
64 composed of the Commissioner and four members appointed by the Board, including one owner or  
65 manager of a winery or farm winery licensee that is not served by a wholesaler when the owner or  
66 manager is appointed to the board; one owner or manager of a winery or farm winery licensee that  
67 produces no more than 10,000 cases per year; and two owners or managers of wine wholesaler  
68 licensees. In making appointments to the board of directors, the Board shall consider nominations of  
69 winery and farm winery licensees submitted by the Virginia Wineries Association and wine wholesale  
70 licensees submitted by the Virginia Wine Wholesalers Association. The Commissioner shall require such  
71 corporation to report to him at least annually on its activities, including reporting the quantity of wine  
72 distributed for each winery and farm winery during the preceding year. The provisions of the Virginia  
73 Public Procurement Act shall not apply to the establishment of such corporation nor to the exercise of  
74 any of its powers granted under this section.

75 **§ 3.2-5115. Animals.**

76 No animal shall be permitted in any area used for the manufacture or storage of food products. A  
77 guard or guide animal may be allowed in some areas if the presence of the animal is unlikely to result  
78 in contamination of food, food contact surfaces, or food packaging materials. Additionally, a dog may  
79 be allowed within a designated area inside or on the premises of, except in any area used for the  
80 manufacture of food products, a distillery licensed pursuant to § ~~4.1-206~~, a winery or, farm winery  
81 licensed pursuant to § ~~4.1-207~~, or a brewery, or farm limited brewery licensed pursuant to § ~~4.1-208~~  
82 4.1-206.1.

83 **§ 4.1-100. Definitions.**

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

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

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

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

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

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

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

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

112 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms;  
113 (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii)  
114 offering at least one meal per day, which may but need not be breakfast, to each person to whom  
115 overnight lodging is provided. For purposes of the licensing requirements of this title, "bed and breakfast  
116 establishment" includes any property offered to the public for short-term rental, as that term is defined  
117 in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to  
118 each person to whom overnight lodging is provided.

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

"Bespoke clothier establishment" means a permanent retail establishment that offers, by appointment only, custom made apparel and that offers a membership program to customers. Such establishment shall be a permanent structure where measurements and fittings are performed on-site but apparel is produced offsite and delivered directly to the customer. Such establishment shall have facilities to properly secure any stock of alcoholic beverages.

"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.

"Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with charging stations at every seat for cellular phones or other portable devices, and (vi) during the transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in this title or Board regulation.

"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.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 25 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"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~~ that (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.

"Coworking establishment" means a facility that has at least 100 members, a majority of whom are 21 years of age or older, to whom it offers shared office space and related amenities, including desks, conference rooms, Internet access, printers, copiers, telephones, and fax machines.

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

"Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring little preparation, such as cheeses, salads, cooked meats, and related condiments.

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

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

183 *"Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant*  
184 *to a prescription and other medicines and items for home and general use.*

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

187 *"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned*  
188 *agricultural with a producing vineyard, orchard, or similar growing area and with facilities for*  
189 *fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains*  
190 *not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned*  
191 *agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing*  
192 *grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for*  
193 *fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains*  
194 *not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher*  
195 *education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine*  
196 *manufactured by the institution shall be used solely for research and educational purposes, (c) the wine*  
197 *manufactured by the institution shall be stored on the premises of such farm winery that shall be*  
198 *separate and apart from all other facilities of the institution, and (d) such farm winery is operated in*  
199 *strict conformance with the requirements of this clause (ii) and Board regulations. As used in this*  
200 *definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of*  
201 *individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a*  
202 *farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the*  
203 *individual members of the cooperative as long as such land is located in the Commonwealth. For*  
204 *purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or*  
205 *classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this*  
206 *definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for*  
207 *the limitation on land zoned "residential conservation," nothing in the definition of "land zoned*  
208 *agricultural" shall otherwise limit or affect local zoning authority.*

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

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

220 *"Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial*  
221 *marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for*  
222 *consumption on the premises, and (iii) offers to the public events for the purpose of featuring and*  
223 *educating the consuming public about local oysters and other seafood products.*

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

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

229 *"Grocery store" means an establishment that sells food and other items intended for human*  
230 *consumption, including a variety of ingredients commonly used in the preparation of meals.*

231 *"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of*  
232 *the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of*  
233 *showing motion pictures to the public.*

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

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

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

243 *"Internet wine retailer" means a person who owns or operates an establishment with adequate*  
244 *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 granted by the Authority.

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

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

(Effective until July 1, 2020) "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 (i) may be manufactured by a licensed distiller or a distiller located outside the Commonwealth and (ii) 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.

(Effective July 1, 2020) "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 (i) may be manufactured by a licensed distiller or a distiller located outside the Commonwealth and (ii) shall not be sold in localities that prohibit 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.

"Marina store" means an establishment that is located on the same premises as a marina, is operated by the owner of such marina, and sells food and nautical and fishing supplies.

"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 bespoke clothier establishment" means a person who maintains a membership in the bespoke clothier establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in the manner established by the rules of the bespoke clothier establishment. The minimum membership fee shall be not less than \$25 for any term of membership.

"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.

"Member of a coworking establishment" means a person who maintains a membership in the coworking establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in the manner established by the rules of the coworking establishment. "Member of a coworking establishment" does not include an employee or any person with an ownership interest in the coworking establishment.

"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.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

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

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

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

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

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

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

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

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

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

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

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

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

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

363 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural  
364 sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk,  
365 either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and  
366 (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as  
367 provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do

not exceed an alcohol content of 21 percent by volume.

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

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § ~~4.1-210~~ 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

#### **§ 4.1-103. General powers of Board.**

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
2. Adopt, use, and alter at will a common seal;
3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;
4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this title, including agreements with any person or federal agency;
5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;
6. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;
7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;
8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;
9. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;
10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;
11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;
12. Buy and sell any mixers;
13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25 (clothing);
14. Control the possession, sale, transportation, and delivery of alcoholic beverages;
15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or operated and the location of such stores;
16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic

429 beverages to and from such warehouses;

430 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,  
431 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the  
432 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest  
433 therein, at such annual rental and on such terms and conditions as may be determined by the Board;  
434 lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest  
435 therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual  
436 rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey  
437 any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired  
438 or held by the Authority on such terms and conditions as may be determined by the Board; and occupy  
439 and improve any land or building required for the purposes of this title;

440 18. ~~Purchase or otherwise acquire title to any land or building required for the purposes of this title~~  
441 ~~and sell and convey the same by proper deed, with the consent of the Governor;~~

442 19. Purchase, lease, or acquire the use of, by any manner, any plant or equipment ~~which~~ *that* may be  
443 considered necessary or useful in carrying into effect the purposes of this title, including rectifying,  
444 blending, and processing plants. The Board may purchase, build, lease, and operate distilleries and  
445 manufacture alcoholic beverages;

446 20. 19. Determine the nature, form and capacity of all containers used for holding alcoholic  
447 beverages to be kept or sold under this title, and prescribe the form and content of all labels and seals to  
448 be placed thereon; however, no container sold in or shipped into the Commonwealth shall include  
449 powdered or crystalline alcohol;

450 21. 20. Appoint every agent and employee required for its operations; require any or all of them to  
451 give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage  
452 the services of experts and professionals;

453 22. 21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the  
454 production of records, memoranda, papers and other documents before the Board or any agent of the  
455 Board; and administer oaths and take testimony thereunder. The Board may authorize any Board  
456 member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take  
457 testimony thereunder, and decide cases, subject to final decision by the Board, on application of any  
458 party aggrieved. The Board may enter into consent agreements and may request and accept from any  
459 applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a  
460 license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may  
461 include an admission or a finding of a violation. A consent agreement shall not be considered a case  
462 decision of the Board and shall not be subject to judicial review under the provisions of the  
463 Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future  
464 disciplinary proceedings;

465 23. 22. Make a reasonable charge for preparing and furnishing statistical information and  
466 compilations to persons other than (i) officials, including court and police officials, of the  
467 Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons  
468 who have a personal or legal interest in obtaining the information requested if such information is not to  
469 be used for commercial or trade purposes;

470 24. 23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et  
471 seq.) and § 4.1-111;

472 25. 24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation,  
473 and sale of alcoholic beverages;

474 26. 25. Assess and collect civil penalties and civil charges for violations of this title and Board  
475 regulations;

476 27. 26. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

477 28. 27. Establish minimum food sale requirements for all retail licensees;

478 29. 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief  
479 Executive Officer as the Board deems appropriate;

480 30. 29. Report quarterly to the Secretary of Public Safety and Homeland Security on the  
481 law-enforcement activities undertaken to enforce the provisions of this title; ~~and~~

482 30. *Establish and collect fees for all permits set forth in this title, including fees associated with*  
483 *applications for such permits;*

484 31. *Impose a requirement that a mixed beverage restaurant licensee located on the premises of and*  
485 *operated by a casino gaming establishment pay for any cost incurred by the Board to enforce such*  
486 *license in excess of the applicable state license fee; and*

487 32. Do all acts necessary or advisable to carry out the purposes of this title.

488 **§ 4.1-103.03. Additional powers; mediation; alternative dispute resolution; confidentiality.**

489 A. As used in this section:

490 "Appropriate case" means any alleged license violation or objection to the application for a license in



which it is apparent that there are significant issues of disagreement among interested persons and for which the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.

"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.

"Mediation" means the same as that term is defined in § 8.01-576.4.

"Neutral" means the same as that term is defined in § 8.01-576.4.

B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance of a license only with the consent of, and participation by, the applicant for licensure and shall be terminated at the request of such applicant.

C. Any resolution of a contested issue accepted by the Board under this section shall be considered a consent agreement as provided in subdivision 22 21 of § 4.1-103. The decision to use mediation or a dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial review.

D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of a neutral to encourage and assist parties to voluntarily compromise or settle contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or other materials.

E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or relies on information obtained in the course of such proceeding in granting a license, suspending or revoking a license, or accepting payment of a civil penalty or investigative costs. However, a consent agreement signed by the parties shall not be confidential.

#### **§ 4.1-111. Regulations of Board.**

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

B. The Board shall promulgate regulations that:

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

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

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

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

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

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

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board

when the banquet licensee engages another person to organize, conduct, or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

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

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

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

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

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

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

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this title and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55.1-1100, but only in accordance with this title.

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

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour and any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees from using creative marketing techniques in such advertisements, provided that such techniques do not tend to induce overconsumption or consumption by minors.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet ~~shop~~ *licensees shops granted a retail off-premises wine and beer license*. Growlers sold by gourmet ~~shop~~ *licensees shops* shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet ~~shop~~ *licensees shops granted a retail off-premises wine and beer license* for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other documents necessary to verify the licensee's compliance with applicable minimum food sale requirements within 30 days of the date such records or documents are due.

C. The Board may promulgate regulations that:

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

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

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

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

E. Courts shall take judicial notice of Board regulations.

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

**§ 4.1-114. Annual review of operations of certain mixed beverage licensees.**

The Board shall at least annually review the operations of each establishment holding a mixed beverage restaurant license and each person holding a caterer's license to determine whether during the preceding license year such licensee has met the food-beverage ratio required by § 4.1-210 4.1-206.3. If not met, the license granted to such licensee may be suspended or revoked. If the license is revoked, no new license may be granted to the licensee with respect to such establishment or catering business for at least one year from the date of the revocation. For the purposes of this section and § 4.1-210 4.1-206.3, "nonalcoholic beverage" shall not include any beverages, ice, water or other mixer served with an alcoholic beverage.

**§ 4.1-119. (Effective until July 1, 2020) Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall

675 carry out the provisions of this title and Board regulations governing the operation of government stores  
676 and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license  
677 or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage  
678 coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government  
679 stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event  
680 licensed by the Board and conducted for the purpose of featuring and educating the consuming public  
681 about spirits products.

682 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions  
683 of this title, Board regulations, and the terms of the agency agreement between the Authority and the  
684 licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement  
685 authorized by this subsection a commission of not less than 20 percent of the retail price of the goods  
686 sold.

687 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries  
688 and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of  
689 § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and  
690 flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the  
691 receiving distillery.

692 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without  
693 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151  
694 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

695 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to  
696 subsection G sold in government stores established by the Board on a distiller's licensed premises, shall  
697 be in closed containers, sealed and affixed with labels prescribed by the Board.

698 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part  
699 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm  
700 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a  
701 permit issued by the Board pursuant to subdivision A 45 14 of § 4.1-212, at which the samples of  
702 alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in  
703 subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic  
704 beverages may not lawfully be sold pursuant to § 4.1-304.

705 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed  
706 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic  
707 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or  
708 cider samples are manufactured within the same licensed premises or on contiguous premises of such  
709 agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer,  
710 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which  
711 case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) ~~no more than~~  
712 ~~four total samples of alcoholic beverage products or, in the case of spirits samples, no more than 12~~  
713 ~~ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per~~  
714 ~~day; and (iv) in the case of spirits samples, a method is used to track the consumption of each~~  
715 ~~consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of~~  
716 ~~a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on~~  
717 ~~the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75~~  
718 ~~percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous~~  
719 ~~premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep~~  
720 ~~on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the~~  
721 ~~licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in~~  
722 ~~such samples that are not manufactured on the licensed premises or on contiguous premises of the~~  
723 ~~licensed distillery shall be purchased from the Board.~~

724 The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

725 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in  
726 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or  
727 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii)  
728 provide notice to licensees on Board policies relating to the assignment of government stores from  
729 which licensees may purchase products and any procedure for the licensee to elect to make purchases  
730 from an alternative government store.

731 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in  
732 payment for any purchase or series of purchases. The Board may adopt regulations which provide for  
733 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where  
734 appropriate, of related fees, penalties, and service charges for the use of a credit card or debit card by  
735 any consumer.

736 J. Before the Authority implements any increase in the markup on distilled spirits or any change to

the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

**§ 4.1-119. (Effective July 1, 2020, until July 1, 2022) Operation of government stores.**

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. Monthly revenue transfers from the licensed distiller to the Board (a) may be submitted electronically and through other methods approved by the Board and (b) notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, shall be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

798 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed  
799 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic  
800 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or  
801 cider samples are manufactured within the same licensed premises or on contiguous premises of such  
802 agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer,  
803 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which  
804 case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) ~~no more than~~  
805 ~~four total samples of alcoholic beverage products or, in the case of spirits samples,~~ no more than 12  
806 ~~ounces of beer, five ounces of wine, or three ounces of spirits~~ shall be given or sold to any person per  
807 day; and (iv) in the case of spirits samples, a method is used to track the consumption of each  
808 consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of  
809 a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on  
810 the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75  
811 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous  
812 premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep  
813 on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the  
814 licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in  
815 such samples that are not manufactured on the licensed premises or on contiguous premises of the  
816 licensed distillery shall be purchased from the Board.

817 The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

818 Any case fee charged to a licensed distiller by the Board for moving spirits from the production and  
819 bailment area to the tasting area of a government store established by the Board on the distiller's  
820 licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

821 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in  
822 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or  
823 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii)  
824 provide notice to licensees on Board policies relating to the assignment of government stores from  
825 which licensees may purchase products and any procedure for the licensee to elect to make purchases  
826 from an alternative government store.

827 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in  
828 payment for any purchase or series of purchases. The Board may adopt regulations which provide for  
829 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where  
830 appropriate, of related fees, penalties, and service charges for the use of a credit card or debit card by  
831 any consumer.

832 J. Before the Authority implements any increase in the markup on distilled spirits or any change to  
833 the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the  
834 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public  
835 notice before such a price increase takes effect; (ii) provide the opportunity for submission of written  
836 comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of  
837 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal  
838 comments before implementing such a price increase.

839 **§ 4.1-119. (Effective July 1, 2022) Operation of government stores.**

840 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and  
841 operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by  
842 farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with  
843 distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as  
844 may be approved by the Board from time to time, and products licensed by the Virginia Tourism  
845 Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the  
846 Board. The Board may discontinue any such store.

847 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give  
848 preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

849 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and  
850 brands of alcoholic beverages and other Board-approved products that are sold in government stores.  
851 Differences in the cost of operating stores, and market competition and conditions may be reflected in  
852 the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages  
853 to federal instrumentalities (i) authorized and operating under the laws of the United States and  
854 regulations of the United States Department of Defense and (ii) located within the boundaries of federal  
855 enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be  
856 greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection  
857 shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at  
858 government stores, which retail price may include promotional, volume, or other discounts deemed  
859 appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. Monthly revenue transfers from the licensed distiller to the Board (a) may be submitted electronically and through other methods approved by the Board and (b) notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, shall be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) ~~no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.~~

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from

921 which licensees may purchase products and any procedure for the licensee to elect to make purchases  
922 from an alternative government store.

923 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in  
924 payment for any purchase or series of purchases. The Board may adopt regulations which provide for  
925 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where  
926 appropriate, of related fees, penalties, and service charges for the use of a credit card or debit card by  
927 any consumer.

928 J. Before the Authority implements any increase in the markup on distilled spirits or any change to  
929 the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the  
930 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public  
931 notice before such a price increase takes effect; (ii) provide the opportunity for submission of written  
932 comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of  
933 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal  
934 comments before implementing such a price increase.

935 **§ 4.1-124. (Effective until July 1, 2020) Referendum on the sale of mixed beverages.**

936 A. The provisions of this title relating to the sale of mixed beverages shall not become effective in  
937 any town, county, or supervisor's election district of a county until a majority of the voters voting in a  
938 referendum vote affirmatively on the question of whether mixed alcoholic beverages should be sold by  
939 restaurants licensed under this title. The qualified voters of a town, county, or supervisor's election  
940 district of a county may file a petition with the circuit court of the county asking that a referendum be  
941 held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should  
942 be permitted within that jurisdiction. The petition shall be signed by qualified voters equal in number to  
943 at least 10 percent of the number registered in the town, county, or supervisor's election district on  
944 January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

945 Petition requirements for any county shall be based on the number of registered voters in the county,  
946 including the number of registered voters in any town having a population in excess of 1,000 located  
947 within such county. Upon the filing of a petition, and under no other circumstances, the court shall order  
948 the election officials of the county to conduct a referendum on the question.

949 The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of  
950 general circulation in the town, county, or supervisor's election district once a week for three consecutive  
951 weeks prior to the referendum.

952 The question on the ballot shall be:

953 "Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic  
954 Beverage Control Authority be permitted in \_\_\_\_\_ (name of town, county, or supervisor's election  
955 district of county)?"

956 The referendum shall be ordered and held and the results certified as provided in Article 5  
957 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order  
958 certified by the clerk of the court to be transmitted to the Board and to the governing body of the town  
959 or county. Mixed beverages permitted to be sold by such referendum may in accordance with this title  
960 be sold by restaurants licensed by the Board within the town, county, or supervisor's election district of  
961 a county on or after 30 days following the entry of the order if a majority of the voters voting in the  
962 referendum have voted "Yes."

963 The provisions of this section shall be applicable to towns having a population in excess of 1,000 to  
964 the same extent and subject to the same conditions and limitations as are otherwise applicable to  
965 counties under this section. Such towns shall be treated as separate local option units, and only residents  
966 of any such town shall be eligible to vote in any referendum held pursuant to this section for any such  
967 town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote  
968 in any referendum held pursuant to this section for any county in which the town is located.

969 The provisions of this section shall not require any town created as a result of a city-to-town  
970 reversion pursuant to Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 to hold a referendum on the same  
971 question if a majority of the voters voting in the former city had previously approved the sale of mixed  
972 beverages by restaurants licensed by the Board in such city.

973 B. Once a referendum has been held, no other referendum on the same question shall be held in the  
974 town, county, or supervisor's election district of a county for a period of 23 months.

975 C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on  
976 property dedicated for industrial or commercial development and controlled through the provision of  
977 public utilities and covenanting of the land by any multijurisdictional industrial development authority,  
978 as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority  
979 operates under a partnership agreement between three or more counties, cities, or towns and such  
980 jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed  
981 beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of  
982 one of the counties and that the governing board of the authority authorizes an establishment located



within the confines of such property to apply to the Board for such license. The appropriate license fees shall be paid for this privilege.

D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license to a restaurant located on the premises of and operated by a private club exclusively for its members and their guests, subject to the qualifications and restrictions on the issuance of such license imposed by § ~~4.1-210~~ 4.1-206.3. However, no license authorized by this subsection shall be granted if the private club restricts its membership on the basis of race, color, creed, national origin, or sex.

**§ 4.1-124. (Effective July 1, 2020) Referendum on the sale of mixed beverages.**

A. The provisions of this title relating to the sale of mixed beverages shall be effective in any town, county, or supervisor's election district of a county unless a majority of the voters voting in a referendum vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under this title should be prohibited. The qualified voters of a town, county, or supervisor's election district of a county may file a petition with the circuit court of the county asking that a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

Petition requirements for any county shall be based on the number of registered voters in the county, including the number of registered voters in any town having a population in excess of 1,000 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election officials of the county to conduct a referendum on the question.

The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be prohibited in \_\_\_\_\_ (name of town, county, or supervisor's election district of county)?"

The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages prohibited from sale by such referendum shall not be sold by restaurants within the town, county, or supervisor's election district of a county on or after 30 days following the entry of the order if a majority of the voters voting in the referendum have voted "Yes."

The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the same extent and subject to the same conditions and limitations as are otherwise applicable to counties under this section. Such towns shall be treated as separate local option units, and only residents of any such town shall be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this section for any county in which the town is located.

Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants licensed under this title should be prohibited was previously held in the former city and a majority of the voters voting in such referendum voted "Yes."

B. Once a referendum has been held, no other referendum on the same question shall be held in the town, county, or supervisor's election district of a county for a period of 23 months.

C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property dedicated for industrial or commercial development and controlled through the provision of public utilities and covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement between three or more counties, cities, or towns and such jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the counties and that the governing board of the authority authorizes an establishment located within the confines of such property to apply to the Board for such license. The appropriate license fees shall be paid for this privilege.

D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the

sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license to a restaurant located on the premises of and operated by a private club exclusively for its members and their guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-210 4.1-206.3. However, no license authorized by this subsection shall be granted if the private club restricts its membership on the basis of race, color, creed, national origin, or sex.

**§ 4.1-132. Transportation into or within Commonwealth under internal revenue bond and holding in warehouses; release.**

A. Alcoholic beverages may be transported into the Commonwealth under United States internal revenue bonds and be held in the Commonwealth in United States internal revenue bonded warehouses. Alcoholic beverages may be removed from any such warehouse, wherever situated, to such a warehouse located in the Commonwealth and be held in the Commonwealth.

B. Alcoholic beverages may be transported within the Commonwealth under United States internal revenue bonds and be held in United States internal revenue bonded warehouses. Alcoholic beverages may be removed from any such warehouse and transported to a winery or farm winery licensee in accordance with § 4.1-207 4.1-206.1.

C. Alcoholic beverages so transported or removed to such warehouses in the Commonwealth shall be released from internal revenue bonds in the Commonwealth only on permits issued by the Board for delivery to (i) boats engaged in foreign trade, trade between the Atlantic and Pacific ports of the United States, or trade between the United States and any of its possessions outside of the several states and the District of Columbia; (ii) installations of the United States Department of Defense; or (iii) holders of permits issued in accordance with subdivision A 44 13 of § 4.1-212.

**§ 4.1-201. Conduct not prohibited by this title; limitation.**

A. Nothing in this title or any Board regulation adopted pursuant thereto shall prohibit:

1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or given away in violation of this title.

2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in accordance with Board regulations.

3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic beverages.

4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the places of business or establishments for which the retail licenses are desired are located upon the premises occupied or to be occupied by such distillery, winery, or brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary.

6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. The receipt by a fruit distillery licensee of deliveries and shipments of alcoholic beverages made from fruit or fruit juices in closed containers from other fruit distilleries owned by such licensee, or the

sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to persons outside of the Commonwealth for resale outside of the Commonwealth.

9. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to another farm winery or winery licensee for the purpose of additional bottling in accordance with Board regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

~~10.~~ 9. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the extent it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth. The selling licensee shall provide to the receiving licensee, and both shall maintain complete and accurate records of, the source of the fresh fruits or agricultural products used to produce the wine so transferred.

~~11.~~ 10. Any retail on-premises beer licensee, his agent or employee, from giving a sample of beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or retail on-premises on-and-off-premises wine or beer licensee, his agent or employee, from giving a sample of wine or beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall not exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not exceed one-half ounce, *unless served as a mixed beverage, in which case a sample of spirits may contain up to one and one-half ounces of spirits.* No more than ~~two~~ *product samples* 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given to any person per visit day.

~~12.~~ 11. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not licensed in the Commonwealth, from selling service items bearing alcoholic brand references to on-premises retail licensees or prohibit any such retail licensee from displaying the service items on the premises of his licensed establishment. Each such retail licensee purchasing such service items shall retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of not less than two years from the date of each sale of the service items. As used in this subdivision, "service items" mean articles of tangible personal property normally used by the employees of on-premises retail licensees to serve alcoholic beverages to customers including, but not limited to, glasses, napkins, buckets, and coasters.

~~13.~~ 12. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in the Commonwealth, from distributing to retail licensees and their employees novelties and specialties, including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage advertising. Such items may be distributed to retail licensees in quantities equal to the number of employees of the retail establishment present at the time the items are delivered. Thereafter, such employees may wear or display the items on the licensed premises.

~~14.~~ 13. Any (i) retail on-premises wine or beer licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines or beers consisting of samples of not more than five different wines or beers and (ii) mixed beverage licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of distilled spirits consisting of samples of not more than five different spirits products.

~~15.~~ 14. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired wine, beer, or cider by bona fide customers on the premises in all areas and locations covered by the license, provided that (i) all such wine, beer, or cider shall have been acquired by the customer from a retailer licensed to sell such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto the licensed premises by the customer except in sealed, nonresealable bottles or cans. The licensee may charge a corkage fee to such customer for the wine, beer, or cider so consumed; however, the licensee shall not charge any other fee to such customer.

~~16.~~ 15. Any winery, farm winery, wine importer, or wine wholesaler, *brewery, limited brewery, beer importer, beer wholesaler, or distiller* licensee from providing to adult customers of licensed retail establishments information about wine, beer, or spirits being consumed on such premises.

~~17.~~ 16. Any private swim club operated by a duly organized nonprofit corporation or association from allowing members to bring lawfully acquired alcoholic beverages onto the premises of such club and consume such alcoholic beverages on the premises of such club.

B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from receiving or selling the same.

**§ 4.1-201.1. Conduct not prohibited by this title; tastings conducted by manufacturers, wine or beer wholesalers, and authorized representatives.**

A. Manufacturers of alcoholic beverages, whether or not licensed in the Commonwealth, and wine or beer wholesalers may conduct tastings of wine, beer, or spirits within hotels, restaurants, and clubs licensed for on-premises consumption provided:

1. The tastings are conducted only by (i) employees of such manufacturers or wholesalers or (ii) authorized representatives of such manufacturers or wholesalers, which authorized representatives have obtained a permit in accordance with subdivision A ~~45 14~~ of § 4.1-212;

2. Such employees or authorized representatives are present while the tastings are being conducted;

3. No category of alcoholic beverage products is offered to consumers unless the retail licensee on whose premises the tasting is conducted is licensed to sell that category of alcoholic beverage product;

4. All alcoholic beverage products used in the tasting are served to the consumer by employees of the retail licensee;

5. The quantity of wine, beer, or spirits provided to any person during the tasting does not exceed ~~12~~ 16 ounces of beer, ~~five~~ six ounces of wine, or one and one-half ounces of spirits; however, for any spirits tastings, no single sample shall exceed one-half ounce ~~per of spirits product offered and no more than three spirits products may be offered to any patron, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits;~~ and

6. All alcoholic beverage products used in the tasting are purchased from the retail licensee on whose premises the tasting is conducted; except that no more than \$100 may be expended by or on behalf of any such manufacturer or wholesaler at any retail licensed premises during any 24-hour period. For the purposes of this subdivision, the \$100 limitation shall be exclusive of taxes and gratuities, which gratuities may not exceed 20 percent of the cost of the alcoholic beverages, including taxes, for the alcoholic beverages purchased for the tasting.

B. Manufacturers, wholesalers, and their authorized representatives shall keep complete records of each tasting authorized by this section for a period of not less than two years, which records shall include the date and place of each tasting conducted and the dollar amount expended by the manufacturer, wholesaler, or his agent or representative in the purchase of the alcoholic beverages used in the tasting.

C. Manufacturers and wholesalers shall be held liable for any violation of this section committed by their employees or authorized representative in connection with their employment or representation at any tasting event.

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

A. Each license granted by the Board shall designate the place where the business of the licensee will be carried on. Except as otherwise provided in §§ ~~4.1-207 and 4.1-208~~ 4.1-206.1, 4.1-206.2, and 4.1-206.3, a separate license shall be required for each separate place of business.

B. No license shall be transferable from one person to another, or from one location to another. The Board may permit a licensee to amend the classification of an existing license without complying with the posting and publishing procedures required by § 4.1-230 if the effect of the amendment is to reduce materially the privileges of an existing license. However, if (i) the Board determines that the amendment is a device to evade the provisions of this chapter, (ii) a majority of the corporate stock of a retail licensee is sold to a new entity, or (iii) there is a change of business at the premises of a retail licensee, the Board may, within 30 days of receipt of written notice by the licensee of a change in ownership or a change of business, require the licensee to comply with any or all of the requirements of § 4.1-230. If the Board fails to exercise its authority within the 30-day period, the licensee shall not be required to reapply for a license. The licensee shall submit such written notice to the Secretary of the Board.

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

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

The Board may grant licenses for one year or for multiple years, not to exceed three years, based on the fees set forth in § ~~4.1-231~~ 4.1-231.1. Qualification for a multiyear license shall be determined on the basis of criteria established by the Board. Fees for multiyear licenses shall not be refundable except as provided in § 4.1-232. The Board may provide a discount for two-year or three-year licenses, not to exceed five percent of the applicable license fee, which extends for one fiscal year and shall not be altered or rescinded during such period.

The Board may permit a licensee who fails to pay:

1. The required license tax covering the continuation or reissuance of his license by midnight of the

1229 fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable, to  
 1230 pay the tax in lieu of posting and publishing notice and reapplying, provided payment of the tax is made  
 1231 within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such  
 1232 tax, whichever is greater; and

1233 2. The tax and civil penalty pursuant to subdivision 1 to pay the tax in lieu of posting and publishing  
 1234 notice and reapplying, provided payment of the tax is made within 45 days following the 30 days  
 1235 specified in subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such tax,  
 1236 whichever is greater.

1237 Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-114.

1238 E. Subsections A and C shall not apply to common carriers of passengers by train, boat, *bus*, or  
 1239 airplane.

1240 **§ 4.1-204. Records of licensees; inspection of records and places of business.**

1241 A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler shall  
 1242 keep complete, accurate and separate records in accordance with Board regulations of all alcoholic  
 1243 beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by  
 1244 § 4.1-234 or 4.1-236, if any.

1245 B. Retailers. — Every retail licensee shall keep complete, accurate, and separate records, in  
 1246 accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such  
 1247 licensee therefor, and the names and addresses of the persons from whom purchased. Every retail  
 1248 licensee shall also preserve all invoices showing his purchases for a period as specified by Board  
 1249 regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic  
 1250 beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection  
 1251 D, such account need not give the names or addresses of the purchasers thereof, except as may be  
 1252 required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding  
 1253 retail licenses ~~which~~ *that* require sales of food to determine their qualifications for such licenses, the  
 1254 records shall also include purchases and sales of food and nonalcoholic beverages.

1255 Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored  
 1256 off site, provided that such records are readily retrievable and available for electronic inspection by the  
 1257 Board or its special agents at the licensed premises. However, in the case that such electronic records  
 1258 are not readily available for electronic inspection on the licensed premises, the retail licensee may obtain  
 1259 Board approval, for good cause shown, to permit the retail licensee to provide the records to a special  
 1260 agent of the Board within three business days or less, as determined by the Board, after a request is  
 1261 made to inspect the records.

1262 C. Common carriers. — Common carriers of passengers by train, boat, *bus*, or airplane shall keep  
 1263 records of purchases and sales of alcoholic beverages and food as required by Board regulation.

1264 D. Wine shippers and beer shippers. — Every wine ~~shipper~~ licensee and every beer shipper licensee  
 1265 shall keep complete, accurate, and separate records in accordance with Board regulations of all  
 1266 shipments of wine or beer to persons in the Commonwealth. Such licensees shall also remit on a  
 1267 monthly basis an accurate account stating whether any wine, farm wine, or beer products were sold and  
 1268 shipped and, if so, stating the total quantities of wine and beer sold and the total price charged for such  
 1269 wine and beer. Such records shall include the names and addresses of the purchasers to whom the wine  
 1270 and beer is shipped.

1271 E. ~~Delivery permittees~~ *Deliveries*. — Every ~~holder of a delivery permit issued~~ licensee or permittee  
 1272 *that is authorized to make deliveries* pursuant to § 4.1-212.1 shall keep complete, accurate, and separate  
 1273 records for a period of at least two years in accordance with Board regulations of all deliveries of wine  
 1274 or beer to persons in the Commonwealth. Such records shall include (i) the brands of wine and beer  
 1275 sold, (ii) the total quantities of wine and beer sold, (iii) the total price charged for such wine and beer,  
 1276 and (iv) the names, addresses, and signatures of the purchasers to whom the wine and beer is delivered.  
 1277 Such purchaser signatures may be in an electronic format. ~~Permittees~~ *Licensees and permittees* shall  
 1278 remit such records on a monthly basis for any month during which the *licensee or permittee* makes a  
 1279 delivery for which the *licensee or permittee* is required to collect and remit excise taxes due to the  
 1280 Authority pursuant to subsection ~~D~~ *E* of § 4.1-212.1.

1281 F. Inspection. — The Board and its special agents shall be allowed free access during reasonable  
 1282 hours to every place in the Commonwealth and to the premises of both (i) every wine ~~shipper~~ licensee  
 1283 and beer shipper licensee and (ii) every ~~delivery~~ licensee or permittee *authorized to make deliveries*  
 1284 wherever located where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold,  
 1285 for the purpose of examining and inspecting such place and all records, invoices and accounts therein.  
 1286 The Board may engage the services of alcoholic beverage control authorities in any state to assist with  
 1287 the inspection of the premises of a wine ~~shipper~~ licensee, a *and* beer shipper licensee, ~~or delivery~~  
 1288 *licensee or permittee authorized to make deliveries*, or any applicant for such license or permit.

1289 For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means

the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public. At any other time of day, if the retail licensee's records are not available for inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

**§ 4.1-205. Local licenses.**

A. In addition to the state licenses provided for in this chapter, the governing body of each county, city or town in the Commonwealth may provide by ordinance for the issuance of county, city or town licenses and to charge and collect license taxes therefor, to persons licensed by the Board to manufacture, bottle or sell alcoholic beverages within such county, city or town, except for temporary licenses authorized by § 4.1-211. Subject to § 4.1-233 4.1-233.1, the governing body of a county, city or town may classify licenses and graduate the license taxes therefor in the manner it deems proper.

B. No county, city, or town shall issue a local license to any person who does not hold or secure simultaneously the proper state license. If any person holds any local license without at the same time holding the proper state license, the local license, during the period when such person does not hold the proper state license, shall confer no privileges under the provisions of this title.

**§ 4.1-206.1. Manufacturer licenses.**

*The Board may grant the following manufacturer licenses:*

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

2. *Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.*

3. *Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-premises consumption.*

4. *Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on 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 purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.*

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

5. *Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or*

ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail at the place of business designated in the winery license in closed containers for off-premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee.

6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption, provided that any brand of wine not owned by the farm winery licensee is purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises consumption at these business places.

7. Wine importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

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

#### **§ 4.1-206.2. Wholesale licenses.**

The Board may grant the following wholesale licenses:

1. 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.

2. Wholesale wine licenses, including those granted pursuant to subdivision 3, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

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

3. Restricted wholesale wine licenses, which shall authorize a nonprofit, nonstock corporation created in accordance with subdivision B 2 of § 3.2-102 to provide wholesale wine distribution services to winery and farm winery licensees, provided that no more than 3,000 cases of wine produced by a



1413 winery or farm winery licensee shall be distributed by the corporation in any one year. The corporation  
1414 shall provide such distribution services in accordance with the terms of a written agreement approved  
1415 by the corporation between it and the winery or farm winery licensee, which shall comply with the  
1416 provisions of this title and Board regulations. The corporation shall receive all of the privileges of, and  
1417 be subject to, all laws and regulations governing wholesale wine licenses granted under subdivision 2.

1418 **§ 4.1-206.3. Retail licenses.**

1419 A. The Board may grant the following mixed beverages licenses:

1420 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed  
1421 beverages for consumption in dining areas and other designated areas of such restaurant. Such license  
1422 may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale  
1423 of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the  
1424 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the  
1425 sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall  
1426 include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining  
1427 areas may have more than one means of ingress and egress to an adjacent public thoroughfare,  
1428 provided such areas are under the control of the licensee and approved by the Board. Such  
1429 noncontiguous designated areas shall not be approved for any retail license issued pursuant to  
1430 subdivision A 5 of § 4.1-201.

1431 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent  
1432 bedrooms where food and beverage service is customarily provided by the restaurant in designated  
1433 areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (i) sell and serve  
1434 mixed beverages for consumption in such designated areas, bedrooms, and other private rooms and (ii)  
1435 sell spirits packaged in original closed containers purchased from the Board for on-premises  
1436 consumption to registered guests and at scheduled functions of such hotel or motel only in such  
1437 bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board  
1438 may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the  
1439 resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping  
1440 and consuming his own lawfully acquired spirits in bedrooms or private rooms.

1441 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club  
1442 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in  
1443 another city with which it has an agreement for reciprocal dining privileges, such license shall also  
1444 authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club  
1445 prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the  
1446 Board and located on another portion of the premises of the same hotel or motel building, this fact  
1447 shall not prohibit the granting of a license by the Board to such club qualifying in all other respects.  
1448 The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food  
1449 resold to its members and guests and consumed on the premises shall amount to at least 45 percent of  
1450 its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to  
1451 such a club shall be excluded in any consideration of the qualifications of such restaurant for a license  
1452 from the Board.

1453 If the restaurant is located on the premises of and operated by a municipal golf course, the Board  
1454 shall recognize the seasonal nature of the business and waive any applicable monthly food sales  
1455 requirements for those months when weather conditions may reduce patronage of the golf course,  
1456 provided that prepared food, including meals, is available to patrons during the same months. The gross  
1457 receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic  
1458 beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent  
1459 of the gross receipts from the sale of mixed beverages and food on an annualized basis.

1460 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to  
1461 obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers  
1462 for off-premises consumption; however, the licensee shall be required to pay the local fee required for  
1463 such additional license pursuant to § 4.1-233.1.

1464 2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in  
1465 the business of providing food and beverages to others for service at private gatherings or at special  
1466 events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises  
1467 consumption. The annual gross receipts from the sale of food cooked and prepared for service and  
1468 nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to  
1469 at least 45 percent of the gross receipts from the sale of mixed beverages and food.

1470 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly  
1471 engaged in the business of providing food and beverages to others for service at private gatherings or  
1472 at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to  
1473 sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale  
1474 of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events



referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. 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. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of

1536 Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease  
1537 or concession agreement, the original term of which was more than five years; (ii) has a total capacity  
1538 in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation  
1539 standards;

1540 d. Persons operating food concessions at any performing arts facility located in the arts and cultural  
1541 district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a  
1542 bona fide long-term lease or concession agreement, the original term of which was more than five  
1543 years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly  
1544 gross receipts from the sale of food cooked, or prepared, and consumed on the premises and  
1545 nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by  
1546 Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900  
1547 patrons;

1548 e. Persons operating food concessions at any multipurpose theater located in the historical district of  
1549 the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity  
1550 and (ii) has a total capacity in excess of 100 patrons;

1551 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar  
1552 facility that has seating for more than 20,000 persons and is located in Prince William County or the  
1553 City of Virginia Beach; or

1554 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or  
1555 similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or  
1556 the City of Portsmouth.

1557 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any  
1558 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to  
1559 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and  
1560 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed  
1561 beverage caterer at the same business premises designated in the license, with a common alcoholic  
1562 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the  
1563 separate food qualifications established for the mixed beverage restaurant license pursuant to  
1564 subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license  
1565 pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and  
1566 serve wine and beer for on-premises consumption or in closed containers for off-premises consumption;  
1567 however, the licensee shall be required to pay the local fee required for such additional license pursuant  
1568 to § 4.1-233.1.

1569 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in  
1570 dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is  
1571 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and  
1572 without regard to the amount of gross receipts from the sale of food prepared and consumed on the  
1573 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom  
1574 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated  
1575 areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas"  
1576 includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have  
1577 more than one means of ingress and egress to an adjacent public thoroughfare, provided that such  
1578 outdoor dining areas are under the control of the licensee and approved by the Board. Such  
1579 noncontiguous designated areas shall not be approved for any retail license issued pursuant to  
1580 subdivision A 5 of § 4.1-201.

1581 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under  
1582 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the  
1583 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide  
1584 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any  
1585 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in  
1586 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,  
1587 regularly occupied and utilized as such.

1588 11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the  
1589 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof  
1590 during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly  
1591 or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the  
1592 licensee's premises designated by the Board that are regularly occupied and utilized for motor car  
1593 sporting events.

1594 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'  
1595 association governing a commercial lifestyle center, which shall authorize any retail on-premises  
1596 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any  
1597 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion

of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such 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. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

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

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, 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. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. 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.

1659 2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for  
1660 their on-premises consumption only in such rooms, provided the consent of the patient's attending  
1661 physician is first obtained or (ii) in closed containers for off-premises consumption.

1662 3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises  
1663 consumption or in closed containers for off-premises consumption. No license shall be granted unless (i)  
1664 the grocery store is located in any town or in a rural area outside the corporate limits of any city or  
1665 town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment  
1666 exists and that public convenience and the purposes of this title will be promoted by granting the  
1667 license.

1668 4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer  
1669 during any event and immediately subsequent thereto to patrons within all seating areas, concourses,  
1670 walkways, concession areas, and additional locations designated by the Board (i) in closed containers  
1671 for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single  
1672 original metal cans for on-premises consumption. Upon authorization of the licensee, any person may  
1673 keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and  
1674 locations covered by the license. Such licenses may be granted to persons operating food concessions at  
1675 coliseums, stadiums, racetracks, or similar facilities.

1676 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer  
1677 during the performance of any event to patrons within all seating areas, concourses, walkways, or  
1678 concession areas, or other areas approved by the Board (i) in closed containers for off-premises  
1679 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans  
1680 for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his  
1681 own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the  
1682 license. Such licenses may be granted to persons operating food concessions at any outdoor performing  
1683 arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is  
1684 located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more  
1685 than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania,  
1686 or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than  
1687 9,500 persons and is located in Henrico County.

1688 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to  
1689 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,  
1690 and such additional locations designated by the Board in such facilities (i) in closed containers for  
1691 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original  
1692 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and  
1693 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations  
1694 covered by the license. Such licenses may be granted to persons operating food concessions at  
1695 exhibition or exposition halls, convention centers, or similar facilities located in any county operating  
1696 under the urban county executive form of government or any city that is completely surrounded by such  
1697 county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean  
1698 facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess  
1699 of 100,000 square feet of floor space.

1700 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during  
1701 events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways,  
1702 concession areas, dining areas, and such additional locations designated by the Board in such facilities,  
1703 for on-premises consumption or in closed containers for off-premises consumption. Persons licensed  
1704 pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is  
1705 served. Such licenses may be granted to persons operating concert or dinner-theater venues on property  
1706 fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge  
1707 High School.

1708 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or  
1709 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be  
1710 lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The  
1711 privileges of this license shall be limited to the premises of the historic cinema house regularly occupied  
1712 and utilized as such.

1713 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises  
1714 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such  
1715 licenses may be granted to persons operating a nonprofit museum exempt from taxation under  
1716 § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to  
1717 educating the consuming public about historic beer products. The privileges of this license shall be  
1718 limited to the premises of the museum, regularly occupied and utilized as such.

1719 C. The Board may grant the following off-premises wine and beer licenses:

1720 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store,

delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

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

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold and (ii) shall be limited to no more than one such fundraiser per year. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

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

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

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

2. Annual licenses.

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

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services

1782 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic  
1783 beverages on the premises of the licensee by any person, and bona fide members and guests thereof,  
1784 otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be  
1785 purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the  
1786 premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency  
1787 station or both, regularly occupied as such and recognized by the governing body of the county, city, or  
1788 town in which it is located. Under conditions as specified by Board regulation, such premises may be  
1789 other than a volunteer fire or volunteer emergency medical services agency station, provided such other  
1790 premises are occupied and under the control of the volunteer fire department or volunteer emergency  
1791 medical services agency while the privileges of its license are being exercised.

1792 c. Local special events licenses to a locality, business improvement district, or nonprofit  
1793 organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages  
1794 within the area designated by the Board for the special event and (ii) any permanent retail on-premises  
1795 licensee that is located within the area designated by the Board for the special event to sell alcoholic  
1796 beverages within the permanent retail location for consumption in the area designated for the special  
1797 event, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at  
1798 retail, upon approval of such businesses. In determining the designated area for the special event, the  
1799 Board shall consult with the locality. Local special events licensees shall be limited to 12 special events  
1800 per year. Only alcoholic beverages purchased from permanent retail on-premises licensees located  
1801 within the designated area may be consumed at the special event, and such alcoholic beverages shall be  
1802 contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the  
1803 retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall  
1804 not be sold or charged for in any way by the local special events licensee. The local special events  
1805 licensee shall post appropriate signage clearly demarcating for the public the boundaries of the special  
1806 event; however, no physical barriers shall be required for this purpose. The local special events licensee  
1807 shall provide adequate security for the special event to ensure compliance with the applicable provisions  
1808 of this title and Board regulations.

1809 d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or  
1810 charitable membership organizations that are exempt from state and federal taxation and in charge of  
1811 banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve  
1812 mixed beverages for on-premises consumption in areas approved by the Board on the premises of the  
1813 place designated in the license. Such license shall authorize the licensee to conduct no more than 12  
1814 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically  
1815 authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption;  
1816 however, the licensee shall be required to pay the local fee required for such additional license pursuant  
1817 to § 4.1-233.1.

1818 e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and  
1819 steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired  
1820 alcoholic beverages on the premises of the licensee by patrons thereof during such event. However,  
1821 alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this  
1822 license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian,  
1823 hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

1824 f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the  
1825 licensee participating in a community art walk that is open to the public to serve lawfully acquired wine  
1826 or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic  
1827 beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the  
1828 licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any  
1829 one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue  
1830 regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

1831 E. The Board may grant a marketplace license to persons operating a business enterprise of which  
1832 the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve  
1833 complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations  
1834 imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or  
1835 two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to  
1836 such customer for the wine or beer served or consumed. In order to be eligible for and retain a  
1837 marketplace license, the applicant's business enterprise must (i) provide a single category of goods or  
1838 services in a manner intended to create a personalized experience for the customer; (ii) employ staff  
1839 with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board;  
1840 (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served;  
1841 (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase  
1842 all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records  
1843 as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall

consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

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

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

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

#### **§ 4.1-209. Wine and beer license privileges; advertising; tastings.**

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

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

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and 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. However, with regard to a hotel classified by the Board as (i) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. 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 wine and 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 wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or



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

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

f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers or in single original metal cans, during any event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia, racetracks 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;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which (i) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach, (ii) has capacity for more than 3,500 persons and is located in the Counties of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham, or the Cities of Charlottesville, Danville, or Roanoke, or (iii) has capacity for more than 9,500 persons and is located in Henrico County. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers or in single original metal cans, 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;

h. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell wine and beer during the event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such 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. For purposes of this subsection, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space;

i. Persons operating a concert and dinner-theater venue on property fronting Natural Bridge School Road in Natural Bridge Station, Virginia, and formerly operated as Natural Bridge High School, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served; and

j. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

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

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume, for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, breweries, and wholesale



licensees may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Notwithstanding Board regulations relating to food sales, the licensee shall maintain each year an average monthly inventory and sales volume of at least \$1,000 in products such as cheeses and gourmet food.

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

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

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold and (ii) shall be limited to no more than one such fundraiser per year. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior premises of the gift shop in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.

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

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

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

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

12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, where the licensee also offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products. Such license shall authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed containers for off-premises consumption. Samples of wine shall not exceed two ounces per person.

2028 Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly  
2029 food sale requirement of oysters and other seafood for such license. Additionally, with the consent of  
2030 the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees  
2031 authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic  
2032 beverages may be lawfully sold.

2033 B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license  
2034 pursuant to this section § 4.1-206.3 may display within their licensed premises point-of-sale advertising  
2035 materials that incorporate the use of any professional athlete or athletic team, provided that such  
2036 advertising materials: (i) otherwise comply with the applicable regulations of the Federal federal Bureau  
2037 of Alcohol, Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume  
2038 alcohol prior to or while engaged in an athletic activity; do not depict an athlete consuming alcohol  
2039 while the athlete is operating or about to operate a motor vehicle or other machinery; and do not imply  
2040 that the alcoholic beverage so advertised enhances athletic prowess.

2041 C. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license  
2042 pursuant to this section may deliver such wine or beer in closed containers for off-premises consumption  
2043 to such person's vehicle if located in a designated parking area of the retailer's premises where such  
2044 person has electronically ordered wine or beer in advance of the delivery or (ii) if the licensee holds a  
2045 delivery permit issued pursuant to § 4.1-212.1, to such other locations as may be permitted by Board  
2046 regulation.

2047 D. B. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to  
2048 this section or subsection B of § 4.1-210 the following provisions may conduct wine or beer tastings  
2049 sponsored by the licensee for its customers for on-premises consumption:

- 2050 1. Subdivision A 1, 4, 5, 6, 7, 8, or 14 of § 4.1-206.3;
- 2051 2. Subdivision B 1, 2, 4, 5, 6, 7, or 8 of § 4.1-206.3;
- 2052 3. Subdivision C 1 or 2 of § 4.1-206.3;
- 2053 4. Subdivision D 1 a, b, or d or 2 a of § 4.1-206.3; or
- 2054 5. Subdivision F 4 or 5 of § 4.1-206.3.

2055 Such licensees may sell or give samples of wine and beer in designated areas at events held by the  
2056 licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages  
2057 being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may  
2058 participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples  
2059 to any person to whom alcoholic beverages may be lawfully sold. Samples of wine shall not exceed two  
2060 ounces per person. Samples of beer shall not exceed four ounces per person. No single sample shall  
2061 exceed four ounces of beer or two ounces of wine, and no more than 12 ounces of beer or five ounces  
2062 of wine shall be given or sold to any person per day.

2063 **§ 4.1-209.1. Direct shipment of wine and beer; shipper's license.**

2064 A. Holders of wine shippers' licenses and beer shippers' shipper's licenses issued pursuant to this  
2065 section subdivision F 1 of § 4.1-206.3 may sell and ship not more than two cases of wine per month nor  
2066 more than two cases of beer per month to any person in Virginia to whom alcoholic beverages may be  
2067 lawfully sold. All such sales and shipments shall be for personal consumption only and not for resale. A  
2068 case of wine shall mean any combination of packages containing not more than nine liters of wine. A  
2069 case of beer shall mean any combination of packages containing not more than 288 ounces of beer. Any  
2070 winery or farm winery located within or outside the Commonwealth may apply to the Board for  
2071 issuance of a wine and beer shipper's license that shall authorize the shipment of brands of wine and  
2072 farm wine identified in such application. Any brewery located within or outside the Commonwealth may  
2073 apply to the Board for issuance of a wine and beer shipper's license that shall authorize the shipment of  
2074 brands of beer identified in such application. Any person located within or outside the Commonwealth  
2075 who is authorized to sell wine or beer at retail in their state of domicile and who is not a winery, farm  
2076 winery, or brewery may nevertheless apply for a wine or and beer shipper's license, or both, if such  
2077 person satisfies the requirements of this section. Any brewery, winery, or farm winery that applies for a  
2078 shipper's license or authorizes any other person, other than a retail off-premises licensee, to apply for a  
2079 license to ship such brewery's, winery's or farm winery's brands of wine or beer shall notify any  
2080 wholesale licensees that have been authorized to distribute such brands that an application has been filed  
2081 for a shipper's license. The notice shall be in writing and in a form prescribed by the Board. The Board  
2082 may adopt such regulations as it reasonably deems necessary to implement the provisions of this section,  
2083 including regulations that permit the holder of a shipper's license to amend the same by, among other  
2084 things, adding or deleting any brands of wine, farm wine, or beer identified in such shipper's license.

2085 B. Any applicant for a wine or and beer shipper's license that does not own or have the right to  
2086 control the distribution of the brands of wine, farm wine, or beer identified in such person's application  
2087 may be issued a shipper's license for wine or and beer or both, if the applicant has obtained and filed  
2088 with its application for a shipper's license, and with any subsequent application for renewal thereof, the  
2089 written consent of either (i) the winery, farm winery, or brewery whose brands of wine, farm wine, or

beer are identified therein or (ii) any wholesale distributor authorized to distribute the wine or beer produced by the winery, farm winery or brewery. Any winery, farm winery, or brewery, or its wholesale distributor, that has provided written authorization to a shipper licensed pursuant to this section to sell and ship its brand or brands of wine, farm wine, or beer shall not be restricted by any provision of this section from withdrawing such authorization at any time. If such authorization is withdrawn, the winery, farm winery, or brewery shall promptly notify such shipper licensee and the Board in writing of its decision to withdraw from such shipper licensee the authority to sell and ship any of its brands, whereupon such shipper licensee shall promptly file with the Board an amendment to its license eliminating any such withdrawn brand or brands from the shipper's license.

C. The direct shipment of beer and wine by holders of licenses issued pursuant to ~~this section subdivision F 1 of § 4.1-206.3~~ shall be by approved common carrier only. The Board shall develop regulations pursuant to which common carriers may apply for approval to provide common carriage of wine or beer, ~~or both~~, shipped by holders of licenses issued pursuant to ~~this section subdivision F 1 of § 4.1-206.3~~. Such regulations shall include provisions that require (i) the recipient to demonstrate, upon delivery, that he is at least 21 years of age; (ii) the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board; and (iii) the Board-approved common carrier to submit to the Board such information as the Board may prescribe. The Board-approved common carrier shall refuse delivery when the proposed recipient appears to be under the age of 21 years and refuses to present valid identification. All licensees shipping wine or beer pursuant to this section shall affix a conspicuous notice in 16-point type or larger to the outside of each package of wine or beer shipped within or into the Commonwealth, in a conspicuous location stating: "CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY." Any delivery of alcoholic beverages to a minor by a common carrier shall constitute a violation by the common carrier. The common carrier and the shipper licensee shall be liable only for their independent acts.

D. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each shipment of wine or beer by a wine ~~shipper licensee or a~~ and beer shipper licensee shall constitute a sale in Virginia. The licensee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the Authority and any sales taxes to the Department of Taxation.

E. Notwithstanding the provisions of § 4.1-203, the holder of a wine ~~shipper license or~~ and beer shipper license may solicit and receive applications for subscription to a wine-of-the-month or beer-of-the-month club at in-state or out-of-state locations for which a license for on-premises consumption has been issued, other than the place where the licensee carries on the business for which the license is granted. For the purposes of this subsection, "wine-of-the-month club" or "beer-of-the-month club" shall mean an agreement between an in-state or out-of-state holder of a wine ~~shipper license or~~ and beer shipper license and a consumer in Virginia to whom alcoholic beverages may be lawfully sold that the shipper will sell and ship to the consumer and the consumer will purchase a lawful amount of wine or beer each month for an agreed term of months.

F. Notwithstanding the provisions of § 4.1-203, a wine ~~or~~ and beer shipper licensee may ship wine or beer as authorized by this section through the use of the services of an approved fulfillment warehouse. For the purposes of this section, a "fulfillment warehouse" means a business operating a warehouse and providing storage, packaging, and shipping services to wineries or breweries. The Board shall develop regulations pursuant to which fulfillment warehouses may apply for approval to provide storage, packaging, and shipping services to holders of licenses issued pursuant to this section. Such regulations shall include provisions that require (i) the fulfillment warehouse to demonstrate that it is appropriately licensed for the services to be provided by the state in which its place of business is located, (ii) the Board-approved fulfillment warehouse to maintain such records and to submit to the Board such information as the Board may prescribe, and (iii) the fulfillment warehouse and each wine ~~or~~ and beer shipper licensed under ~~this section subdivision F 1 of § 4.1-206.3~~ to whom services are provided to enter into a contract designating the fulfillment warehouse as the agent of the shipper for purposes of complying with the provisions of this section.

G. Notwithstanding the provisions of § 4.1-203, a wine ~~or~~ and beer shipper licensee may sell wine or beer as authorized by this section through the use of the services of an approved marketing portal. For the purposes of this section, a "marketing portal" means a business organized as an agricultural cooperative association under the laws of a state, soliciting and receiving orders for wine or beer and accepting and processing payment of such orders as the agent of a licensed wine ~~or~~ and beer shipper. The Board shall develop regulations pursuant to which marketing portals may apply for approval to provide marketing services to holders of licenses issued pursuant to ~~this section subdivision F 1 of § 4.1-206.3~~. Such regulations shall include provisions that require (i) the marketing portal to demonstrate that it is appropriately organized as an agricultural cooperative association and licensed for the services to be provided by the state in which its place of business is located, (ii) the Board-approved marketing

portal to maintain such records and to submit to the Board such information as the Board may prescribe, and (iii) the marketing portal and each wine ~~or~~ and beer shipper licensed under this section to whom services are provided to enter into a contract designating the marketing portal as the agent of the shipper for purposes of complying with the provisions of this section.

**§ 4.1-211. Temporary licenses.**

Notwithstanding subsection D of § 4.1-203, the Board may grant a temporary license to any of the licensed retail operations authorized by ~~§§ 4.1-206 through 4.1-210~~ § 4.1-206.3. A temporary license may be granted only after an application has been filed in accordance with the provisions of § 4.1-230 and in cases where the sole objection to granting a license is that the establishment will not be qualified in terms of the sale of food. If a temporary license is not granted, the applicant is entitled to a hearing on the issue of qualifications. The decision to refuse to grant a temporary license shall not be subject to a hearing.

If a temporary license is granted, the Board shall conduct an audit of the business after a reasonable period of operation not to exceed 180 days. If the audit indicates that the business is qualified, the license applied for may be granted. If the audit indicates that the business is not qualified, the applicant is entitled to a hearing. No further temporary license shall be granted to the applicant or to any other person at that location for a period of one year from expiration and, once the application becomes the subject of a hearing, no temporary license may be granted.

A temporary license may be revoked summarily by the Board for any cause set forth in § 4.1-225 without complying with subsection A of § 4.1-227. Revocation of a temporary license shall be effective upon service of the order of revocation upon the licensee or upon the expiration of three business days after the order of the revocation has been mailed to the licensee ~~either~~ at *either* his residence or the address given for the business in the license application. No further notice shall be required.

**§ 4.1-212. Permits required in certain instances.**

A. The Board may grant the following permits which shall authorize:

1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.

3. Any person to keep upon his premises alcoholic beverages ~~which~~ *that* he is not authorized by any license to sell and which shall be used for culinary purposes only.

4. Any person to transport lawfully purchased alcoholic beverages within, into or through the Commonwealth, except that no permit shall be required for any person shipping or transporting into the Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of residence to the Commonwealth in accordance with § 4.1-310.

5. Any person to keep, store or possess any still or distilling apparatus.

6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside of the Commonwealth.

7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery in accordance with subsection C of § 4.1-132.

9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal representative, receiver or other officer acting under authority of a court having jurisdiction in the Commonwealth, or by any secured party as defined in subdivision (a) (73) of § 8.9A-102 of the Virginia Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.

11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises to continue to operate the establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for such longer period as determined

by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

12. ~~The sale of wine and beer in kegs by any person licensed to sell wine or beer, or both, at retail for off-premises consumption.~~

~~13.~~ The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth.

14. ~~13.~~ The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses located in the Commonwealth.

~~15.~~ 14. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has filed an application for a permit in which the applicant represents (i) that he or she is under contract to conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such contract grants to the applicant the authority to act as the authorized representative of such manufacturer or wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named in the application may be held liable for any violation of § 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with § 4.1-229.

~~16.~~ 15. Any person who, through contract, lease, concession, license, management or similar agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a person licensed by the Board to continue to operate the establishment to the same extent as a person holding such licenses, provided such person has made application to the Board for a license at the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by the Board pending the completion of the processing of the permittee's license application. No permit shall be issued without the written consent of the previous licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation of this title or any Board regulation, unless the permittee agrees to assume the liability of the previous licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to the effective date of the contract, in which case the permit when issued shall become effective on the effective date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance with the provisions of this title and any Board regulation and (b) the previous licensee shall not be held liable for any violation of this title or any Board regulation committed by, or any errors or omissions of, the permittee.

~~17.~~ 16. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting individuals for compensation to a winery, brewery, or restaurant, licensed under this chapter and authorized to conduct tastings, to collect the licensee's tasting fees from tour participants for the sole purpose of remitting such fees to the licensee.

~~18.~~ 17. Any tour company guiding individuals for compensation on a culinary walking tour to one or more establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one fee from tour participants (i) the licensee's fee for the food and alcoholic beverages served as part of the tour and (ii) a fee for the culinary walking tour service. The tour company shall remit to the licensee any fee collected for the food and alcoholic beverages served as part of the tour. Food cooked or prepared on the premises of such licensed establishments shall be served at each such establishment on the tour.

B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

**§ 4.1-212.1. Delivery of wine and beer; kegs; regulations of Board.**

A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is authorized to engage in the retail sale of wine or beer for off-premises consumption may ~~apply to the Board for issuance of a delivery permit that shall authorize the delivery of~~ deliver the brands of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers to consumers within the Commonwealth for personal ~~off-premises~~ consumption.

B. Any person ~~located within or outside the Commonwealth who is authorized~~ licensed to sell wine or beer at retail for off-premises consumption in ~~their state of domicile~~ the Commonwealth, and who is not a brewery, winery, or farm winery, may ~~apply for a delivery permit that shall authorize the delivery of any~~ deliver the brands of beer, wine, and farm wine it is authorized to sell in its state of ~~domicile~~, in closed containers, to consumers within the Commonwealth for personal ~~off-premises~~ consumption. *Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a*

2274 person's vehicle if located in a designated parking area of the licensee's premises where such person  
2275 has electronically ordered beer, wine, or farm wine in advance of the delivery or (ii) such other  
2276 locations as may be permitted by Board regulation.

2277 C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail for  
2278 off-premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery,  
2279 may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm  
2280 wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the  
2281 Commonwealth for personal off-premises consumption.

2282 ~~C.~~ D. All such deliveries shall be to consumers within the Commonwealth for personal consumption  
2283 only and not for resale. All such deliveries of beer, wine, or farm wine shall be performed by either (i)  
2284 the owner or any agent, officer, director, shareholder, or employee of the licensee or permittee or (ii) an  
2285 independent contractor of the licensee or permittee, provided that (a) the licensee or permittee has  
2286 entered into a written agreement with the independent contractor establishing that the licensee or  
2287 permittee shall be vicariously liable for any administrative violations of this section or § 4.1-304  
2288 committed by the independent contractor relating to any deliveries of beer, wine, or farm wine made on  
2289 behalf of the licensee or permittee and (b) only one individual takes possession of the beer, wine, or  
2290 farm wine during the course of the delivery. No more than four cases of wine nor more than four cases  
2291 of beer may be delivered at one time to any person in Virginia to whom alcoholic beverages may be  
2292 lawfully sold, except that the licensee or permittee may deliver more than four cases of wine or more  
2293 than four cases of beer if he notifies the ~~Department~~ Authority in writing at least one business day in  
2294 advance of any such delivery, which notice contains the name and address of the intended recipient. The  
2295 Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this  
2296 section. Such regulations shall include provisions that require ~~(i)~~ (1) the recipient to demonstrate, upon  
2297 delivery, that he is at least 21 years of age and ~~(ii)~~ (2) the recipient to sign an electronic or paper form  
2298 or other acknowledgement of receipt as approved by the Board.

2299 ~~D.~~ E. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each  
2300 delivery of wine or beer by a licensee or permittee shall constitute a sale in Virginia. The licensee or  
2301 permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the  
2302 Authority and any sales taxes to the Department of Taxation, if such taxes have not already been paid.

2303 F. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises  
2304 consumption may sell such wine or beer in kegs, subject to any limitations imposed by Board regulation.  
2305 The Board may impose a fee for keg registration seals. For purposes of this subsection, "keg  
2306 registration seal" means any document, stamp, declaration, seal, decal, sticker, or device that is  
2307 approved by the Board, designed to be affixed to kegs, and displays a registration number and such  
2308 other information as may be prescribed by the Board.

2309 **§ 4.1-215. Limitation on manufacturers, bottlers, and wholesalers; exemptions.**

2310 A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages  
2311 shall be granted to any (i) manufacturer, bottler, or wholesaler of alcoholic beverages, whether licensed  
2312 in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler, or wholesaler;  
2313 (iii) partnership or corporation, where any partner or stockholder is an officer or director of any such  
2314 manufacturer, bottler, or wholesaler; (iv) corporation which is a subsidiary of a corporation which owns  
2315 or has interest in another subsidiary corporation which is a manufacturer, bottler, or wholesaler of  
2316 alcoholic beverages; or (v) manufacturer, bottler, or wholesaler of alcoholic beverages who has a  
2317 financial interest in a corporation which has a retail license as a result of a holding company, which  
2318 owns or has an interest in such manufacturer, bottler, or wholesaler of alcoholic beverages. Nor shall  
2319 such licenses be granted in any instances where such manufacturer, bottler, or wholesaler and such  
2320 retailer are under common control, by stock ownership or otherwise.

2321 2. Notwithstanding any other provision of this title:

2322 a. A manufacturer of malt beverages, whether licensed in the Commonwealth or not, may obtain a  
2323 banquet license as provided in ~~§ 4.1-209~~ upon application to the Board, provided that the event for  
2324 which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the  
2325 purposes of featuring and educating the consuming public about malt beverage products. Such  
2326 manufacturer shall be limited to eight banquet licenses for such events per year without regard to the  
2327 number of breweries owned or operated by such manufacturer or by any parent, subsidiary, or company  
2328 under common control with such manufacturer. Where the event occurs on no more than three  
2329 consecutive days, a manufacturer need only obtain one such license for the event; or

2330 b. A, a manufacturer of wine or malt beverages, or two or more of such manufacturers together,  
2331 whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-209  
2332 4.1-206.3 upon application to the Board, provided that the event for which a banquet license is obtained  
2333 is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating  
2334 the consuming public about wine or malt beverage products. Such manufacturer shall be limited to eight  
2335 banquet licenses, whether or not jointly obtained, for such events per year without regard to the number

of wineries or 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.

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 D 1 b of § ~~4.1-210~~ 4.1-206.3 upon application to the Board, provided that such event is (i) at a place approved by the Board and (ii) 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 eight 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 sell or 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 per day. 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 6 of § ~~4.1-207~~ 4.1-206.1;

4. Manufacturers, bottlers, or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, or wholesalers;

5. Wineries, farm wineries, or breweries engaging in conduct authorized by *subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1*; or

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

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

**§ 4.1-216. Further limitations on manufacturers, bottlers, importers, brokers or wholesalers; ownership interests prohibited; exceptions; prohibited trade practices.**

A. As used in this section:

"Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who regularly engages in the business of bringing together sellers and purchasers of alcoholic beverages for resale and arranges for or consummates such transactions with persons in the Commonwealth to whom such alcoholic beverages may lawfully be sold and shipped into the Commonwealth pursuant to the provisions of this title.

"Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any officers or directors of any such manufacturer, bottler, importer, broker or wholesaler.

B. Except as provided in this title, no manufacturer, importer, bottler, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial interest, direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises where the business of a retail licensee is conducted.

1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or wholesaler does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to such retail licensee and such retailer is not required by agreement or otherwise to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, importers, brokers or wholesalers.

2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares of stock of which are sold to the general public on any national or local stock exchange, shall not be deemed to be a financial interest, direct or indirect, in the business or the premises of the retail licensee.

2397 3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a  
2398 financing corporation, may participate in financing the business of a wholesale licensee in the  
2399 Commonwealth by providing debt or equity capital or both but only if done in accordance with the  
2400 provisions of this subsection.

2401 a. In order to assist a proposed new owner of an existing wholesale licensee, a financing corporation  
2402 may provide debt or equity capital, or both, if prior approval of the Board has been obtained pursuant to  
2403 subdivision 3 b of subsection B. A financing corporation which proposes to provide equity capital shall  
2404 cause the proposed new owner to form a Virginia limited partnership in which the new owner is the  
2405 general partner and the financing corporation is a limited partner. If the general partner defaults on any  
2406 financial obligation to the limited partner, which default has been specifically defined in the partnership  
2407 agreement, or, if the new owner defaults on its obligation to pay principal and interest when due to the  
2408 financing corporation as specifically defined in the loan documents, then, and only then, shall such  
2409 financing corporation be allowed to take title to the business of the wholesale licensee. Notwithstanding  
2410 any other law to the contrary and provided written notice has been given to the Board within two  
2411 business days after taking title, the wholesale licensee may be managed and operated by such financing  
2412 corporation pursuant to the existing wholesale license for a period of time not to exceed 180 days as if  
2413 the license had been issued in the name of the financing corporation. On or before the expiration of  
2414 such 180-day period, the financing corporation shall cause ownership of the wholesale licensee's  
2415 business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed  
2416 terminated. The financing corporation may not participate in financing the transfer of ownership to the  
2417 new owner or to any other subsequent owner for a period of twenty years following the effective date of  
2418 the original financing transaction; except where a transfer takes place before the expiration of the eighth  
2419 full year following the effective date of the original financing transaction in which case the financing  
2420 corporation may finance such transfer as long as the new owner is required to return such debt or equity  
2421 capital within the originally prescribed eight-year period. The financing corporation may exercise its  
2422 right to take title to, manage and operate the business of, the wholesale licensee only once during such  
2423 eight-year period.

2424 b. In any case in which a financing corporation proposes to provide debt or equity capital in order to  
2425 assist in a change of ownership of an existing wholesale licensee, the parties to the transaction shall first  
2426 submit an application for a wholesale license in the name of the proposed new owner to the Board.

2427 The Board shall be provided with all documents that pertain to the transaction at the time of the  
2428 license application and shall ensure that the application complies with all requirements of law pertaining  
2429 to the issuance of wholesale licenses except that if the financing corporation proposes to provide equity  
2430 capital and thereby take a limited partnership interest in the applicant entity, the financing corporation  
2431 shall not be required to comply with any Virginia residency requirement applicable to the issuance of  
2432 wholesale licenses. In addition to the foregoing, the applicant entity shall certify to the Board and  
2433 provide supporting documentation that the following requirements are met prior to issuance of the  
2434 wholesale license: (i) the terms and conditions of any debt financing which the financing corporation  
2435 proposes to provide are substantially the same as those available in the financial markets to other  
2436 wholesale licensees who will be in competition with the applicant, (ii) the terms of any proposed equity  
2437 financing transaction are such that future profits of the applicant's business shall be distributed annually  
2438 to the financing corporation in direct proportion to its percentage of ownership interest received in return  
2439 for its investment of equity capital, (iii) if the financing corporation proposes to provide equity capital, it  
2440 shall hold an ownership interest in the applicant entity through a limited partnership interest and no  
2441 other arrangement and (iv) the applicant entity shall be contractually obligated to return such debt or  
2442 equity capital to the financing corporation not later than the end of the eighth full year following the  
2443 effective date of the transaction thereby terminating any ownership interest or right thereto of the  
2444 financing corporation.

2445 Once the Board has issued a wholesale license pursuant to an application filed in accordance with  
2446 this subdivision 3 b, any subsequent change in the partnership agreement or the financing documents  
2447 shall be subject to the prior approval of the Board. In accordance with the previous paragraph, the Board  
2448 may require the licensee to resubmit certifications and documentation.

2449 c. If a financing corporation wishes to provide debt financing, including inventory financing, but not  
2450 equity financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale  
2451 licensee, it may do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B  
2452 under the following circumstances and subject to the following conditions: (i) in order to secure such  
2453 debt financing, a wholesale licensee or a proposed new owner thereof may grant a security interest in  
2454 any of its assets, including inventory, other than the wholesale license itself or corporate stock of the  
2455 wholesale licensee; in the event of default, the financing corporation may take title to any assets pledged  
2456 to secure such debt but may not take title to the business of the wholesale licensee and may not manage  
2457 or operate such business; (ii) debt capital may be supplied by such financing corporation to an existing  
2458 wholesale licensee or a proposed new owner of an existing wholesale licensee so long as debt capital is



provided on terms and conditions which are substantially the same as those available in the financial markets to other wholesale licensees in competition with the wholesale licensee which is being so financed; and (iii) the licensee or proposed new owner shall certify to the Board and provide supporting documentation that the requirements of (i) and (ii) of this subdivision 3 c have been met.

Nothing in this section shall eliminate, affect or in any way modify the requirements of law pertaining to issuance and retention of a wholesale license as they may apply to existing wholesale licensees or new owners thereof which have received debt financing prior to the enactment of this subdivision 3 c.

4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery licensees may sell beer to retail licensees for resale only under the following conditions: If such brewery or an affiliate or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the provisions of subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-day period of operation allowed under that subdivision. Moreover, the holder of a brewery license may make sales of alcoholic beverages directly to retail licensees for a period not to exceed thirty days in the event that such retail licensees are normally serviced by a wholesale licensee representing that brewery which has been forced to suspend wholesale operations as a result of a natural disaster or other act of God or which has been terminated by the brewery for fraud, loss of license or assignment of assets for the benefit of creditors not in the ordinary course of business.

5. Notwithstanding any provision of this section, including but not limited to those provisions whereby certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages shall make an agreement, or attempt to make an agreement, with a retail licensee pursuant to which any products sold by a competitor are excluded in whole or in part from the premises on which the retail licensee's business is conducted.

6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a royalty to a historical preservation entity pursuant to a bona fide intellectual property agreement that (i) authorizes the winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on authentic historical recipes and identified with brand names owned and trademarked by the historical preservation entity; (ii) provides for royalties to be paid based solely on the volume of wine, beer, or spirits manufactured using such recipes and trademarks, rather than on the sales revenues generated from such wine, beer, or spirits; and (iii) has been approved by the Board.

For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt from income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes include the preservation, restoration, and protection of a historic community in the Commonwealth that is the site of at least 50 historically significant houses, shops, and public buildings dating to the eighteenth century; and (c) that owns not more than 12 retail establishments in the Commonwealth for which retail licenses have been issued by the Board.

C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall sell, rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which the business of any retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property, services or anything of value with which the business of such retail licensee is or may be conducted, or for any other purpose; (ii) advertising materials; and (iii) business entertainment, provided that no transaction permitted under this section or by Board regulation shall be used to require the retail licensee to partially or totally exclude from sale at its establishment alcoholic beverages of other manufacturers or wholesalers.

The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and wholesalers selling alcoholic beverages to any governmental instrumentality or employee thereof selling alcoholic beverages at retail within the exterior limits of the Commonwealth, including all territory within these limits owned by or ceded to the United States of America.

*The provisions of this subsection shall not apply to any commercial lifestyle center licensee.*

**§ 4.1-221.1. (Effective until July 1, 2020) Limitation of tasting licenses.**

~~Samples~~ *Single samples* of alcoholic beverages given or sold by a licensee shall not exceed *four ounces of beer, two ounces per person of each product tasted, provided that (i) in the case of wine or beer, of wine, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; and no more than four products shall be offered or (ii) in the case of spirits, no more than two products 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be offered to any person per day.* Tasting licenses for mixed beverages shall only be issued for events to be held in localities which have approved the sale of mixed beverages pursuant to § 4.1-124. No license shall be issued to any person to whom issuance of a retail license is prohibited. No more than four tasting licenses annually shall be issued to any person. The provisions of this section shall not apply to tastings conducted pursuant to § 4.1-201.1.

2520 **§ 4.1-221.1. (Effective July 1, 2020) Limitation of tasting licenses.**

2521 ~~Samples~~ *Single samples* of alcoholic beverages given or sold by a licensee shall not exceed *four*  
2522 *ounces of beer, two ounces per person of each product tasted, provided that (i) in the case of wine or*  
2523 *beer, of wine, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single*  
2524 *sample of spirits may contain up to one and one-half ounces of spirits; and no more than four products*  
2525 *shall be offered or (ii) in the case of spirits, no more than two products 12 ounces of beer, five ounces*  
2526 *of wine, or three ounces of spirits shall be offered to any person per day.* Tasting licenses for mixed  
2527 beverages shall ~~only~~ be issued *only* for events to be held in localities that do not prohibit the sale of  
2528 mixed beverages pursuant to § 4.1-124. No license shall be issued to any person to whom issuance of a  
2529 retail license is prohibited. No more than four tasting licenses annually shall be issued to any person.  
2530 The provisions of this section shall not apply to tastings conducted pursuant to § 4.1-201.1.

2531 **§ 4.1-223. Conditions under which Board shall refuse to grant licenses.**

2532 The Board shall refuse to grant any:

2533 1. Wholesale beer or wine license to any person, unless such person has established or will establish  
2534 a place or places of business within the Commonwealth at which will be received and from which will  
2535 be distributed all alcoholic beverages sold by such person in the Commonwealth. However, in special  
2536 circumstances, the Board, subject to any regulations it may adopt, may permit alcoholic beverages to be  
2537 received into or distributed from places other than established places of business.

2538 2. Wholesale beer license or wholesale wine license to any entity that is owned, in whole or in part,  
2539 by any manufacturer of alcoholic beverages, any subsidiary or affiliate of such manufacturer, or any  
2540 person under common control with such manufacturer. This subdivision, however, shall not apply to (i)  
2541 any applicant for a wholesale beer or wine license filed pursuant to subdivision B 3 b of § 4.1-216 or  
2542 (ii) the nonprofit, nonstock corporation established pursuant to subdivision B 2 of § 3.2-102 in  
2543 exercising any privileges granted under ~~§ 4.1-207.1~~ *subdivision 3 of § 4.1-206.2.*

2544 As used in this subdivision, the term "manufacturer" includes any person (i) who brews, vinifies, or  
2545 distills alcoholic beverages for sale or (ii) engaging in business as a contract brewer, winery, or distillery  
2546 that owns alcoholic beverage product brand rights, but arranges the manufacture of such products by  
2547 another person.

2548 3. Mixed beverage license if the Board determines that in the licensed establishment there (i) is  
2549 entertainment of a lewd, obscene or lustful nature including what is commonly called stripteasing,  
2550 topless entertaining, and the like, or which has employees who are not clad both above and below the  
2551 waist, or who uncommonly expose the body or (ii) are employees who solicit the sale of alcoholic  
2552 beverages.

2553 4. Wholesale wine license until the applicant has filed with the Board a bond payable to the  
2554 Commonwealth, in a sum not to exceed \$10,000, upon a form approved by the Board, signed by the  
2555 applicant or licensee and a surety company authorized to do business in the Commonwealth as surety,  
2556 and conditioned upon such person's (i) securing wine only in a manner provided by law, (ii) remitting to  
2557 the Board the proper tax thereon, (iii) keeping such records as may be required by law or Board  
2558 regulations, and (iv) abiding by such other laws or Board regulations relative to the handling of wine by  
2559 wholesale wine licensees. The Board may waive the requirement of both the surety and the bond in  
2560 cases where the wholesaler has previously demonstrated his financial responsibility.

2561 5. Mixed beverage license to any member, agent, or employee of the Board or to any corporation or  
2562 other business entity in which such member, agent or employee is a stockholder or has any other  
2563 economic interest.

2564 Whenever any other elective or appointive official of the Commonwealth or any political subdivision  
2565 thereof applies for such a license or continuance thereof, he shall state on the application the official  
2566 position he holds, and whenever a corporation or other business entity in which any such official is a  
2567 stockholder or has any other economic interests applies for such a license, it shall state on the  
2568 application the full economic interest of each such official in such corporation or other business entity.

2569 6. License authorized by this chapter until the license tax required by ~~§ 4.1-231~~ *4.1-231.1* is paid to  
2570 the Board.

2571 **§ 4.1-225.1. Summary suspension in emergency circumstances; grounds; notice and hearing.**

2572 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the  
2573 Administrative Process Act or § 4.1-227 or 4.1-229, the Board may summarily suspend any license or  
2574 permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily  
2575 injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises  
2576 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any  
2577 portion of public property immediately adjacent to the licensed premises, and the Board finds that there  
2578 exists a continuing threat to public safety and that summary suspension of the license or permit is  
2579 justified to protect the health, safety, or welfare of the public.

2580 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall  
2581 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of

any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation. Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period, the licensee may petition the Board for a restricted license pending the results of the formal investigation and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the Board shall have discretion to impose appropriate restrictions based on the facts presented.

C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a formal investigation. The formal investigation shall be completed within 10 days of its commencement and the findings reported immediately to the Secretary of the Board. If, following the formal investigation, the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held within five days of the completion of the formal investigation. A decision shall be rendered within 10 days of conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

D. Service of any order of suspension issued pursuant to this section shall be made by a special agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect immediately upon service.

E. This section shall not apply to (i) temporary licenses granted under § 4.1-211 or temporary permits granted under § 4.1-212, either of which may be revoked summarily in accordance with § 4.1-211, or (ii) licenses granted pursuant to *subdivision 7 or 8 of § 4.1-206.1 or subdivision 1 or 2 of § 4.1-207 or subdivision 4 or 5 of § 4.1-208* 4.1-206.2.

**§ 4.1-227. Suspension or revocation of licenses; notice and hearings; imposition of penalties.**

A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et seq.).

Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof, that are within the possession, custody, or control of the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee. In addition, any subpoena for the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought within ten working days, notwithstanding anything to the contrary in § 4.1-103.

If the Board fails to provide for inspection or copying under this section for the licensee after a written request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully been entitled to inspect or copy under this section.

The action of the Board in suspending or revoking any license or in imposing a civil penalty against the holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second violation occurring within five years immediately preceding the date of the second violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated, or interdicted persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second violation occurring within five years immediately preceding the date

2643 of the second violation in lieu of such suspension or any portion thereof, or both. Upon making a  
2644 finding that aggravating circumstances exist, the Board may also impose a requirement that the  
2645 licensee pay for the cost incurred by the Board not exceeding ~~\$10,000~~ \$25,000 in investigating the  
2646 licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil  
2647 penalty incurred.

2648 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of  
2649 his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a  
2650 consent agreement as authorized in subdivision 22 21 of § 4.1-103. The notice shall advise the licensee  
2651 or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive  
2652 any right to a hearing or an appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.);  
2653 and (c) (1) accept the proposed restrictions for operating under the license, (2) accept the period of  
2654 suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the  
2655 period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

2656 D. In case of an offense by the holder of a brewery license, the Board may (i) require that such  
2657 holder pay the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the  
2658 on-premises privileges of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first  
2659 violation, \$50,000 for the second violation, and for the third or any subsequent violation, suspend or  
2660 revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed  
2661 \$100,000. Such suspension or revocation shall not prohibit the licensee from manufacturing or selling  
2662 beer manufactured by it to the owners of boats registered under the laws of the United States sailing for  
2663 ports of call of a foreign country or another state, and to persons outside the Commonwealth.

2664 E. The Board shall, by regulation or written order:

2665 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an  
2666 initial hearing;

2667 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of  
2668 suspension may be accepted for a first offense occurring within three years immediately preceding the  
2669 date of the violation;

2670 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil  
2671 penalty for any retail licensee where the licensee can demonstrate that it provided to its employees  
2672 alcohol server or seller training certified in advance by the Board;

2673 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a  
2674 license and the civil charge acceptable in lieu of such suspension; and

2675 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the  
2676 licensee has had no prior violations within five years immediately preceding the date of the violation.  
2677 No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this  
2678 title or Board regulations.

2679 **§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.**

2680 A. Every person intending to apply for any license authorized by this chapter shall file with the  
2681 Board an application on forms provided by the Board and a statement in writing by the applicant  
2682 swearing and affirming that all of the information contained therein is true.

2683 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a  
2684 food establishment permit from the Department of Health or an inspection by the Department of  
2685 Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a  
2686 pending application for such permit, or proof of a pending request for such inspection. If the applicant  
2687 provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or  
2688 proof of a pending request for an inspection, a license may be issued to the applicant. If a license is  
2689 issued on the basis of a pending application or inspection, such license shall authorize the licensee to  
2690 purchase alcoholic beverages in accordance with the provisions of this title; however, the licensee shall  
2691 not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

2692 B. In addition, each applicant for a license under the provisions of this chapter, except applicants for  
2693 annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, ~~wine or~~  
2694 ~~beer shipper's~~, wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued  
2695 under the provisions of Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a  
2696 notice of his application with the Board on the front door of the building, place or room where he  
2697 proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice  
2698 shall be of a size and contain such information as required by the Board, including a statement that any  
2699 objections shall be submitted to the Board not more than 30 days following initial publication of the  
2700 notice required pursuant to this subsection.

2701 The applicant shall also cause notice to be published at least once a week for two consecutive weeks  
2702 in a newspaper published in or having a general circulation in the county, city, or town wherein such  
2703 applicant proposes to engage in such business. Such notice shall contain such information as required by  
2704 the Board, including a statement that any objections to the issuance of the license be submitted to the

Board not later than 30 days from the date of the initial newspaper publication. In the case of ~~wine or beer shipper's licensees~~, wine and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, *buses*, and airplanes, the posting and publishing of notice shall not be required.

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

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

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant to ~~§ 4.1-231~~ 4.1-231.1 and shall not be refunded.

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

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

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

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

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

F. *The Board shall have the authority to increase state license fees from the amounts set forth in § 4.1-231.1 as it was in effect on July 1, 2021. The Board shall set the amount of such increases on the basis of the consumer price index and shall not increase fees more than once every three years. Prior to implementing any state license fee increase, the Board shall provide notice to all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any license affected by the Board's proposed fee increases. Such notice shall be provided on or before November 1 in any year in which the Board has decided to increase state license fees, and such increases shall become effective July 1 of the following year.*

#### **§ 4.1-231.1. Fees on state licenses.**

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

1. *Manufacturer licenses. For each:*

a. *Distiller's license and limited distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$490; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,725; and if more than 36,000 gallons manufactured during such year, \$4,060;*

b. *Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$380; if not more than 10,000 barrels of beer*

2766 manufactured during the year in which the license is granted, \$2,350; and if more than 10,000 barrels  
 2767 manufactured during such year, \$4,690;  
 2768 c. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the  
 2769 license is granted, \$215, and if more than 5,000 gallons manufactured during such year, \$4,210;  
 2770 d. Farm winery license, \$245 for any Class A license and \$4,730 for any Class B license;  
 2771 e. Wine importer's license, \$460; and  
 2772 f. Beer importer's license, \$460.  
 2773 2. Wholesale licenses. For each:  
 2774 a. (1) Wholesale beer license, \$1,005 for any wholesaler who sells 300,000 cases of beer a year or  
 2775 less, \$1,545 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a  
 2776 year, and \$2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and  
 2777 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be  
 2778 the amount set forth in subdivision a (1), multiplied by the number of separate locations covered by the  
 2779 license;  
 2780 b. (1) Wholesale wine license, \$240 for any wholesaler who sells 30,000 gallons of wine or less per  
 2781 year, \$1,200 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000  
 2782 gallons of wine per year, \$1,845 for any wholesaler who sells more than 150,000 but not more than  
 2783 300,000 gallons of wine per year, and \$2,400 for any wholesaler who sells more than 300,000 gallons  
 2784 of wine per year; and  
 2785 (2) Wholesale wine license, including that granted pursuant to subdivision 3 of § 4.1-206.2,  
 2786 applicable to two or more premises, the annual state license tax shall be the amount set forth in  
 2787 subdivision b (1), multiplied by the number of separate locations covered by the license.  
 2788 3. Retail licenses - mixed beverage. For each:  
 2789 a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants  
 2790 located on premises of and operated by hotels or motels, or other persons:  
 2791 (1) With a seating capacity at tables for up to 100 persons, \$1,050;  
 2792 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,495;  
 2793 (3) With a seating capacity at tables for more than 150 persons but not more than 500 persons,  
 2794 \$1,980;  
 2795 (4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons,  
 2796 \$2,500; and  
 2797 (5) With a seating capacity at tables for more than 1,000 persons, \$3,100;  
 2798 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by  
 2799 private, nonprofit clubs:  
 2800 (1) With an average yearly membership of not more than 200 resident members, \$1,250;  
 2801 (2) With an average yearly membership of more than 200 but not more than 500 resident members,  
 2802 \$2,440; and  
 2803 (3) With an average yearly membership of more than 500 resident members, \$3,410;  
 2804 c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a  
 2805 casino gaming establishment, \$3,100 plus an additional \$5 for each gaming station located on the  
 2806 premises of the casino gaming establishment;  
 2807 d. Mixed beverage caterer's license, \$1,990;  
 2808 e. Mixed beverage limited caterer's license, \$550;  
 2809 f. Mixed beverage carrier license:  
 2810 (1) \$520 for each of the average number of dining cars, buffet cars, or club cars operated daily in  
 2811 the Commonwealth by a common carrier of passengers by train;  
 2812 (2) \$910 for each common carrier of passengers by boat;  
 2813 (3) \$520 for each common carrier of passengers by bus; and  
 2814 (4) \$2,360 for each license granted to a common carrier of passengers by airplane;  
 2815 g. Annual mixed beverage motor sports facility license, \$630;  
 2816 h. Limited mixed beverage restaurant license:  
 2817 (1) With a seating capacity at tables for up to 100 persons, \$945;  
 2818 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,385; and  
 2819 (3) With a seating capacity at tables for more than 150 persons, \$1,875;  
 2820 i. Annual mixed beverage performing arts facility license, \$630;  
 2821 j. Bed and breakfast license, \$100;  
 2822 k. Museum license, \$260;  
 2823 l. Motor car sporting event facility license, \$300;  
 2824 m. Commercial lifestyle center license, \$300;  
 2825 n. Mixed beverage port restaurant license, \$1,050; and  
 2826 o. Annual mixed beverage special events license, \$630.  
 2827 4. Retail licenses - on-and-off-premises wine and beer. For each on-and-off premises wine and beer

license, \$450.

5. Retail licenses - off-premises wine and beer. For each:

a. Retail off-premises wine and beer license, \$300;

b. Gourmet brewing shop license, \$320; and

c. Confectionery license, \$170.

6. Retail licenses - banquet, special event, and tasting licenses.

a. Per-day event licenses. For each:

(1) 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, which shall be \$100 per license;

(2) Mixed beverage special events license, \$45 for each day of each event;

(3) Mixed beverage club events license, \$35 for each day of each event; and

(4) Tasting license, \$40.

b. Annual licenses. For each:

(1) Annual banquet license, \$300;

(2) Banquet facility license, \$260;

(3) Local special events license, \$300;

(4) Annual mixed beverage banquet license, \$630;

(5) Equine sporting event license, \$300; and

(6) Annual arts venue event license, \$300.

7. Retail licenses - marketplace. For each marketplace license, \$1,000.

8. Retail licenses - shipper, bottler, and related licenses. For each:

a. Wine and beer shipper's license, \$230;

b. Internet wine and beer retailer license, \$240;

c. Bottler license, \$1,500;

d. Fulfillment warehouse license, \$210; and

e. Marketing portal license, \$285.

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

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

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

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

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

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

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

C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of state license taxes paid pursuant to subsection A of § ~~4.1-231~~ 4.1-231.1 if the place of business designated in the license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or similar natural disaster or phenomenon.

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

#### **§ 4.1-233.1. Fees on local licenses.**

2889 A. In addition to the state license taxes, the annual local license taxes that may be collected shall  
 2890 not exceed the following sums:

2891 1. Manufacturer licenses. For each:

2892 a. Distiller's license and limited distiller's license, if more than 5,000 gallons but not more than  
 2893 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during  
 2894 such year, \$1,000; and no local license shall be required for any person who manufactures not more  
 2895 than 5,000 gallons of alcohol or spirits, or both, during such license year;

2896 b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured  
 2897 during the year in which the license is granted, \$250, and if more than 10,000 barrels manufactured  
 2898 during such year, \$1,000;

2899 c. Winery license, \$50; and

2900 d. Farm winery license, \$50.

2901 2. Wholesale licenses. For each:

2902 a. Wholesale beer license, in a city, \$250, and in a county or town, \$75; and

2903 b. Wholesale wine license, \$50.

2904 3. Retail licenses - mixed beverage. For each:

2905 a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants  
 2906 located on premises of and operated by hotels or motels, or other persons:

2907 (1) With a seating capacity at tables for up to 100 persons, \$200;

2908 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350;

2909 (3) With a seating capacity at tables for more than 150 persons but not more than 500 persons,  
 2910 \$500;

2911 (4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons,  
 2912 \$650; and

2913 (5) With a seating capacity at tables for more than 1,000 persons, \$800;

2914 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by  
 2915 private, nonprofit clubs, \$350;

2916 c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a  
 2917 casino gaming establishment, \$800 plus an additional \$2 for each gaming station located on the  
 2918 premises of the casino gaming establishment;

2919 d. Mixed beverage caterer's license, \$500;

2920 e. Mixed beverage limited caterer's license, \$100;

2921 f. Annual mixed beverage motor sports facility license, \$300;

2922 g. Limited mixed beverage restaurant license:

2923 (1) With a seating capacity at tables for up to 100 persons, \$100;

2924 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250; or

2925 (3) With a seating capacity at tables for more than 150 persons, \$400;

2926 h. Annual mixed beverage performing arts facility license, \$300;

2927 i. Bed and breakfast license, \$40;

2928 j. Museum license, \$10;

2929 k. Motor car sporting event facility license, \$10;

2930 l. Commercial lifestyle center license, \$60; and

2931 m. Annual mixed beverage special events license, \$300.

2932 4. Retail licenses - on-and-off-premises wine and beer. For each on-and-off premises wine and beer  
 2933 license issued to:

2934 a. Hotels, restaurants, and clubs, in a city, \$150, and in a county or town, \$37.50;

2935 b. Hospitals, \$10;

2936 c. Rural grocery stores, \$37.50; and

2937 d. Historic cinema houses, \$20.

2938 5. Retail licenses - off-premises wine and beer. For each:

2939 a. Retail off-premises wine and beer license, in a city, \$150, and in a county or town, \$37.50;

2940 b. Gourmet brewing shop license, \$150; and

2941 c. Confectionery license, \$20.

2942 6. Retail licenses - banquet, special event, and tasting licenses. For each:

2943 a. Per-day event licenses. For each:

2944 (1) Banquet license, \$5 per license granted by the Board, except for banquet licenses granted by the  
 2945 Board pursuant to subsection A of § 4.1-215, which shall be \$20 per license;

2946 (2) Mixed beverage special events license, \$10 for each day of each event;

2947 (3) Mixed beverage club events license, \$10 for each day of each event; and

2948 (4) Tasting license, \$10.

2949 b. Annual licenses. For each:

2950 (1) Annual banquet license, \$15;



- (2) Local special events license, \$60;
- (3) Annual mixed beverage banquet license, \$75;
- (4) Equine sporting event license, \$10; and
- (5) Annual arts venue event license, \$10.
7. Retail licenses - marketplace. For each marketplace license, \$200.
8. Retail licenses - shipper, bottler, and related licenses. For each:
- a. Wine and beer shipper's license, \$10; and
- b. Bottler license, \$500.
- B. Common carriers. No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats, buses, or airplanes or (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.
- C. Merchants' and restaurants' license taxes. The governing body of each county, city, or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.
- The governing body of any county, city, or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.
- D. Delivery. No county, city, or town shall impose any local alcoholic beverage license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city, or town when such wholesaler maintains no place of business in such county, city, or town.
- E. Application of county tax within town. Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town imposes a town license tax on the same privilege.
- § 4.1-238. Bond required to secure excise tax liability on beer and wine coolers, and wine stored in bonded warehouses.**
- A. Every manufacturer, bottler, or wholesaler, as a condition precedent to obtaining a license to sell beer or wine coolers to a licensed retailer, shall file a bond with the Board in such sum and with such surety as the Board deems adequate to cover the tax liability of each such manufacturer, bottler, or wholesaler. The sum of such bond shall be proportioned to the volume of business of each such manufacturer, bottler, or wholesaler, but shall in no event be less than \$1,000 or more than \$100,000. Such bond shall be conditioned upon the payment by such manufacturer, bottler, or wholesaler of the tax imposed by § 4.1-236.
- B. Every holder of a bonded warehouse permit, issued in accordance with subdivision 14 13 of § 4.1-212, as a condition to obtaining the permit, shall file a bond with the Board in such sum and with such surety as the Board deems adequate to cover the tax liability of each such permittee. The sum of such bond shall be proportioned to the volume of business of each such manufacturer, bottler, or wholesaler, but shall in no event be less than \$1,000 or more than \$10,000. Such bond shall be conditioned upon the payment by the permittee of the tax imposed by § 4.1-234.
- C. The Board may waive the requirement of both the surety and the bond, in cases where a manufacturer, bottler, or wholesaler has previously demonstrated his financial responsibility.
- D. Upon the termination of the bond, its guaranty or surety, the Board, upon reasonable notice to the manufacturer, bottler, or wholesaler so licensed, may suspend the license so granted until such times as the required bond is filed or the proper surety or guaranty is given.
- § 4.1-310. Illegal importation, shipment and transportation of alcoholic beverages; penalty; exception.**
- A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported, or brought into the Commonwealth, other than to distillery licensees or winery licensees, unless consigned

3012 to the Board. However, the Board may permit such alcoholic beverages ordered by it from outside the  
3013 Commonwealth for (i) persons, for industrial purposes, (ii) the manufacture of articles allowed to be  
3014 manufactured under § 4.1-200, or (iii) hospitals, to be shipped or transported directly to such persons.  
3015 On such orders or shipments of alcohol, the Board shall charge only a reasonable permit fee.

3016 B. Except as otherwise provided in *subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1*, no wine  
3017 shall be imported, shipped, transported or brought into the Commonwealth unless it is consigned to a  
3018 wholesale wine licensee.

3019 C. Except as otherwise provided in *subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1*, no beer  
3020 shall be imported, shipped, transported or brought into the Commonwealth except to persons licensed to  
3021 sell it.

3022 D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

3023 E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal  
3024 possession, or through United States Customs in his accompanying baggage, into the Commonwealth not  
3025 for resale, alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the  
3026 alcoholic beverages being transported is held in metric-sized containers, (ii) the shipment or  
3027 transportation into the Commonwealth of a reasonable quantity of alcoholic beverages not for resale in  
3028 the personal or household effects of a person relocating his place of residence to the Commonwealth, or  
3029 (iii) the possession or storage of alcoholic beverages on passenger boats, dining cars, buffet cars and  
3030 club cars, licensed under this title, or common carriers engaged in interstate or foreign commerce.

3031 **§ 4.1-310.1. Delivery of wine or beer to retail licensee.**

3032 Except as otherwise provided in this title or in Board regulation, no wine or beer may be shipped or  
3033 delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to the  
3034 licensed premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the  
3035 wholesaler for not less than four hours prior to reloading on a vehicle, and (iii) recorded in the  
3036 wholesaler's inventory. Any holder of a restricted wholesale wine license issued pursuant to ~~§ 4.1-207.1~~  
3037 *subdivision 3 of § 4.1-206.2* shall be exempt from the requirement set forth in clause (ii).

3038 **§ 4.1-325. Prohibited acts by mixed beverage licensees; penalty.**

3039 A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee  
3040 shall:

3041 1. Sell or serve any alcoholic beverage other than as authorized by law;  
3042 2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;  
3043 3. Allow at the place described in his license the consumption of alcoholic beverages in violation of  
3044 this title;

3045 4. Keep at the place described in his license any alcoholic beverage other than that which he is  
3046 licensed to sell;

3047 5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

3048 6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by  
3049 him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink  
3050 dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by  
3051 the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board  
3052 regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee  
3053 from premixing containers of sangria, to which spirits may be added, to be served and sold for  
3054 consumption on the licensed premises;

3055 7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper  
3056 with the contents of any bottle or container of alcoholic beverage, except as provided by Board  
3057 regulation adopted pursuant to subdivision B 11 of § 4.1-111;

3058 8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the  
3059 purchaser without first advising such purchaser of the difference;

3060 9. Remove or obliterate any label, mark, or stamp affixed to any container of alcoholic beverages  
3061 offered for sale;

3062 10. Deliver or sell the contents of any container if the label, mark, or stamp has been removed or  
3063 obliterated;

3064 11. Allow any obscene conduct, language, literature, pictures, performance, or materials on the  
3065 licensed premises;

3066 12. Allow any striptease act on the licensed premises;

3067 13. Allow persons connected with the licensed business to appear nude or partially nude;

3068 14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty  
3069 and in a position that is involved in the selling or serving of alcoholic beverages to customers.

3070 The provisions of this subdivision shall not prohibit any retail licensee or his designated employee  
3071 from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative  
3072 of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of  
3073 the Board who represents a distiller, if such samples are provided in accordance with Board regulations

and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § ~~4.1-210~~ 4.1-206.3.

The provisions of this subdivision shall not apply to the delivery of:

a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage distilled from rice, barley or sweet potatoes; or

b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;

16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

17. Conceal any sale or consumption of any alcoholic beverages;

18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;

19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;

20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling;

21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine or apparatus;

22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision A 11 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subdivision shall be subject to the taxes imposed by this title on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision; or

23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

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

C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

#### **§ 4.1-325.1. Falsifying application; penalty.**

It shall be unlawful for any applicant for a banquet or special events license pursuant to § ~~4.1-209~~, or mixed beverage special events license pursuant to § ~~4.1-210~~ 4.1-206.3 to knowingly make a false statement in order to secure a license or to alter, change, borrow, or lend or attempt to use, borrow, or lend a license. Any person violating this provision shall be guilty of a Class 3 misdemeanor.

#### **§ 4.1-325.2. Prohibited acts by employees of wine or beer licensees; penalty.**

A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be agents of the retail wine or beer licensee.

C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so

3135 long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to  
 3136 a person responsible for the planning, preparation or conduct on any conference, convention, trade show  
 3137 or event held or to be held on the premises of the licensee, when such gift is made in the course of  
 3138 usual and customary business entertainment and is in no way a shift or device to evade the restriction  
 3139 set forth in this subsection; (iii) pursuant to subsection ~~D~~ B of § 4.1-209; (iv) pursuant to subdivision A  
 3140 ~~11~~ 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall  
 3141 be subject to the taxes imposed by this title on sales of alcoholic beverages. The licensee shall keep  
 3142 complete and accurate records of gifts given in accordance with this subsection.

3143 D. Any person convicted of a violation of this section shall be subject to a civil penalty in an  
 3144 amount not to exceed \$500.

3145 **§ 4.1-327. Prohibiting transfer of wine or beer by licensees; penalty.**

3146 A. No retail licensee, except ~~(i)~~ a retail on-premises wine and beer licensee ~~or (ii)~~ a retail  
 3147 ~~on-premises beer licensee~~, shall transfer any wine or beer from one licensed place of business to another  
 3148 licensed place of business whether such places of business are under the same ownership or not.

3149 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

3150 **§ 15.2-912.3. Regulation of dance halls by counties, cities, and towns.**

3151 For the purposes of this section, "public dance hall" means any place open to the general public  
 3152 where dancing is permitted; however, a restaurant located in any city licensed under ~~§ 4.1-210~~  
 3153 ~~subsection A of § 4.1-206.3~~ to serve food and beverages having a dance floor with an area not exceeding  
 3154 10 percent of the total floor area of the establishment shall not be considered a public dance hall.

3155 Any locality may by ordinance regulate public dance halls in such locality; and prescribe punishment  
 3156 for violation of such ordinance not to exceed that prescribed for a Class 3 misdemeanor.

3157 Such ordinance shall prescribe for: (i) the issuance of permits to operate public dance halls, grounds  
 3158 for revocation and procedure for revocation of such permits; (ii) a license tax not to exceed \$600 on  
 3159 every person operating or conducting any such dance hall; and (iii) rules and regulations for the  
 3160 operation of such dance halls. Such ordinances may exempt from their operation dances held for  
 3161 benevolent or charitable purposes and dances conducted under the auspices of religious, educational,  
 3162 civic, or military organizations.

3163 No county ordinance adopted under the provisions of this section shall be in effect in any town in  
 3164 which an ordinance adopted under the provisions of this section is in effect.

3165 **§ 15.2-2288.3. Licensed farm wineries; local regulation of certain activities.**

3166 A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine  
 3167 industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the  
 3168 citizens of the Commonwealth; and to permit the reasonable expectation of uses in specific zoning  
 3169 categories. Local restriction upon such activities and events of farm wineries licensed in accordance with  
 3170 Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic  
 3171 impact on the farm winery of such restriction, the agricultural nature of such activities and events, and  
 3172 whether such activities and events are usual and customary for farm wineries throughout the  
 3173 Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without  
 3174 local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No  
 3175 local ordinance regulating noise, other than outdoor amplified music, arising from activities and events  
 3176 at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor  
 3177 amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and  
 3178 nearby residents.

3179 B, C. [Expired.]

3180 D. No locality may treat private personal gatherings held by the owner of a licensed farm winery  
 3181 who resides at the farm winery or on property adjacent thereto that is owned or controlled by such  
 3182 owner at which gatherings wine is not sold or marketed and for which no consideration is received by  
 3183 the farm winery or its agents differently from private personal gatherings by other citizens.

3184 E. No locality shall regulate any of the following activities of a farm winery licensed in accordance  
 3185 with subdivision ~~5~~ 6 of § ~~4.1-207~~ 4.1-206.1:

3186 1. The production and harvesting of fruit and other agricultural products and the manufacturing of  
 3187 wine;

3188 2. The on-premises sale, tasting, or consumption of wine during regular business hours within the  
 3189 normal course of business of the licensed farm winery;

3190 3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title  
 3191 4.1 and regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority;

3192 4. The sale and shipment of wine to the Virginia Alcoholic Beverage Control Authority, licensed  
 3193 wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Board of  
 3194 Directors of the Virginia Alcoholic Beverage Control Authority, and federal law;

3195 5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the  
 3196 Board of Directors of the Virginia Alcoholic Beverage Control Authority, and federal law; or

6. The sale of wine-related items that are incidental to the sale of wine.

**§ 15.2-2288.3:1. Limited brewery license; local regulation of certain activities.**

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia beer industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and public events of breweries licensed pursuant to subdivision 2 4 of § ~~4.1-208~~ 4.1-206.1 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed brewery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed breweries. Usual and customary activities and events at such licensed breweries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at such licensed breweries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at such licensed brewery, the locality shall consider the effect on adjacent property owners and nearby residents.

B. No locality shall regulate any of the following activities of a brewery licensed under subdivision 2 4 of § ~~4.1-208~~ 206.1:

1. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products and the manufacturing of beer;

2. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery;

3. The direct sale and shipment of beer in accordance with Title 4.1 and regulations of the Board of Directors of the Alcoholic Beverage Control Authority;

4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Board of Directors of the Alcoholic Beverage Control Authority, and federal law;

5. The storage and warehousing of beer in accordance with Title 4.1, regulations of the Board of Directors of the Alcoholic Beverage Control Authority, and federal law; or

6. The sale of beer-related items that are incidental to the sale of beer.

C. Any locality may exempt any brewery licensed in accordance with subdivision 2 4 of § ~~4.1-208~~ 4.1-206.1 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

**§ 15.2-2288.3:2. Limited distiller's license; local regulation of certain activities.**

A. Local restriction upon activities of distilleries licensed pursuant to subdivision 2 of § ~~4.1-206~~ 4.1-206.1 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed distillery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed distilleries. Usual and customary activities and events at such licensed distilleries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public.

B. No locality shall regulate any of the following activities of a distillery licensed under subdivision 2 of § ~~4.1-206~~ 4.1-206.1:

1. The production and harvesting of agricultural products and the manufacturing of alcoholic beverages other than wine or beer;

2. The on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer during regular business hours in accordance with a contract between a distillery and the Alcoholic Beverage Control Board pursuant to the provisions of subsection D of § 4.1-119;

3. The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;

4. The storage and warehousing of alcoholic beverages other than wine or beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or

5. The sale of items related to alcoholic beverages other than wine or beer that are incidental to the sale of such alcoholic beverages.

C. Any locality may exempt any distillery licensed in accordance with subdivision 2 of § ~~4.1-206~~ 4.1-206.1 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

**§ 40.1-100. Certain employment prohibited or limited.**

A. No child under 18 years of age shall be employed, permitted, or suffered to work:

1. In any mine, quarry, tunnel, underground scaffolding work; in or about any plant or establishment manufacturing or storing explosives or articles containing explosive components; in any occupation involving exposure to radioactive substances or to ionizing radiations including X-ray equipment;

3258 2. At operating or assisting to operate any grinding, abrasive, polishing or buffing machine, any  
3259 power-driven metal forming, punching or shearing machine, power-driven bakery machine, power-driven  
3260 paper products machine, any circular saw, band saw or guillotine shear, or any power-driven  
3261 woodworking machine;

3262 3. In oiling or assisting in oiling, wiping and cleaning any such machinery;

3263 4. In any capacity in preparing any composition in which dangerous or poisonous chemicals are  
3264 used;

3265 5. In any capacity in the manufacturing of paints, colors, white lead, or brick tile or kindred  
3266 products, or in any place where goods of alcoholic content are manufactured, bottled, or sold for  
3267 consumption on the premises except in places (i) licensed pursuant to subdivision 5 6 of § 4.1-207  
3268 4.1-206.1, provided that a child employed at the premises shall not serve or dispense in any manner  
3269 alcoholic beverages or (ii) where the sale of alcoholic beverages is merely incidental to the main  
3270 business actually conducted, or to deliver alcoholic goods;

3271 6. In any capacity in or about excavation, demolition, roofing, wrecking or shipbreaking operations;

3272 7. As a driver or a helper on an automobile, truck, or commercial vehicle; however, children who are  
3273 at least 17 years of age may drive automobiles or trucks on public roadways if:

3274 a. The automobile or truck does not exceed 6,000 pounds gross vehicle weight, the vehicle is  
3275 equipped with seat belts for the driver and any passengers, and the employer requires the employee to  
3276 use the seatbelts when driving the automobile or truck;

3277 b. Driving is restricted to daylight hours;

3278 c. The employee has a valid State license for the type of driving involved and has no record of any  
3279 moving violations at the time of hire;

3280 d. The employee has successfully completed a State-approved driver education course;

3281 e. The driving does not involve: (i) the towing of vehicles; (ii) route deliveries or route sales; (iii)  
3282 the transportation for hire of property, goods, or passengers; (iv) urgent, time-sensitive deliveries; or (v)  
3283 the transporting at any time of more than three passengers, including the employees of the employer;

3284 f. The driving performed by the employee does not involve more than two trips away from the  
3285 primary place of employment in any single day for the purpose of delivering goods of the employee's  
3286 employer to a customer;

3287 g. The driving performed by the employee does not involve more than two trips away from the  
3288 primary place of employment in any single day for the purpose of transporting passengers, other than  
3289 employees of the employer;

3290 h. The driving takes place within a 30-mile radius of the employee's place of employment; and

3291 i. The driving is only occasional and incidental to the employee's employment and involves no more  
3292 than one third of the employee's work time in any workday and no more than 20 percent work time in  
3293 any work week;

3294 8. In logging or sawmilling, or in any lath mill, shingle mill or cooperage-stock mill, or in any  
3295 occupation involving slaughtering, meatpacking, processing or rendering;

3296 9. In any occupation determined and declared hazardous by rules and regulations promulgated by the  
3297 Commissioner of Labor and Industry, except as otherwise provided in subsection D.

3298 Notwithstanding the provisions of this section, children 16 years of age or older who are serving a  
3299 voluntary apprenticeship as provided in Chapter 6 (§ 40.1-117 et seq.) of this title may be employed in  
3300 any occupation in accordance with rules and regulations promulgated by the Commissioner.

3301 B. Except as part of a regular work-training program in accordance with §§ 40.1-88 and 40.1-89, no  
3302 child under 16 years of age shall be employed, permitted or suffered to work:

3303 1. In any manufacturing or mechanical establishment, in any commercial cannery; in the operation of  
3304 any automatic passenger or freight elevator; in any dance studio; or in any hospital, nursing home,  
3305 clinic, or other establishment providing care for resident patients as a laboratory helper, therapist,  
3306 orderly, or nurse's aide; in the service of any veterinarian while treating farm animals or horses; in any  
3307 warehouse; in processing work in any laundry or dry cleaning establishment; in any undertaking  
3308 establishment or funeral home; in any curb service restaurant, in hotel and motel room service; in any  
3309 brick, coal or lumber yard or ice plant or in ushering in theaters. Children 14 years of age or more may  
3310 be engaged in office work of a clerical nature in bona fide office rooms in the above types of  
3311 establishments.

3312 2. In any scaffolding work or construction trade; or in any outdoor theater, cabaret, carnival, fair,  
3313 floor show, pool hall, club, or roadhouse; or as a lifeguard at a beach.

3314 C. Children 14 years of age or more may be employed by dry cleaning or laundry establishments in  
3315 branch stores where no processing is done on the premises, and in hospitals, nursing homes, and clinics  
3316 where they may be engaged in kitchen work, tray service or room and hall cleaning. Children 14 years  
3317 of age or more may be employed in bowling alleys completely equipped with automatic pin setters, but  
3318 not in or about such machines, and in soda fountains, restaurants and hotel and motel food service  
3319 departments. Children 14 years of age or more may work as gatekeepers and in concessions at

swimming pools and may be employed by concessionaires operating on beaches where their duties and work pertain to the handling and distribution of beach chairs, umbrellas, floats and other similar or related beach equipment.

D. Notwithstanding any other provision of this chapter:

1. Children ~~aged~~ *age* 16 years or older employed on farms, in gardens or in orchards may operate, assist in operating, or otherwise perform work involving a truck, excluding a tractor trailer, or farm vehicle as defined in § 46.2-1099, in their employment;

2. Children ~~aged~~ *age* 14 years or older employed on farms, in gardens or in orchards may perform work as a helper on a truck or commercial vehicle in their employment, while engaged in such work exclusively on a farm, in a garden or in an orchard;

3. Children ~~aged~~ *age* 16 years or older may participate in all activities of a volunteer fire company; however, any such child shall not enter a burning structure or a structure which contains burning materials prior to obtaining certification under National Fire Protection Association 1001, level one, fire fighter standards, pursuant to the provisions of clause (i) of subsection A of § 40.1-79.1, except where entry into a structure that contains burning materials is during training necessary to attain certification under National Fire Protection Association 1001, level one, firefighter standards, as administered by the Department of Fire Programs.

**§ 58.1-339.12. Farm wineries and vineyards tax credit.**

A. As used in this section, unless the context requires a different meaning:

"Qualified capital expenditures" means all expenditures made by the taxpayer for the purchase and installation of barrels, bins, bottling equipment, capsuling equipment, chemicals, corks, crushers and destemmers, dirt, fermenters, or other recognized fermentation devices, fertilizer and soil amendments, filters, grape harvesters, grape plants, hoses, irrigation equipment, labeling equipment, poles, posts, presses, pumps, refractometers, refrigeration equipment, seeders, tanks, tractors, vats, weeding and spraying equipment, wine tanks, and wire.

"Virginia vineyard" means agricultural lands located in the Commonwealth consisting of at least one contiguous acre dedicated to the growing of grapes that are used or are intended to be used in the production of wine by a Virginia farm winery as well as any plants or other improvements located thereon.

"Virginia farm winery" means an establishment located in the Commonwealth that is licensed as a Virginia farm winery pursuant to § ~~4.1-207~~ *4.1-206.1*.

B. For taxable years beginning on and after January 1, 2011, any Virginia farm winery or vineyard shall be entitled to a credit against the tax levied pursuant to §§ 58.1-320 and 58.1-400 for qualified capital expenditures made in connection with the establishment of new Virginia farm wineries or vineyards and capital improvements made to existing Virginia farm wineries or vineyards. The amount of the credit shall be equal to 25 percent of all qualified capital expenditures.

C. The total amount of tax credits available under this section for a calendar year shall not exceed \$250,000. In the event that applications for such credit exceed \$250,000 for any calendar, the Department of Taxation shall allocate the credits on a pro rata basis.

D. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the excess may be carried over for credit against the income taxes of the taxpayer in the next 10 taxable years, or until the total credit amount has been taken, whichever occurs first.

E. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

F. The credit allowed in this section shall not be claimed to the extent the taxpayer has claimed a deduction for the same expenses for federal income tax purposes under § 179 of the Internal Revenue Code, as amended.

**§ 58.1-609.3. Commercial and industrial exemptions.**

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Personal property purchased by a contractor which is used solely in another state or in a foreign country, which could be purchased by such contractor for such use free from sales tax in such other state or foreign country, and which is stored temporarily in Virginia pending shipment to such state or country.

2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of tangible personal property for resale where such industrial materials either enter into the production of or become a component part of the finished product; (ii) industrial materials that are coated upon or impregnated into the product at any stage of its being processed, manufactured, refined, or converted for resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or

3381 supplies, used directly in processing, manufacturing, refining, mining or converting products for sale or  
3382 resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging  
3383 tangible personal property for shipment or sale; or (v) equipment, printing or supplies used directly to  
3384 produce a publication described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail or  
3385 for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or  
3386 replacements thereof, shall be exempt if the preponderance of their use is directly in processing,  
3387 manufacturing, refining, mining or converting products for sale or resale. The provisions of this  
3388 subsection do not apply to the drilling or extraction of oil, gas, natural gas and coalbed methane gas. In  
3389 addition, the exemption provided herein shall not be applicable to any machinery, tools, and equipment,  
3390 or any other tangible personal property used by a public service corporation in the generation of electric  
3391 power, except for raw materials that are inputs to production of electricity, including fuel, or for  
3392 machinery, tools, and equipment used to generate energy derived from sunlight or wind. The exemption  
3393 for machinery, tools, and equipment used to generate energy derived from sunlight or wind shall expire  
3394 June 30, 2027.

3395 3. Tangible personal property sold or leased to a public service corporation engaged in business as a  
3396 common carrier of property or passengers by railway, for use or consumption by such common carrier  
3397 directly in the rendition of its public service.

3398 4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in  
3399 interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying  
3400 the high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states  
3401 of the United States or its territories or possessions, or in foreign commerce between ports in the  
3402 Commonwealth and ports in foreign countries, when delivered directly to such ships or vessels; or  
3403 tangible personal property used directly in the building, conversion or repair of the ships or vessels  
3404 covered by this subdivision. This exemption shall include dredges, their supporting equipment, attendant  
3405 vessels, and fuel and supplies for use or consumption aboard such vessels, provided the dredges are used  
3406 exclusively or principally in interstate or foreign commerce.

3407 5. Tangible personal property purchased for use or consumption directly and exclusively in basic  
3408 research or research and development in the experimental or laboratory sense.

3409 6. Notwithstanding the provisions of subdivision 20 of § 58.1-609.10, all tangible personal property  
3410 sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier  
3411 providing scheduled air service on a continuing basis to one or more Virginia airports at least one day  
3412 per week, for use or consumption by such airline directly in the rendition of its common carrier service.

3413 7. Meals furnished by restaurants or food service operators to employees as a part of wages.

3414 8. Tangible personal property including machinery and tools, repair parts or replacements thereof,  
3415 and supplies and materials used directly in maintaining and preparing textile products for rental or  
3416 leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile  
3417 products.

3418 9. Certified pollution control equipment and facilities as defined in § 58.1-3660, except for any  
3419 equipment that has not been certified to the Department of Taxation by a state certifying authority  
3420 pursuant to such section.

3421 10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption  
3422 directly in the rendition of their services.

3423 11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of  
3424 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or  
3425 photocopying of products for sale or resale.

3426 12. From July 1, 1994, and ending July 1, 2022, raw materials, fuel, power, energy, supplies,  
3427 machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling,  
3428 extraction, or processing of natural gas or oil and the reclamation of the well area. For the purposes of  
3429 this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane gas" as  
3430 defined in § 45.1-361.1. For the purposes of this section, "drilling," "extraction," and "processing" shall  
3431 include production, inspection, testing, dewatering, dehydration, or distillation of raw natural gas into a  
3432 usable condition consistent with commercial practices, and the gathering and transportation of raw  
3433 natural gas to a facility wherein the gas is converted into such a usable condition. Machinery, tools and  
3434 equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their  
3435 use is directly in the drilling, extraction, refining, or processing of natural gas or oil for sale or resale, or  
3436 in well area reclamation activities required by state or federal law.

3437 13. Beginning July 1, 1997, (i) the sale, lease, use, storage, consumption, or distribution of an orbital  
3438 or suborbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind  
3439 possessing space flight capability, including the components thereof, irrespective of whether such  
3440 facility, system, vehicle, satellite, or station is returned to this Commonwealth for subsequent use,  
3441 storage or consumption in any manner when used to conduct spaceport activities; (ii) the sale, lease, use,  
3442 storage, consumption or distribution of tangible personal property placed on or used aboard any orbital



or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind, irrespective of whether such tangible personal property is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (iii) fuels of such quality not adapted for use in ordinary vehicles, being produced for, sold and exclusively used for space flight when used to conduct spaceport activities; (iv) the sale, lease, use, storage, consumption or distribution of machinery and equipment purchased, sold, leased, rented or used exclusively for spaceport activities and the sale of goods and services provided to operate and maintain launch facilities, launch equipment, payload processing facilities and payload processing equipment used to conduct spaceport activities.

For purposes of this subdivision, "spaceport activities" means activities directed or sponsored at a facility owned, leased, or operated by or on behalf of the Virginia Commercial Space Flight Authority.

The exemptions provided by this subdivision shall not be denied by reason of a failure, postponement or cancellation of a launch of any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind or the destruction of any launch vehicle or any components thereof.

14. Semiconductor cleanrooms or equipment, fuel, power, energy, supplies, or other tangible personal property used primarily in the integrated process of designing, developing, manufacturing, or testing a semiconductor product, a semiconductor manufacturing process or subprocess, or semiconductor equipment without regard to whether the property is actually contained in or used in a cleanroom environment, touches the product, is used before or after production, or is affixed to or incorporated into real estate.

15. Semiconductor wafers for use or consumption by a semiconductor manufacturer.

16. Railroad rolling stock when sold or leased by the manufacturer thereof.

17. Computer equipment purchased or leased on or before June 30, 2011, used in data centers located in a Virginia locality having an unemployment rate above 4.9 percent for the calendar quarter ending November 2007, for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware when part of a new investment of at least \$75 million in such exempt property, when such investment results in the creation of at least 100 new jobs paying at least twice the prevailing average wage in that locality, so long as such investment was made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority entered into or amended between January 1, 2008, and December 31, 2008. The exemption shall also apply to any such computer equipment purchased or leased to upgrade, add to, or replace computer equipment purchased or leased in the initial investment. The exemption shall not apply to any computer software sold separately from the computer equipment, nor shall it apply to general building improvements or fixtures.

18. Beginning July 1, 2010, and ending June 30, 2035, computer equipment or enabling software purchased or leased for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware, including chillers and backup generators used or to be used in the operation of the equipment exempted in this paragraph, provided that such computer equipment or enabling software is purchased or leased for use in a data center that (i) is located in a Virginia locality, (ii) results in a new capital investment on or after January 1, 2009, of at least \$150 million, and (iii) results in the creation on or after July 1, 2009, of at least 50 new jobs by the data center operator and the tenants of the data center, collectively, associated with the operation or maintenance of the data center provided that such jobs pay at least one and one-half times the prevailing average wage in that locality. The requirement of at least 50 new jobs is reduced to 25 new jobs if the data center is located in a locality that has an unemployment rate for the preceding year of at least 150 percent of the average statewide unemployment rate for such year as determined by the Virginia Economic Development Partnership or is located in an enterprise zone. This exemption applies to the data center operator and the tenants of the data center if they collectively meet the requirements listed in this section. Prior to claiming such exemption, any qualifying person claiming the exemption, including a data center operator on behalf of itself and its tenants, must enter into a memorandum of understanding with the Virginia Economic Development Partnership Authority that at a minimum provides the details for determining the amount of capital investment made and the number of new jobs created, the timeline for achieving the capital investment and new job goals, the repayment obligations should those goals not be achieved, and any conditions under which repayment by the qualifying data center or data center tenant claiming the exemption may be required. In addition, the exemption shall apply to any such computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the initial investment. The exemption shall not apply to any other computer software otherwise taxable under Chapter 6 of Title 58.1 that is sold or leased separately from the computer equipment, nor shall it apply to general building improvements or other fixtures.

3504 19. If the preponderance of their use is in the manufacture of beer by a brewer licensed pursuant to  
3505 subdivision 1 or 2 3 or 4 of § ~~4.1-208~~ 4.1-206.1, (i) machinery, tools, and equipment, or repair parts  
3506 therefor or replacements thereof, fuel, power, energy, or supplies; (ii) materials for future processing,  
3507 manufacturing, or conversion into beer where such materials either enter into the production of or  
3508 become a component part of the beer; and (iii) materials, including containers, labels, sacks, cans,  
3509 bottles, kegs, boxes, drums, or bags for future use, for packaging the beer for shipment or sale.  
3510 2. That §§ 4.1-206, 4.1-207, 4.1-207.1, 4.1-208, 4.1-210, 4.1-220, 4.1-231, and 4.1-233 of the Code of  
3511 Virginia are repealed.  
3512 3. That the provisions of the first, second, and fourth enactments of this act shall become effective  
3513 on July 1, 2021, except for the provisions of the first enactment that amend the definition of low  
3514 alcohol beverage cooler set forth in § 4.1-100 of the Code of Virginia, as amended by this act,  
3515 which shall become effective July 1, 2020.  
3516 4. That subsection A of § 4.1-231.1 of the Code of Virginia, as created by this act, shall expire  
3517 when the Board of Directors of the Virginia Alcoholic Beverage Control Authority (the Board)  
3518 provides notice to the Division of Legislative Services that the Board has increased state license  
3519 fees in accordance with the provisions of subsection F of § 4.1-230 of the Code of Virginia, as  
3520 amended by this act.  
3521 5. That any person who (i) is licensed pursuant to subdivision A 9, 11, 12, 14, 18, or 19 of  
3522 § 4.1-206 of the Code of Virginia, as it was in effect prior to July 1, 2020, and (ii) wishes to  
3523 maintain licensure after June 30, 2021, shall apply for a marketplace license on or before January  
3524 1, 2021.  
3525 6. That the Board of Directors of the Virginia Alcoholic Beverage Control Authority may  
3526 promulgate regulations that allow a licensee who holds a license that is repealed by the provisions  
3527 of this act to continue to operate under such license until the expiration of its original term.  
3528 7. That any farm winery, limited brewery, or limited distillery that, prior to July 1, 2016, (i) holds  
3529 a valid license granted by the Board of Directors of the Virginia Alcoholic Beverage Control  
3530 Authority (the Board) in accordance with Title 4.1 of the Code of Virginia and (ii) is in  
3531 compliance with the local zoning ordinance as an agricultural district or classification or as  
3532 otherwise permitted by a locality for farm winery, limited brewery, or limited distillery use shall  
3533 be allowed to continue such use as provided in § 15.2-2307 of the Code of Virginia,  
3534 notwithstanding (a) the provisions of § 4.1-206.1 of the Code of Virginia, as created by this act, or  
3535 (b) a subsequent change in ownership of the farm winery, limited brewery, or limited distillery on  
3536 or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm  
3537 winery, limited brewery, or limited distillery located on land zoned residential conservation prior  
3538 to July 1, 2016, may expand any existing building or structure and the uses thereof so long as  
3539 specifically approved by the locality by special exception. Any such farm winery, limited brewery,  
3540 or limited distillery located on land zoned residential conservation prior to July 1, 2016, may  
3541 construct a new building or structure so long as specifically approved by the locality by special  
3542 exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of  
3543 Virginia and Board regulations for renewal of such license or the issuance of a new license in the  
3544 event of a change in ownership of the farm winery, limited brewery, or limited distillery on or  
3545 after July 1, 2016.  
3546 8. That on or after July 1, 2020, the Board of Directors of the Virginia Alcoholic Beverage Control  
3547 Authority may issue mixed beverage carrier licenses to persons operating a common carrier of  
3548 passengers by bus, which shall authorize the licensee to sell and serve mixed beverages anywhere  
3549 in the Commonwealth to passengers while in transit aboard any such common carrier. The state  
3550 license fee for any such license granted prior to July 1, 2021, shall be \$190. Such license shall  
3551 automatically authorize the licensee to obtain a license to sell and serve wine and beer for  
3552 on-premises consumption; however, the licensee shall be required to pay the local fee required for  
3553 such additional license. For the purposes of this enactment, "bus" means a motor vehicle that (i) is  
3554 operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 of the  
3555 Code of Virginia to transport passengers for compensation over the highways of the  
3556 Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than  
3557 24 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is  
3558 equipped with charging stations at every seat for cellular phones or other portable devices, and  
3559 (vi) during the transportation of passengers, is staffed by an attendant who has satisfied all  
3560 training requirements set forth in Title 4.1 of the Code of Virginia or Board regulation.  
3561 9. That the Board of Directors of the Virginia Alcoholic Beverage Control Authority (the Board)  
3562 shall promulgate regulations to implement the provisions of this act. The Board's initial adoption  
3563 of regulations necessary to implement the provisions of this act shall be exempt from the  
3564 Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall  
3565 provide an opportunity for public comment on the regulations prior to adoption.