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HOUSE BILL NO. 1250

Offered January 20, 2022

A BILL to amend and reenact §§ 4.1-100 and 4.1-206.3, as it is currently effective and as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 4.1-209.2, relating to alcoholic beverage control; marketplace facilitator license.

Patron—Fowler

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100 and 4.1-206.3, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-209.2 as follows:

§ 4.1-100. Definitions.

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

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

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

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

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

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

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

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

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

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

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

"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

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59 forth in this title or Board regulation.

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

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

72 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum of
73 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain
74 stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a
75 physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial
76 owners' association that is responsible for the management, maintenance, and operation of the common
77 areas thereof.

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

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

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

93 "Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a
94 building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the
95 Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service
96 kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and
97 recreational and educational activities related to farming, livestock, and other rural activities.

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

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

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

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

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

106 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned
107 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for
108 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
109 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned
110 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing
111 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for
112 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
113 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher
114 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine
115 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
116 manufactured by the institution shall be stored on the premises of such farm winery that shall be
117 separate and apart from all other facilities of the institution, and (d) such farm winery is operated in
118 strict conformance with the requirements of this clause (ii) and Board regulations. As used in this
119 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of
120 individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a

farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

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

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

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

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

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

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

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

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

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

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

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

"Licensed" means the holding of a valid license 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.

"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 may be manufactured by a licensed distiller or a distiller located outside the Commonwealth.

"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.

"Marketplace facilitator" means a business that holds a license as a wine or beer retailer from the state where it maintains its principal place of business and that contracts with a winery or brewery to facilitate the sale of the winery's or brewery's products through a physical or electronic marketplace and (i) engages, either directly or indirectly, in (a) transmitting or communicating an offer or acceptance between a buyer and a winery or brewery, (b) owning or operating the electronic or

182 *physical infrastructure or technology that brings buyers and wineries or breweries together, or (c)*
183 *providing a virtual currency that buyers can use to purchase products from the winery or brewery and*
184 *(ii) conducts the following activities with respect to a winery's or brewery's products:*

- 185 1. *Payment processing;*
- 186 2. *Listing products for sale;*
- 187 3. *Setting prices for products;*
- 188 4. *Branding sales as those of the marketplace facilitator;*
- 189 5. *Providing customer service or accepting or assisting with returns and exchanges; and*
- 190 6. *Collecting and paying sales and excise taxes on all sales of wine or beer that it sells to Virginia*
191 *consumers.*

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

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

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

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

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

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

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

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

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

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

239 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities
240 located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with
241 voluntary membership which, as its primary function, makes available golf, ski, and other recreational
242 facilities both to its members and to the general public; or (iii) operated by a corporation that operates
243 as a management company which, as its primary function, makes available (a) vacation accommodations,

guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

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

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

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

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

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

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

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

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as 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 § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-206.3. (Effective until July 1, 2022) Retail licenses.

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

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in dining areas and other designated areas of such restaurant or off-premises consumption. Such license may be granted only to persons (i) who operate a restaurant and (ii) 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.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,

305 bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed
306 beverages for on-premises consumption in such designated areas, bedrooms, and other private rooms or
307 off-premises consumption and (b) sell spirits packaged in original closed containers purchased from the
308 Board for on-premises consumption to registered guests and at scheduled functions of such hotel or
309 motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort
310 complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all
311 areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any
312 person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

313 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club
314 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in
315 another city with which it has an agreement for reciprocal dining privileges, such license shall also
316 authorize the licensees to (1) sell and serve mixed beverages for on-premises or off-premises
317 consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity
318 of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where
319 such club prepares no food in its restaurant but purchases its food requirements from a restaurant
320 licensed by the Board and located on another portion of the premises of the same hotel or motel
321 building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all
322 other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the
323 premises and food resold to its members and guests and consumed on the premises shall amount to at
324 least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made
325 by a restaurant to such a club shall be excluded in any consideration of the qualifications of such
326 restaurant for a license from the Board.

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

334 If the restaurant is located on the premises of and operated by a culinary lodging resort, such license
335 shall authorize the licensee to (A) sell alcoholic beverages, without regard to the amount of gross
336 receipts from the sale of food prepared and consumed on the premises, for off-premises consumption or
337 for on-premises consumption in areas upon the licensed premises approved by the Board and other
338 designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit
339 the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight
340 lodging is being provided in bedrooms and private guest rooms.

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

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

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

358 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,
359 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in
360 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated
361 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its
362 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air
363 carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same
364 airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the
365 alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express
366 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 on-premises consumption in dining areas of the restaurant or off-premises consumption. 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 Waynesboro, 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 total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, 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 been rehabilitated in accordance with historic preservation standards; (iii) 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; and (iv) has a total capacity in excess of 900 patrons;

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

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

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

437 h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax
438 County, provided that the corporate and performing arts facility (i) is occupied under a bona fide
439 long-term lease, management, or concession agreement, the original term of which was more than one
440 year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the
441 dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the
442 licensed premises approved by the Board.

443 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any
444 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to
445 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and
446 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed
447 beverage caterer at the same business premises designated in the license, with a common alcoholic
448 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the
449 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision
450 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to
451 this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and
452 beer for on-premises consumption or in closed containers for off-premises consumption; however, the
453 licensee shall be required to pay the local fee required for such additional license pursuant to
454 § 4.1-233.1.

455 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in
456 dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is
457 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and
458 without regard to the amount of gross receipts from the sale of food prepared and consumed on the
459 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom
460 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas
461 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas"
462 includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more
463 than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor
464 dining areas are under the control of the licensee and approved by the Board. Such noncontiguous
465 designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of
466 § 4.1-201.

467 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under
468 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the
469 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide
470 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any
471 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in
472 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,
473 regularly occupied and utilized as such.

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

480 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'
481 association governing a commercial lifestyle center, which shall authorize any retail on-premises
482 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any
483 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion
484 of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,
485 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant
486 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of
487 such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail
488 on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle
489 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.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) 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 or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or

551 town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment
552 exists and that public convenience and the purposes of this title will be promoted by granting the
553 license.

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

562 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer
563 during the performance of any event to patrons within all seating areas, concourses, walkways, or
564 concession areas, or other areas approved by the Board (i) in closed containers for off-premises
565 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for
566 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his
567 own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the
568 license. Such licenses may be granted to persons operating food concessions at any outdoor performing
569 arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is
570 located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more
571 than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania,
572 or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than
573 9,500 persons and is located in Henrico County.

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

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

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

599 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises
600 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such
601 licenses may be granted to persons operating a nonprofit museum exempt from taxation under §
602 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating
603 the consuming public about historic beer products. The privileges of this license shall be limited to the
604 premises of the museum, regularly occupied and utilized as such.

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

606 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store,
607 delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as
608 defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and
609 beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308,
610 to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for
611 on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of
612 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, distillers, 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; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. 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 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the

premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this title and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this title and Board regulations.

d. Annual mixed beverage 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 mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per 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.

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

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

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace

license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records 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.

6. *Marketplace facilitator licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.2 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.*

§ 4.1-206.3. (Effective July 1, 2022) Retail licenses.

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

1. Mixed beverage 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 (i) who operate a restaurant and (ii) 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.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to

797 registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private
798 rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale
799 and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed
800 appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own
801 lawfully acquired spirits in bedrooms or private rooms.

802 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club
803 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in
804 another city with which it has an agreement for reciprocal dining privileges, such license shall also
805 authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell
806 spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or
807 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no
808 food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and
809 located on another portion of the premises of the same hotel or motel building, this fact shall not
810 prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's
811 gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its
812 members and guests and consumed on the premises shall amount to at least 45 percent of its gross
813 receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club
814 shall be excluded in any consideration of the qualifications of such restaurant for a license from the
815 Board.

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

823 If the restaurant is located on the premises of and operated by a culinary lodging resort, such license
824 shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard
825 to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas
826 upon the licensed premises approved by the Board and other designated areas of the resort, including
827 outdoor areas under the control of the licensee, and (B) permit the possession and consumption of
828 lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in
829 bedrooms and private guest rooms.

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

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

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

847 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,
848 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in
849 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated
850 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its
851 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air
852 carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same
853 airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the
854 alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express
855 carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the
856 inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be
857 delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records
858 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 Waynesboro, 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 total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, 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 been rehabilitated in accordance with historic preservation standards; (iii) 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; and (iv) has a total capacity in excess of 900 patrons;

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

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

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

926 h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax
927 County, provided that the corporate and performing arts facility (i) is occupied under a bona fide
928 long-term lease, management, or concession agreement, the original term of which was more than one
929 year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the
930 dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the
931 licensed premises approved by the Board.

932 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any
933 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to
934 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and
935 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed
936 beverage caterer at the same business premises designated in the license, with a common alcoholic
937 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the
938 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision
939 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to
940 this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and
941 beer for on-premises consumption or in closed containers for off-premises consumption; however, the
942 licensee shall be required to pay the local fee required for such additional license pursuant to
943 § 4.1-233.1.

944 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in
945 dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is
946 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and
947 without regard to the amount of gross receipts from the sale of food prepared and consumed on the
948 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom
949 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas
950 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas"
951 includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more
952 than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor
953 dining areas are under the control of the licensee and approved by the Board. Such noncontiguous
954 designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of
955 § 4.1-201.

956 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under
957 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the
958 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide
959 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any
960 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in
961 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,
962 regularly occupied and utilized as such.

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

969 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'
970 association governing a commercial lifestyle center, which shall authorize any retail on-premises
971 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any
972 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion
973 of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,
974 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant
975 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of
976 such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail
977 on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle
978 center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers
979 with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed.
980 Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center
981 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.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) 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 or (ii) in closed containers for off-premises consumption.

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

1043 4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer
1044 during any event and immediately subsequent thereto to patrons within all seating areas, concourses,
1045 walkways, concession areas, and additional locations designated by the Board (i) in closed containers for
1046 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original
1047 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and
1048 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations
1049 covered by the license. Such licenses may be granted to persons operating food concessions at
1050 coliseums, stadiums, racetracks, or similar facilities.

1051 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer
1052 during the performance of any event to patrons within all seating areas, concourses, walkways, or
1053 concession areas, or other areas approved by the Board (i) in closed containers for off-premises
1054 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for
1055 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his
1056 own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the
1057 license. Such licenses may be granted to persons operating food concessions at any outdoor performing
1058 arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is
1059 located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more
1060 than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania,
1061 or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than
1062 9,500 persons and is located in Henrico County.

1063 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to
1064 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,
1065 and such additional locations designated by the Board in such facilities (i) in closed containers for
1066 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original
1067 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and
1068 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations
1069 covered by the license. Such licenses may be granted to persons operating food concessions at exhibition
1070 or exposition halls, convention centers, or similar facilities located in any county operating under the
1071 urban county executive form of government or any city that is completely surrounded by such county.
1072 For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities
1073 conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000
1074 square feet of floor space.

1075 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events
1076 to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,
1077 dining areas, and such additional locations designated by the Board in such facilities, for on-premises
1078 consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this
1079 subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such
1080 licenses may be granted to persons operating concert or dinner-theater venues on property fronting
1081 Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High
1082 School.

1083 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or
1084 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be
1085 lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The
1086 privileges of this license shall be limited to the premises of the historic cinema house regularly occupied
1087 and utilized as such.

1088 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises
1089 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such
1090 licenses may be granted to persons operating a nonprofit museum exempt from taxation under §
1091 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating
1092 the consuming public about historic beer products. The privileges of this license shall be limited to the
1093 premises of the museum, regularly occupied and utilized as such.

1094 C. The Board may grant the following off-premises wine and beer licenses:

1095 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store,
1096 delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as
1097 defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and
1098 beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308,
1099 to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for
1100 on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of
1101 wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day.
1102 The licensee may also give samples of wine and beer in designated areas at events held by the licensee
1103 for the purpose of featuring and educating the consuming public about the alcoholic beverages being
1104 tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, 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; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. 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 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be

other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this title and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this title and Board regulations.

d. Annual mixed beverage 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 mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per 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.

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

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

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an

alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records 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.

6. *Marketplace facilitator licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.2 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.*

§ 4.1-209.2. Direct shipment of wine and beer; marketplace facilitator license.

A. Holders of wine and beer marketplace facilitator licenses issued pursuant to subdivision F 6 of § 4.1-206.3 may sell not more than two cases of wine per month nor more than two cases of beer per month to any person in Virginia to whom alcoholic beverages may be lawfully sold. All such sales and shipments shall be for personal consumption only and not for resale. A case of wine shall mean any combination of packages containing not more than nine liters of wine. A case of beer shall mean any combination of packages containing not more than 288 ounces of beer. Any person located within or outside the Commonwealth who is authorized to sell wine or beer at retail in its state of domicile and who is not a winery, farm winery, or brewery may nevertheless apply for a wine and beer marketplace facilitator license if such person satisfies the requirements of this section. Any brewery, winery, or farm winery that applies for a marketplace facilitator license or authorizes any other person, other than a retail off-premises licensee, to apply for a license to sell such winery's, farm winery's, or brewery's brands of wine or beer shall notify any wholesale licensees that have been authorized to distribute such brands that an application has been filed for a marketplace facilitator license. The notice shall be in writing and in a form prescribed by the Board. The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this section, including regulations that permit the holder of a marketplace facilitator license to amend the same by, among other things, adding or removing any brands of wine, farm wine, or beer identified in such marketplace facilitator license.

B. Any applicant for a wine and beer marketplace facilitator license that does not own or have the right to control the distribution of the brands of wine, farm wine, or beer identified in such person's

1289 application may be issued a marketplace facilitator license for wine or beer, if the applicant has
1290 obtained and filed with its application for a marketplace facilitator license, and with any subsequent
1291 application for renewal thereof, the written consent of either (i) the winery, farm winery, or brewery
1292 whose brands of wine, farm wine, or beer are identified therein or (ii) any wholesale distributor
1293 authorized to distribute the wine or beer produced by the winery, farm winery, or brewery. Any winery,
1294 farm winery, or brewery, or its wholesale distributor, that has provided written authorization to a
1295 marketplace facilitator licensed pursuant to this section to sell its brand or brands of wine, farm wine,
1296 or beer shall not be restricted by any provision of this section from withdrawing such authorization at
1297 any time. If such authorization is withdrawn, the winery, farm winery, or brewery shall promptly notify
1298 such marketplace facilitator licensee and the Board in writing of its decision to withdraw from such
1299 marketplace facilitator licensee the authority to sell and ship any of its brands, whereupon such
1300 marketplace facilitator licensee shall promptly file with the Board an amendment to its license
1301 eliminating any such withdrawn brand or brands from the marketplace facilitator license.

1302 C. Wineries or breweries whose products are represented by holders of licenses issued pursuant to
1303 this section may provide inventory storage, packaging, and shipping services to holders of wine and
1304 beer marketplace facilitator licenses only under regulations approved by the Board. Such regulations
1305 shall include provisions that require (i) any such winery or brewery to register with the Board; (ii) any
1306 such winery or brewery and each wine and beer marketplace facilitator licensed under this section to
1307 enter into a contract designating the winery or brewery as the agent of the marketplace facilitator for
1308 purposes of complying with the provisions of this section; (iii) the winery or brewery to submit to the
1309 jurisdiction of the Board pursuant to subsection F of § 4.1-204 to the extent that it is providing
1310 inventory storage, packaging, and shipping services to holders of wine and beer marketplace facilitator
1311 licenses; (iv) the marketplace facilitator licensee and any winery or brewery with whom such licensee is
1312 under contract to maintain such records and to submit to the Board such information as the Board may
1313 prescribe, including without limitation, electronic records that reflect (a) the name and address of the
1314 buyer, (b) proof of electronic verification of the buyer's age, (c) the names and addresses of the Virginia
1315 recipients, (d) the total number of cases or volume of wine or beer purchased, (e) the carrier's shipment
1316 tracking number and proof of signature by a person to whom alcoholic beverages may be lawfully sold,
1317 (f) full and complete sales tax records of collected and remitted taxes, and (g) full and complete excise
1318 tax records of remitted taxes. Such records shall be subject to audit by the Board on demand, and for a
1319 period of three years from the date of the transaction.

1320 D. The shipment of wine and beer by holders of licenses issued pursuant to subdivision F 6 of
1321 § 4.1-206.3, whether directly by the licensee or by any winery or brewery under contract with such
1322 licensee as set forth in subsection C shall be by approved common carrier only. The Board shall
1323 develop regulations pursuant to which common carriers may apply for approval to provide common
1324 carriage of wine or beer, shipped by holders of wine and beer marketplace facilitator licenses issued
1325 pursuant to subdivision F 6 of § 4.1-206.3. Such regulations shall include provisions that require (i) the
1326 recipient to demonstrate, upon delivery, that he is at least 21 years of age; (ii) the recipient to sign an
1327 electronic or paper form or other acknowledgement of receipt as approved by the Board; and (iii) the
1328 Board-approved common carrier to submit to the Board such information as the Board may prescribe.
1329 The Board-approved common carrier shall refuse delivery when the proposed recipient appears to be
1330 under the age of 21 years and refuses to present valid identification. All licensees shipping wine or beer
1331 pursuant to this section shall affix a conspicuous notice in 16-point type or larger to the outside of each
1332 package of wine or beer shipped within or into the Commonwealth, in a conspicuous location stating:
1333 "CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER
1334 REQUIRED FOR DELIVERY." Any delivery of alcoholic beverages to a minor by a common carrier
1335 shall constitute a violation by the common carrier. The common carrier and the marketplace facilitator
1336 licensee shall be liable only for their independent acts.

1337 E. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each
1338 shipment of wine or beer by a wine and beer marketplace facilitator licensee shall constitute a sale in
1339 Virginia. The licensee shall collect the taxes due to the Commonwealth and remit any excise taxes
1340 monthly to the Authority and any sales taxes to the Department of Taxation.