2022 SESSION

[S 254]

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VIRGINIA ACTS OF ASSEMBLY - CHAPTER

An Act to amend and reenact §§ 4.1-204, 4.1-206.3, and 4.1-212.1, as they are currently effective and 2 3 as they shall become effective, 4.1-230, 4.1-231.1, and 18.2-323.1 of the Code of Virginia and the 4 second enactment of Chapter 281 and the second enactment of Chapter 282 of the Acts of Assembly 5 of 2021, Special Session I, and to amend the Code of Virginia by adding a section numbered 4.1-212.2, relating to alcoholic beverage control; delivery of alcoholic beverages; third-party 6 7

delivery license; container.

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Approved

10 Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-204, 4.1-206.3, and 4.1-212.1, as they are currently effective and as they shall 11 12 become effective, 4.1-230, 4.1-231.1, and 18.2-323.1 of the Code of Virginia are amended and 13 reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-212.2 as 14 follows:

15 § 4.1-204. (Effective until July 1, 2022) Records of licensees; inspection of records and places of business. 16

17 A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler shall 18 keep complete, accurate and separate records in accordance with Board regulations of all alcoholic 19 beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by 20 § 4.1-234 or 4.1-236, if any.

21 B. Retailers. - Every retail licensee shall keep complete, accurate, and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such 22 23 licensee therefor, and the names and addresses of the persons from whom purchased. Every retail 24 licensee shall also preserve all invoices showing his purchases for a period as specified by Board 25 regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic 26 beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection 27 D, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding 28 29 retail licenses that require sales of food to determine their qualifications for such licenses, the records 30 shall also include purchases and sales of food and nonalcoholic beverages.

31 Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored 32 off site, provided that such records are readily retrievable and available for electronic inspection by the 33 Board or its special agents at the licensed premises. However, in the case that such electronic records 34 are not readily available for electronic inspection on the licensed premises, the retail licensee may obtain 35 Board approval, for good cause shown, to permit the retail licensee to provide the records to a special 36 agent of the Board within three business days or less, as determined by the Board, after a request is 37 made to inspect the records.

38 C. Common carriers. — Common carriers of passengers by train, boat, bus, or airplane shall keep 39 records of purchases and sales of alcoholic beverages and food as required by Board regulation.

40 D. Wine and beer shippers. - Every wine and beer shipper licensee shall keep complete, accurate, 41 and separate records in accordance with Board regulations of all shipments of wine or beer to persons in 42 the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating 43 whether any wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine and beer sold and the total price charged for such wine and beer. Such records shall 44 45 include the names and addresses of the purchasers to whom the wine and beer is shipped.

E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to 46 § 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in 47 accordance with Board regulations of all deliveries of wine or beer alcoholic beverages to persons in the 48 49 Commonwealth. Such records shall include (i) the brands types of wine and beer alcoholic beverages 50 sold, (ii) the total quantities of wine and beer alcoholic beverages sold, (iii) the total price charged for such wine and beer, and alcoholic beverages, (iv) the names, addresses, and signatures of the purchasers 51 52 name and date of birth of the person to whom the wine and beer is alcoholic beverages are delivered-53 Such purchaser signatures may be in an electronic format, and (v) the address to which the alcoholic 54 beverages are delivered. Licensees and permittees shall remit such records on a monthly basis for any 55 month during which the licensee or permittee makes a delivery for which the licensee or permittee is 56 required to collect and remit excise taxes due to the Authority pursuant to subsection H of § 4.1-212.1.

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Every licensee that is authorized to make deliveries pursuant to § 4.1-212.2 shall keep complete, accurate, and separate records for a period of at least two years in accordance with Board regulations of all deliveries of alcoholic beverages to persons in the Commonwealth. Such records shall include all information prescribed by Board regulations. Licensees shall remit such records within 24 hours of a records request by the Authority; however, the licensee may obtain Board approval, for good cause shown, to permit the licensee to provide records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

F. Inspection. — The Board and its special agents shall be allowed free access during reasonable 64 65 hours to every place in the Commonwealth and to the premises of both (i) every wine and beer shipper 66 licensee and (ii) every licensee or permittee authorized to make deliveries wherever located where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of 67 examining and inspecting such place and all records, invoices and accounts therein. The Board may **68** engage the services of alcoholic beverage control authorities in any state to assist with the inspection of 69 the premises of a wine and beer shipper licensee, licensee or permittee authorized to make deliveries, or 70 71 any applicant for such license or permit.

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

78 § 4.1-204. (Effective July 1, 2022) Records of licensees; inspection of records and places of business.

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

84 B. Retailers. — Every retail licensee shall keep complete, accurate, and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such 85 licensee therefor, and the names and addresses of the persons from whom purchased. Every retail 86 87 licensee shall also preserve all invoices showing his purchases for a period as specified by Board 88 regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic 89 beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection 90 D, such account need not give the names or addresses of the purchasers thereof, except as may be 91 required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding 92 retail licenses that require sales of food to determine their qualifications for such licenses, the records 93 shall also include purchases and sales of food and nonalcoholic beverages.

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

101 C. Common carriers. — Common carriers of passengers by train, boat, bus, or airplane shall keep 102 records of purchases and sales of alcoholic beverages and food as required by Board regulation.

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

109 E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to 110 § 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in 111 accordance with Board regulations of all deliveries of wine or beer to persons in the Commonwealth. 112 Such records shall include (i) the brands types of wine and beer sold, (ii) the total quantities of wine and beer sold, (iii) the total price charged for such wine and beer, and (iv) the names, addresses, and 113 114 signatures of the purchasers name and date of birth of the person to whom the wine and beer is delivered. Such purchaser signatures may be in an electronic format, and (v) the address to which the 115 wine and beer is delivered. Licensees and permittees shall remit such records on a monthly basis for any 116 month during which the licensee or permittee makes a delivery for which the licensee or permittee is 117

118 required to collect and remit excise taxes due to the Authority pursuant to subsection E of § 4.1-212.1.

119 Every licensee that is authorized to make deliveries pursuant to § 4.1-212.2 shall keep complete, 120 accurate, and separate records for a period of at least two years in accordance with Board regulations

of all deliveries of alcoholic beverages to persons in the Commonwealth. Such records shall include all 121

122 information prescribed by Board regulations. Licensees shall remit such records within 24 hours of a 123

records request by the Authority; however, the licensee may obtain Board approval, for good cause 124 shown, to permit the licensee to provide records to a special agent of the Board within three business

125 days or less, as determined by the Board, after a request is made to inspect the records.

126 F. Inspection. — The Board and its special agents shall be allowed free access during reasonable 127 hours to every place in the Commonwealth and to the premises of both (i) every wine and beer shipper 128 licensee and (ii) every licensee or permittee authorized to make deliveries wherever located where 129 alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of 130 examining and inspecting such place and all records, invoices and accounts therein. The Board may 131 engage the services of alcoholic beverage control authorities in any state to assist with the inspection of 132 the premises of a wine and beer shipper licensee, licensee or permittee authorized to make deliveries, or 133 any applicant for such license or permit.

134 For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means 135 the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public 136 substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee 137 is open to the public. At any other time of day, if the retail licensee's records are not available for 138 inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a 139 request is made to inspect the records. 140

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

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

142 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed 143 beverages for on-premises consumption in dining areas and other designated areas of such restaurant or 144 off-premises consumption. Such license may be granted only to persons (i) who operate a restaurant and 145 (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and 146 nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 147 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this 148 subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the 149 licensed premises, which outdoor dining areas may have more than one means of ingress and egress to 150 an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved 151 by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued 152 pursuant to subdivision A 5 of § 4.1-201.

153 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent 154 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 155 156 beverages for on-premises consumption in such designated areas, bedrooms, and other private rooms or 157 off-premises consumption and (b) sell spirits packaged in original closed containers purchased from the 158 Board for on-premises consumption to registered guests and at scheduled functions of such hotel or 159 motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort 160 complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all 161 areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any 162 person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club 163 164 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in 165 another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises or off-premises 166 167 consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity 168 of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where 169 such club prepares no food in its restaurant but purchases its food requirements from a restaurant 170 licensed by the Board and located on another portion of the premises of the same hotel or motel 171 building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all 172 other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the 173 premises and food resold to its members and guests and consumed on the premises shall amount to at 174 least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made 175 by a restaurant to such a club shall be excluded in any consideration of the qualifications of such 176 restaurant for a license from the Board.

177 If the restaurant is located on the premises of and operated by a municipal golf course, the Board 178 shall recognize the seasonal nature of the business and waive any applicable monthly food sales

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179 requirements for those months when weather conditions may reduce patronage of the golf course,
180 provided that prepared food, including meals, is available to patrons during the same months. The gross
181 receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic
182 beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent
183 of the gross receipts from the sale of mixed beverages and food on an annualized basis.

184 If the restaurant is located on the premises of and operated by a culinary lodging resort, such license 185 shall authorize the licensee to (A) sell alcoholic beverages, without regard to the amount of gross 186 receipts from the sale of food prepared and consumed on the premises, for off-premises consumption or 187 for on-premises consumption in areas upon the licensed premises approved by the Board and other 188 designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit 189 the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight 190 lodging is being provided in bedrooms and private guest rooms.

191 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to 192 obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers 193 for off-premises consumption; however, the licensee shall be required to pay the local fee required for 194 such additional license pursuant to § 4.1-233.1.

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

201 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly 202 engaged in the business of providing food and beverages to others for service at private gatherings or at 203 special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell 204 and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of 205 food cooked and prepared for service and nonalcoholic beverages served at gatherings and events 206 referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of 207 mixed beverages and food.

208 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, 209 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in 210 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated 211 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its 212 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air 213 carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the 214 215 alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express 216 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 217 218 delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records 219 of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The 220 granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a 221 license to sell and serve wine and beer for on-premises consumption or in closed containers for 222 off-premises consumption; however, the licensee shall be required to pay the local fee required for such 223 additional license pursuant to § 4.1-233.1.

224 5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell 225 mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, 226 during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in 227 all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for 228 on-premises consumption. Such license may be granted to persons operating food concessions at an 229 outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River 230 and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon 231 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic 232 beverages on the premises in all areas and locations covered by the license. The granting of a license 233 pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and 234 serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; 235 however, the licensee shall be required to pay the local fee required for such additional license pursuant 236 to § 4.1-233.1.

237 6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve
238 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs
239 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.

247 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 248 249 containers or in single original metal cans for on-premises consumption in all seating areas, concourses, 250 walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by 251 the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and 252 beer for on-premises consumption or in closed containers for off-premises consumption; however, the 253 licensee shall be required to pay the local fee required for such additional license pursuant to 254 § 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;

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

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

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

293 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any 294 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to 295 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and 296 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed 297 beverage caterer at the same business premises designated in the license, with a common alcoholic 298 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the 299 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 300 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to

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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.

305 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in 306 dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is 307 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the 308 309 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom 310 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" 311 312 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 313 dining areas are under the control of the licensee and approved by the Board. Such noncontiguous 314 315 designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of 316 § 4.1-201.

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

11. Motor car sporting event facility licenses, 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 events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

330 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' 331 association governing a commercial lifestyle center, which shall authorize any retail on-premises 332 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any 333 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion 334 of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, 335 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant 336 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail 337 338 on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle 339 center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers 340 with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. 341 Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center 342 licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of 343 the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall 344 provide adequate security for the licensed premises to ensure compliance with the applicable provisions 345 of this title and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve 346 347 mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such 348 license may be granted only to persons operating a business (i) that is primarily engaged in the sale of 349 meals; (ii) that is located on property owned by the United States government or an agency thereof and 350 used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale 351 of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the 352 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale 353 of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include 354 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas 355 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 356 357 areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The 358 granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a 359 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 360 361 additional license pursuant to § 4.1-233.1.

362 14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or 363 association operating either a performing arts facility or an art education and exhibition facility; (ii) a 364 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 365 366 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space 367 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped 368 with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events 369 conducted on the premises of a museum for historic interpretation that is owned and operated by the 370 locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a 371 bona fide lease, the original term of which was for more than one year's duration. Such license shall 372 authorize the licensee to sell alcoholic beverages during scheduled events and performances for 373 on-premises consumption in areas upon the licensed premises approved by the Board. 374

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

375 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed 376 containers for off-premises consumption or (ii) for on-premises consumption, either with or without 377 meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest 378 rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and 379 areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may 380 authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed 381 appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and 382 consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to 383 persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or 384 areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed 385 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 386 continuing care communities that are also licensed by the Board under this subdivision, any resident 387 388 may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic 389 beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other 390 designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, 391 which may have more than one means of ingress and egress to an adjacent public thoroughfare, 392 provided that such outdoor dining areas are under the control of the licensee and approved by the Board. 393 Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to 394 subdivision A 5 of § 4.1-201.

395 2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for 396 their on-premises consumption only in such rooms, provided the consent of the patient's attending 397 physician is first obtained or (ii) in closed containers for off-premises consumption.

398 3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises 399 consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) 400 the grocery store is located in any town or in a rural area outside the corporate limits of any city or 401 town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment 402 exists and that public convenience and the purposes of this title will be promoted by granting the 403 license.

404 4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer 405 during any event and immediately subsequent thereto to patrons within all seating areas, concourses, 406 walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original 407 408 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and 409 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations 410 covered by the license. Such licenses may be granted to persons operating food concessions at 411 coliseums, stadiums, racetracks, or similar facilities.

412 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer 413 during the performance of any event to patrons within all seating areas, concourses, walkways, or 414 concession areas, or other areas approved by the Board (i) in closed containers for off-premises 415 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his 416 417 own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the 418 license. Such licenses may be granted to persons operating food concessions at any outdoor performing 419 arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more 420 than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, 421 422 or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than

423 9,500 persons and is located in Henrico County.

424 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to 425 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, 426 and such additional locations designated by the Board in such facilities (i) in closed containers for 427 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original 428 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and 429 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations 430 covered by the license. Such licenses may be granted to persons operating food concessions at exhibition 431 or exposition halls, convention centers, or similar facilities located in any county operating under the 432 urban county executive form of government or any city that is completely surrounded by such county. 433 For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities 434 conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 435 square feet of floor space.

436 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events 437 to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, 438 dining areas, and such additional locations designated by the Board in such facilities, for on-premises 439 consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this 440 subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such 441 licenses may be granted to persons operating concert or dinner-theater venues on property fronting 442 Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High 443 School.

444 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or 445 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be 446 lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The 447 privileges of this license shall be limited to the premises of the historic cinema house regularly occupied 448 and utilized as such.

449 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises 450 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such 451 licenses may be granted to persons operating a nonprofit museum exempt from taxation under 452 § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to 453 educating the consuming public about historic beer products. The privileges of this license shall be 454 limited to the premises of the museum, regularly occupied and utilized as such. 455

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

456 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, 457 delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as 458 defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and 459 beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, 460 to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for 461 on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of 462 wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. 463 The licensee may also give samples of wine and beer in designated areas at events held by the licensee 464 for the purpose of featuring and educating the consuming public about the alcoholic beverages being 465 tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale 466 licensees or authorized representatives of such licensees may participate in such tastings, including the 467 pouring of samples. The licensee shall comply with any food inventory and sales volume requirements 468 established by Board regulation.

469 2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom 470 wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, 471 and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for 472 off-premises consumption in accordance with subdivision 6 of § 4.1-200.

473 3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed 474 premises for off-premises consumption confectionery that contains five percent or less alcohol by 475 volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such 476 confectionery is sold.

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

1. Per-day event licenses.

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479 a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or 480 associations in charge of special events, which shall authorize the licensee to sell or give wine and beer **481** in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms 482 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 483

484 consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one 485 such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may 486 ship such wine, in accordance with Board regulations, in closed containers to persons located within the 487 Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of 488 each banquet or special event. For the purposes of this subdivision, when the location named in the 489 original application for a license is outdoors, the application may also name an alternative location in the 490 event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club 491 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.

496 c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall 497 authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members 498 and their guests in areas approved by the Board on the club premises. A separate license shall be 499 required for each day of each club event. No more than 12 such licenses shall be granted to a club in 500 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, 501 502 the licensee shall be required to pay the local fee required for such additional license pursuant to 503 § 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.

509 2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable 510 membership organizations that are exempt from state and federal taxation and in charge of banquets 511 512 conducted exclusively for members and their guests, which shall authorize the licensee to serve wine 513 and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such 514 rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per 515 calendar year. For the purposes of this subdivision, when the location named in the original application 516 for a license is outdoors, the application may also name an alternative location in the event of inclement 517 weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail 518 wine and beer license.

519 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services 520 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic 521 beverages on the premises of the licensee by any person, and bona fide members and guests thereof, 522 otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be 523 purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the 524 premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency 525 station or both, regularly occupied as such and recognized by the governing body of the county, city, or 526 town in which it is located. Under conditions as specified by Board regulation, such premises may be 527 other than a volunteer fire or volunteer emergency medical services agency station, provided such other 528 premises are occupied and under the control of the volunteer fire department or volunteer emergency 529 medical services agency while the privileges of its license are being exercised.

530 c. Designated outdoor refreshment area licenses to a locality, business improvement district, or 531 nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic 532 beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) 533 any permanent retail on-premises licensee that is located within the area designated by the Board for the 534 designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for 535 consumption in the area designated for the designated outdoor refreshment area, including sidewalks and 536 the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such 537 businesses. In determining the designated area for the designated outdoor refreshment area, the Board 538 shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 539 events per year, and the duration of any event shall not exceed three consecutive days. However, the 540 Board may increase the frequency and duration of events after adoption of an ordinance by a locality 541 requesting such increase in frequency and duration. Such ordinance shall include the size and scope of 542 the area within which such events will be held, a public safety plan, and any other considerations 543 deemed necessary by the Board. Such limitations on the number of events that may be held shall not 544 apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State

545 Health Commissioner to meet a public health emergency and that effectively reduces allowable 546 restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all 547 other applicable provisions of this title and Board regulations and shall provide notice to the Board 548 regarding the days and times during which the privileges of the license will be exercised. Only alcoholic 549 beverages purchased from permanent retail on-premises licensees located within the designated area may 550 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 551 552 the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way 553 by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee 554 shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, 555 no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee 556 shall provide adequate security for the event to ensure compliance with the applicable provisions of this 557 title and Board regulations.

558 d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or 559 charitable membership organizations that are exempt from state and federal taxation and in charge of 560 banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve 561 mixed beverages for on-premises consumption in areas approved by the Board on the premises of the 562 place designated in the license. Such license shall authorize the licensee to conduct no more than 12 563 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically 564 authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; 565 however, the licensee shall be required to pay the local fee required for such additional license pursuant 566 to § 4.1-233.1.

567 e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and 568 steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired 569 alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, 570 alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this 571 license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, 572 hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

573 f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the 574 licensee participating in a community art walk that is open to the public to serve lawfully acquired wine 575 or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic 576 beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the 577 licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any 578 one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue 579 regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

580 E. The Board may grant a marketplace license to persons operating a business enterprise of which 581 the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve 582 complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations 583 imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or 584 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 585 586 license, the applicant's business enterprise must (i) provide a single category of goods or services in a 587 manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in 588 such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an 589 alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure 590 that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine 591 and beer to be served from a licensed wholesaler or the Authority and retain purchase records as 592 prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider 593 (a) the average amount of time customers spend at the business; (b) the business's hours of operation; 594 (c) the amount of time that the business has been in operation; and (d) any other requirements deemed 595 necessary by the Board to protect the public health, safety, and welfare. 596

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

597 1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in 598 § 4.1-209.1.

599 2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the 600 Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in 601 closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for 602 off-premises consumption. Such licensee shall not be required to comply with the monthly food sale 603 requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments 604 of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board 605

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606 regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under **607** the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) 608 persons outside the Commonwealth for resale outside the Commonwealth.

609 4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a 610 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 611 612 owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with 613 Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the 614 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 615 616 issued.

617 5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized 618 under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place 619 of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive 620 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 **621** 622 receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer 623 shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the 624 shipper.

625 6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in 626 § 4.1-212.2. 627

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

628

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

629 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed 630 beverages for consumption in dining areas and other designated areas of such restaurant. Such license 631 may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale 632 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 633 634 of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include 635 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas 636 may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such 637 areas are under the control of the licensee and approved by the Board. Such noncontiguous designated 638 areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

639 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent 640 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, 641 bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed 642 beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell 643 spirits packaged in original closed containers purchased from the Board for on-premises consumption to 644 registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale 645 646 and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed 647 appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own 648 lawfully acquired spirits in bedrooms or private rooms.

649 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club 650 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in 651 another city with which it has an agreement for reciprocal dining privileges, such license shall also 652 authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell 653 spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 654 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no 655 food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and 656 located on another portion of the premises of the same hotel or motel building, this fact shall not 657 prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's 658 gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its 659 members and guests and consumed on the premises shall amount to at least 45 percent of its gross 660 receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club 661 shall be excluded in any consideration of the qualifications of such restaurant for a license from the 662 Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board 663 664 shall recognize the seasonal nature of the business and waive any applicable monthly food sales 665 requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross 666

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667 receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic
668 beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent
669 of the gross receipts from the sale of mixed beverages and food on an annualized basis.

670 If the restaurant is located on the premises of and operated by a culinary lodging resort, such license 671 shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard 672 to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas 673 upon the licensed premises approved by the Board and other designated areas of the resort, including 674 outdoor areas under the control of the licensee, and (B) permit the possession and consumption of 675 lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in 676 bedrooms and private guest rooms.

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

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

687 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly 688 engaged in the business of providing food and beverages to others for service at private gatherings or at 689 special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell 690 and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of 691 food cooked and prepared for service and nonalcoholic beverages served at gatherings and events 692 referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of 693 mixed beverages and food.

694 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, 695 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in 696 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated **697** rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its **698** airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air 699 carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same 700 airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the 701 alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be 702 703 704 delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records 705 of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The 706 granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a 707 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 708 709 additional license pursuant to § 4.1-233.1.

710 5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell 711 mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, 712 during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in 713 all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for 714 on-premises consumption. Such license may be granted to persons operating food concessions at an 715 outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River 716 and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon 717 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic 718 beverages on the premises in all areas and locations covered by the license. The granting of a license 719 pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and 720 serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; 721 however, the licensee shall be required to pay the local fee required for such additional license pursuant 722 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.

733 7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to 734 sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable 735 containers or in single original metal cans for on-premises consumption in all seating areas, concourses, 736 walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by 737 the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and 738 beer for on-premises consumption or in closed containers for off-premises consumption; however, the 739 licensee shall be required to pay the local fee required for such additional license pursuant to 740 § 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;

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

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

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

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any 779 780 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to 781 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and 782 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed 783 beverage caterer at the same business premises designated in the license, with a common alcoholic 784 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the 785 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 786 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to 787 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 788

789 licensee shall be required to pay the local fee required for such additional license pursuant to \$4.1-233.1.

791 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in 792 dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is 793 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and 794 without regard to the amount of gross receipts from the sale of food prepared and consumed on the 795 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom 796 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas 797 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" 798 includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more 799 than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor 800 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 801 § 4.1-201. 802

803 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under
804 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the
805 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide
806 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any
807 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in
808 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,
809 regularly occupied and utilized as such.

810 11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the 811 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof 812 during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly 813 or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the 814 licensee's premises designated by the Board that are regularly occupied and utilized for motor car 815 sporting events.

816 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' 817 association governing a commercial lifestyle center, which shall authorize any retail on-premises 818 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any 819 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion 820 of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, 821 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant 822 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of 823 such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail 824 on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle 825 center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers 826 with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. 827 Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center 828 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 829 provide adequate security for the licensed premises to ensure compliance with the applicable provisions 830 831 of this title and Board regulations.

832 13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve 833 mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such 834 license may be granted only to persons operating a business (i) that is primarily engaged in the sale of 835 meals; (ii) that is located on property owned by the United States government or an agency thereof and 836 used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale 837 of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the 838 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale 839 of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include 840 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas 841 may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such 842 areas are under the control of the licensee and approved by the Board. Such noncontiguous designated 843 areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The 844 granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a 845 license to sell and serve wine and beer for on-premises consumption or in closed containers for 846 off-premises consumption; however, the licensee shall be required to pay the local fee required for such 847 additional license pursuant to § 4.1-233.1.

848 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 850 851 objects significant in American history and culture; (iii) persons operating an agricultural event and 852 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space 853 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped 854 with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events 855 conducted on the premises of a museum for historic interpretation that is owned and operated by the 856 locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a 857 bona fide lease, the original term of which was for more than one year's duration. Such license shall 858 authorize the licensee to sell alcoholic beverages during scheduled events and performances for 859 on-premises consumption in areas upon the licensed premises approved by the Board.

860

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

861 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed 862 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 863 864 rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and 865 areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may 866 authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed 867 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 868 869 persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or 870 areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed 871 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 872 873 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 874 beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other 875 876 designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, 877 which may have more than one means of ingress and egress to an adjacent public thoroughfare, 878 provided that such outdoor dining areas are under the control of the licensee and approved by the Board. 879 Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to 880 subdivision A 5 of § 4.1-201.

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

884 3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises 885 consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) 886 the grocery store is located in any town or in a rural area outside the corporate limits of any city or 887 town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment 888 exists and that public convenience and the purposes of this title will be promoted by granting the 889 license.

890 4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer 891 during any event and immediately subsequent thereto to patrons within all seating areas, concourses, 892 walkways, concession areas, and additional locations designated by the Board (i) in closed containers for 893 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original 894 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and 895 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations 896 covered by the license. Such licenses may be granted to persons operating food concessions at 897 coliseums, stadiums, racetracks, or similar facilities.

898 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer 899 during the performance of any event to patrons within all seating areas, concourses, walkways, or 900 concession areas, or other areas approved by the Board (i) in closed containers for off-premises 901 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for 902 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his 903 own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the 904 license. Such licenses may be granted to persons operating food concessions at any outdoor performing 905 arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is 906 located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more 907 than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, 908 or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 909 9,500 persons and is located in Henrico County.

910 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to

911 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, 912 and such additional locations designated by the Board in such facilities (i) in closed containers for 913 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original 914 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and 915 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations 916 covered by the license. Such licenses may be granted to persons operating food concessions at exhibition 917 or exposition halls, convention centers, or similar facilities located in any county operating under the 918 urban county executive form of government or any city that is completely surrounded by such county. 919 For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities 920 conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 921 square feet of floor space.

922 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events 923 to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, 924 dining areas, and such additional locations designated by the Board in such facilities, for on-premises 925 consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this 926 subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such 927 licenses may be granted to persons operating concert or dinner-theater venues on property fronting 928 Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High 929 School.

930 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or 931 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be 932 lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The 933 privileges of this license shall be limited to the premises of the historic cinema house regularly occupied 934 and utilized as such.

935 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises 936 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such 937 licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to 938 939 educating the consuming public about historic beer products. The privileges of this license shall be 940 limited to the premises of the museum, regularly occupied and utilized as such. 941

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

942 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, 943 delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as 944 defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and 945 beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, 946 to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for 947 on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of 948 wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. 949 The licensee may also give samples of wine and beer in designated areas at events held by the licensee 950 for the purpose of featuring and educating the consuming public about the alcoholic beverages being 951 tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale 952 licensees or authorized representatives of such licensees may participate in such tastings, including the 953 pouring of samples. The licensee shall comply with any food inventory and sales volume requirements 954 established by Board regulation.

955 2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom 956 wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, 957 and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for 958 off-premises consumption in accordance with subdivision 6 of § 4.1-200.

959 3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed 960 premises for off-premises consumption confectionery that contains five percent or less alcohol by 961 volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold. 962 963

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

1. Per-day event licenses.

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965 a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or 966 associations in charge of special events, which shall authorize the licensee to sell or give wine and beer 967 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms 968 or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also 969 be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises 970 consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one 971 such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may

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972 ship such wine, in accordance with Board regulations, in closed containers to persons located within the 973 Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of 974 each banquet or special event. For the purposes of this subdivision, when the location named in the 975 original application for a license is outdoors, the application may also name an alternative location in the 976 event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club 977 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.

982 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 983 984 and their guests in areas approved by the Board on the club premises. A separate license shall be 985 required for each day of each club event. No more than 12 such licenses shall be granted to a club in 986 any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize 987 the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, 988 the licensee shall be required to pay the local fee required for such additional license pursuant to 989 § 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.

995 2. Annual licenses.

996 a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable 997 membership organizations that are exempt from state and federal taxation and in charge of banquets **998** conducted exclusively for members and their guests, which shall authorize the licensee to serve wine 999 and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such 1000 rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per 1001 calendar year. For the purposes of this subdivision, when the location named in the original application 1002 for a license is outdoors, the application may also name an alternative location in the event of inclement 1003 weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail 1004 wine and beer license.

1005 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services 1006 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic 1007 beverages on the premises of the licensee by any person, and bona fide members and guests thereof, 1008 otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be 1009 purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the 1010 premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency 1011 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 1012 1013 other than a volunteer fire or volunteer emergency medical services agency station, provided such other 1014 premises are occupied and under the control of the volunteer fire department or volunteer emergency 1015 medical services agency while the privileges of its license are being exercised.

1016 c. Designated outdoor refreshment area licenses to a locality, business improvement district, or 1017 nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic 1018 beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) 1019 any permanent retail on-premises licensee that is located within the area designated by the Board for the 1020 designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for 1021 consumption in the area designated for the designated outdoor refreshment area, including sidewalks and 1022 the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such 1023 businesses. In determining the designated area for the designated outdoor refreshment area, the Board 1024 shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 1025 events per year, and the duration of any event shall not exceed three consecutive days. However, the 1026 Board may increase the frequency and duration of events after adoption of an ordinance by a locality 1027 requesting such increase in frequency and duration. Such ordinance shall include the size and scope of 1028 the area within which such events will be held, a public safety plan, and any other considerations 1029 deemed necessary by the Board. Such limitations on the number of events that may be held shall not 1030 apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State 1031 Health Commissioner to meet a public health emergency and that effectively reduces allowable 1032 restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all

1033 other applicable provisions of this title and Board regulations and shall provide notice to the Board 1034 regarding the days and times during which the privileges of the license will be exercised. Only alcoholic 1035 beverages purchased from permanent retail on-premises licensees located within the designated area may 1036 be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar 1037 disposable containers that clearly display the name or logo of the retail on-premises licensee from which 1038 the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way 1039 by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee 1040 shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, 1041 no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee 1042 shall provide adequate security for the event to ensure compliance with the applicable provisions of this 1043 title and Board regulations.

1044 d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or 1045 charitable membership organizations that are exempt from state and federal taxation and in charge of 1046 banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve 1047 mixed beverages for on-premises consumption in areas approved by the Board on the premises of the 1048 place designated in the license. Such license shall authorize the licensee to conduct no more than 12 1049 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically 1050 authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; 1051 however, the licensee shall be required to pay the local fee required for such additional license pursuant 1052 to § 4.1-233.1.

1053 e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and 1054 steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired 1055 alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, 1056 alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this 1057 license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, 1058 hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

1059 f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the 1060 licensee participating in a community art walk that is open to the public to serve lawfully acquired wine 1061 or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic 1062 beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the 1063 licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any 1064 one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue 1065 regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

1066 E. The Board may grant a marketplace license to persons operating a business enterprise of which 1067 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 1068 1069 imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or 1070 two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such 1071 customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace 1072 license, the applicant's business enterprise must (i) provide a single category of goods or services in a 1073 manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in 1074 such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an 1075 alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure 1076 that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine 1077 and beer to be served from a licensed wholesaler or the Authority and retain purchase records as 1078 prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider 1079 (a) the average amount of time customers spend at the business; (b) the business's hours of operation; 1080 (c) the amount of time that the business has been in operation; and (d) any other requirements deemed 1081 necessary by the Board to protect the public health, safety, and welfare. 1082

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

1083 1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in 1084 § 4.1-209.1.

1085 2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the 1086 Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in 1087 closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for 1088 off-premises consumption. Such licensee shall not be required to comply with the monthly food sale 1089 requirement established by Board regulations.

1090 3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments 1091 of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board 1092 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) 1093

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1094 persons outside the Commonwealth for resale outside the Commonwealth.

1095 4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a 1096 place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer 1097 owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the 1098 owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with 1099 Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the 1100 Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any 1101 financial interest, direct or indirect, in the business for which any fulfillment warehouse license is 1102 issued.

1103 5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized 1104 under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place 1105 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 1106 wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon 1107 1108 receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer 1109 shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the 1110 shipper.

1111 6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in **1112** § 4.1-212.2.

1113 § 4.1-212.1. (Effective until July 1, 2022) Delivery of wine and beer; kegs; regulations of Board.

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

B. Any person licensed to sell wine and beer at retail for off-premises consumption in the Commonwealth, and who is not a brewery, winery, or farm winery, may deliver the brands of beer, wine, and farm wine it is authorized to sell in closed containers to consumers within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered beer, wine, or farm wine in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

1125 C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail for 1126 off-premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery, 1127 may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm 1128 wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the 1129 Commonwealth for personal off-premises consumption.

D. Any person licensed to sell mixed beverages at retail for off-premises consumption in the Commonwealth may deliver any mixed beverages it is authorized to sell in closed containers to consumers within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

E. Any distiller that has been appointed as an agent of the Board pursuant to subsection D of \$ 4.1-119 may deliver to consumers within the Commonwealth for personal consumption any alcoholic beverages the distiller is authorized to sell through organized tasting events in accordance with subsection G of § 4.1-119 and Board regulations. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

1144 F. All deliveries made pursuant to this section shall be to consumers within the Commonwealth for 1145 personal consumption only and not for resale. Such deliveries shall be performed by either (i) the owner or any agent, officer, director, shareholder, or employee of the licensee or permittee or (ii) an 1146 1147 independent contractor of the licensee or permittee, provided that (a) the licensee or permittee has 1148 entered into a written agreement with the independent contractor establishing that the licensee or 1149 permittee shall be vicariously a third-party delivery licensee pursuant to § 4.1-212.2. The licensee 1150 performing the delivery shall be liable for any administrative violations of this section or § 4.1-304 1151 committed by the independent contractor relating to any deliveries of alcoholic beverages made on 1152 behalf of the licensee or permittee and (b) only during transport through completion of the delivery. 1153 Alcoholic beverages shall not be delivered after 11:00 p.m. or before 6:00 a.m. Only one individual takes may take possession of the alcoholic beverages during the course of the delivery. No more than 1154

four cases of wine nor more than four cases of beer may be delivered at one time to any person in 1155 1156 Virginia to whom alcoholic beverages may be lawfully sold, except that the licensee or permittee may 1157 deliver more than four cases of wine or more than four cases of beer if he notifies the Authority in 1158 writing at least one business day in advance of any such delivery, which notice contains the name and 1159 address of the intended recipient. Except as otherwise provided in this subtitle, alcoholic beverages sold 1160 for off-premises consumption or delivered pursuant to this section that are not in the manufacturer's 1161 original sealed container shall (a) be enclosed in a container that has no straw holes or other openings 1162 and is sealed in a manner that allows a person to readily discern whether the container has been 1163 opened or tampered with subsequent to its original closure; (b) display the name of the licensee from which the alcoholic beverages were purchased; (c) be clearly marked with the phrase "contains 1164 1165 alcoholic beverages"; (d) in the case of wine, beer, or, if purchased from a mixed beverage restaurant or limited mixed beverage restaurant licensee, mixed beverages, have a maximum volume of 16 ounces 1166 per beverage; and (e) during delivery, be stored (1) in the trunk of the vehicle, (2) in an area that is 1167 rear of the driver's seat, (3) in a locked container or compartment, or (4) in the case of delivery by 1168 1169 bicycle, in a compartment behind the bicyclist.

1170 The Board may adopt such regulations as it reasonably deems necessary to implement the provisions 1171 of this section. Such regulations shall include provisions that require (1) (A) the recipient to demonstrate, 1172 upon delivery, that he is at least 21 years of age and (2) (B) the recipient to sign an electronic or paper 1173 form or other acknowledgement of receipt as approved by the Board.

1174 G. In addition to other applicable requirements set forth in this section, the following provisions shall 1175 apply to the sale of mixed beverages for off-premises consumption and the delivery of mixed beverages 1176 pursuant to this section:

1. Mixed beverages shall not be sold for off-premises consumption or delivered after 11:00 p.m. or 1177 1178 before 6:00 a.m.;

1179 2. No distiller shall sell for off-premises consumption or deliver more than two mixed beverages at 1180 any one time, and no mixed beverage restaurant or limited mixed beverage restaurant licensee may sell 1181 for off-premises consumption or deliver more than four mixed beverages at any one time;

1182 3.2. All mixed beverages sold for off-premises consumption or delivered by a mixed beverage 1183 restaurant or limited mixed beverage restaurant licensee shall contain at least one mixer and have a 1184 maximum combined volume of 16 ounces; and

1185 4. 3. Mixed beverage restaurant and limited mixed beverage restaurant licensees shall serve at least 1186 one meal with every two mixed beverages sold for off-premises consumption or delivered; and

1187 5. Mixed beverages sold for off-premises consumption or delivered shall be in single original metal 1188 cans or in glass, paper, plastic, or similar disposable containers that include a secure lid, cap, or similar 1189 closure that prevents the mixed beverage from being consumed without removal of such lid, cap, or 1190 similar closure.

1191 The Board may summarily revoke a licensee's privileges to sell or deliver mixed beverages for off-premises consumption for noncompliance with the provisions of this section or § 4.1-225 or 4.1-325. 1192 1193 Any summary revocation by the Board pursuant to this paragraph (i) shall not be subject to the 1194 provisions of § 4.1-227, (ii) shall not be subject to appeal, and (iii) shall become effective upon personal 1195 service of the notice of summary revocation to the licensee or upon the fourth business day after such 1196 notice is mailed to the licensee's residence or the address listed for the licensed premises on the initial 1197 license application.

1198 H. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each 1199 delivery of wine, beer, or mixed beverages by a licensee or permittee shall constitute a sale in Virginia. 1200 The licensee or permittee shall collect the taxes due to the Commonwealth and remit any excise taxes 1201 monthly to the Authority and any sales taxes to the Department of Taxation, if such taxes have not 1202 already been paid.

1203 I. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises 1204 consumption may sell such wine or beer in kegs, subject to any limitations imposed by Board 1205 regulation. The Board may impose a fee for keg registration seals. For purposes of this subsection, "keg 1206 registration seal" means any document, stamp, declaration, seal, decal, sticker, or device that is approved 1207 by the Board, designed to be affixed to kegs, and displays a registration number and such other 1208 information as may be prescribed by the Board. 1209

§ 4.1-212.1. (Effective July 1, 2022) Delivery of wine and beer; kegs; regulations of Board.

1210 A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is 1211 authorized to engage in the retail sale of wine or beer for off-premises consumption may deliver the 1212 brands of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed 1213 containers to consumers within the Commonwealth for personal off-premises consumption.

1214 B. Any person licensed to sell wine and beer at retail for off-premises consumption in the 1215 Commonwealth, and who is not a brewery, winery, or farm winery, may deliver the brands of beer,

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1216 wine, and farm wine it is authorized to sell in closed containers to consumers within the Commonwealth 1217 for personal off-premises consumption. Notwithstanding any provision of law to the contrary, such 1218 deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's 1219 premises where such person has electronically ordered beer, wine, or farm wine in advance of the 1220 delivery or (ii) such other locations as may be permitted by Board regulation.

1221 C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail for 1222 off-premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery, 1223 may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm 1224 wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the 1225 Commonwealth for personal off-premises consumption.

1226 D. All such deliveries shall be to consumers within the Commonwealth for personal consumption 1227 only and not for resale. All such deliveries of beer, wine, or farm wine shall be performed by either (i) 1228 the owner or any agent, officer, director, shareholder, or employee of the licensee or permittee or (ii) an 1229 independent contractor of the licensee or permittee, provided that (a) the licensee or permittee has 1230 entered into a written agreement with the independent contractor establishing that the licensee or 1231 permittee shall be vicariously a third-party delivery licensee pursuant to § 4.1-212.2. The licensee 1232 performing the delivery shall be liable for any administrative violations of this section or § 4.1-304 1233 committed by the independent contractor relating to any deliveries of beer, wine, or farm wine made on 1234 behalf of the licensee or permittee and (b) only during transport through completion of the delivery. 1235 Alcoholic beverages shall not be delivered after 11:00 p.m. or before 6:00 a.m. Only one individual 1236 takes may take possession of the beer, wine, or farm wine during the course of the delivery. No more 1237 than four cases of wine nor more than four cases of beer may be delivered at one time to any person in 1238 Virginia to whom alcoholic beverages may be lawfully sold, except that the licensee or permittee may 1239 deliver more than four cases of wine or more than four cases of beer if he notifies the Authority in 1240 writing at least one business day in advance of any such delivery, which notice contains the name and 1241 address of the intended recipient. Except as otherwise provided in this subtitle, wine or beer sold for 1242 off-premises consumption or delivered pursuant to this section that are not in the manufacturer's 1243 original sealed container shall (a) be enclosed in a container that has no straw holes or other openings 1244 and is sealed in a manner that allows a person to readily discern whether the container has been 1245 opened or tampered with subsequent to its original closure; (b) display the name of the licensee from 1246 which the wine or beer was purchased; (c) be clearly marked with the phrase "contains alcoholic 1247 beverages"; (d) have a maximum volume of 16 ounces per beverage; and (e) during delivery, be stored 1248 (1) in the trunk of the vehicle, (2) in an area that is rear of the driver's seat, (3) in a locked container 1249 or compartment, or (4) in the case of delivery by bicycle, in a compartment behind the bicyclist.

1250 The Board may adopt such regulations as it reasonably deems necessary to implement the provisions 1251 of this section. Such regulations shall include provisions that require (1) (A) the recipient to demonstrate, 1252 upon delivery, that he is at least 21 years of age and (2) (B) the recipient to sign an electronic or paper 1253 form or other acknowledgement of receipt as approved by the Board.

1254 E. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each 1255 delivery of wine or beer by a licensee or permittee shall constitute a sale in Virginia. The licensee or 1256 permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the 1257 Authority and any sales taxes to the Department of Taxation, if such taxes have not already been paid.

1258 F. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises 1259 consumption may sell such wine or beer in kegs, subject to any limitations imposed by Board 1260 regulation. The Board may impose a fee for keg registration seals. For purposes of this subsection, "keg 1261 registration seal" means any document, stamp, declaration, seal, decal, sticker, or device that is approved 1262 by the Board, designed to be affixed to kegs, and displays a registration number and such other 1263 information as may be prescribed by the Board. 1264

§ 4.1-212.2. Third-party deliveries; limitations; penalties.

1265 A. For the purposes of this section, "delivery personnel" means any employee, agent, or independent 1266 contractor of the third-party delivery licensee that engages in direct-to-consumer alcoholic beverage 1267 delivery on behalf of the third-party delivery licensee.

1268 B. A third-party delivery license shall authorize the licensee to deliver alcoholic beverages to a 1269 consumer pursuant to an order for such alcoholic beverages placed with a licensee vested with delivery 1270 privileges. Except as otherwise permitted under § 4.1-212.1, no person shall provide alcoholic beverage 1271 delivery services in the Commonwealth unless such person holds a third-party delivery license and is 1272 registered with the State Corporation Commission. All deliveries of alcoholic beverages by a third-party delivery licensee shall comply with the following: (i) alcoholic beverages shall be delivered only to 1273 1274 persons who are 21 years of age or older and have provided valid identification that provides bona fide 1275 evidence of legal age, as prescribed in § 4.1-304; (ii) the third-party delivery licensee shall verify at the 1276 time of delivery that the recipient is 21 years of age or older, ensure that the recipient's identification

1277 bears a photograph that reasonably appears to match the appearance of the recipient, and record the 1278 recipient's name and date of birth and the address to which the alcoholic beverages were delivered; (iii) 1279 alcoholic beverages shall not be delivered to any person whom the third-party delivery licensee knows 1280 or has reason to believe is intoxicated; (iv) except for deliveries made on behalf of the Authority, 1281 alcoholic beverages shall be delivered only for personal use and not for resale; (v) alcoholic beverages 1282 shall not be delivered to a correctional facility, a reformatory, a locker mailbox, a package shipping or 1283 storage facility, a retail licensee, or undergraduate housing at an institution of higher education; (vi) 1284 any alcoholic beverage that cannot be lawfully delivered shall be promptly returned to the licensed 1285 establishment at which the alcoholic beverage was purchased; (vii) only alcoholic beverages obtained 1286 directly from the licensed establishment with which the order was placed may be delivered; and (viii) 1287 the provisions of § 4.1-212.1 and any other requirements imposed on the delivery of alcoholic beverages 1288 by this subtitle or Board regulation.

1289 C. In addition to the application requirements set forth in § 4.1-230 and any regulations or 1290 requirements adopted pursuant thereto, third-party delivery licensees shall provide to the Board, at the 1291 time of application and annually thereafter or as otherwise required by the Board, written certification 1292 that the third-party delivery licensee is in compliance with all applicable requirements set forth in 1293 Article 2 (§ 46.2-2141 et seq.) of Chapter 21 of Title 46.2. Third-party delivery licensees shall also 1294 provide to the Board, upon request, a copy of any contracts entered into by the licensee with any person 1295 offering alcoholic beverages for delivery.

1296 D. Third-party delivery licensees shall provide to the Board, at the time of application and annually 1297 thereafter or as otherwise required by the Board, written certification that all delivery personnel (i) 1298 prior to delivering alcoholic beverages and annually thereafter, have completed and passed with a score 1299 of no less than 80 percent a Board-approved public safety course; (ii) are 21 years of age or older; (iii) 1300 have a valid driver's license, vehicle inspection, and vehicle registration; (iv) within the last seven years, 1301 have not been convicted of any of the following offenses under Virginia law or a substantially similar ordinance or law in any other jurisdiction: driving under the influence in violation of § 18.2-266 or 1302 46.2-341.24 or a violation of § 4.1-304, 18.2-36.1, 18.2-51.4, 18.2-95, 18.2-357.1, or 46.2-894; (v) 1303 1304 within the last three years, have not been convicted of more than three vehicle moving violations; and 1305 (vi) are not required to register with the Sex Offender and Crimes Against Minors Registry pursuant to 1306 Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 or listed on the U.S. Department of Justice's National Sex 1307 Offender Public Website.

1308 E. Any person who violates the provisions of this section shall be required to pay (i) \$2,500 for a 1309 first violation and (ii) \$5,000 for any second or subsequent violation. The penalties provided under this 1310 subsection may be imposed in addition to or without imposing any other penalties or actions provided 1311 by law.

1312 F. Notwithstanding subsection B, a third-party delivery licensee may deliver alcoholic beverages to a 1313 retail licensee if such alcoholic beverages are being delivered on behalf of the Authority. 1314

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

1315 A. Every person intending to apply for any license authorized by this chapter shall file with the 1316 Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true. 1317

1318 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a 1319 food establishment permit from the Department of Health or an inspection by the Department of 1320 Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a 1321 pending application for such permit, or proof of a pending request for such inspection. If the applicant 1322 provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or 1323 proof of a pending request for an inspection, a license may be issued to the applicant. If a license is 1324 issued on the basis of a pending application or inspection, such license shall authorize the licensee to 1325 purchase alcoholic beverages in accordance with the provisions of this title; however, the licensee shall 1326 not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

1327 B. In addition, each applicant for a license under the provisions of this chapter, except applicants for 1328 annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine and 1329 beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of 1330 Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application 1331 with the Board on the front door of the building, place, or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain 1332 1333 such information as required by the Board, including a statement that any objections shall be submitted 1334 to the Board not more than 30 days following initial publication of the notice required pursuant to this 1335 subsection.

1336 The applicant shall also cause notice to be published at least once a week for two consecutive weeks 1337 in a newspaper published in or having a general circulation in the county, city, or town wherein such

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1338 applicant proposes to engage in such business. Such notice shall contain such information as required by

the Board, including a statement that any objections to the issuance of the license be submitted to the
Board not later than 30 days from the date of the initial newspaper publication. In the case of wine and
beer shipper's licensees, *third-party delivery licensees*, delivery permittees, or operators of boats, dining
cars, buffet cars, club cars, buses, and airplanes, the posting and publishing of notice shall not be

1343 required.

1344 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club 1345 events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts 1346 venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal 1347 history records search, which may include a fingerprint-based national criminal history records search, 1348 on each applicant for a license. However, the Board may waive, for good cause shown, the requirement 1349 for a criminal history records search and completed personal data form for officers, directors, 1350 nonmanaging members, or limited partners of any applicant corporation, limited liability company, or 1351 limited partnership.

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

1356 C. Each applicant shall pay the required application fee at the time the application is filed. Each 1357 license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, 1358 plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or 1359 the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of 1360 Investigation or the Central Criminal Records Exchange for each criminal history records search required 1361 by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the 1362 application fee shall be \$15. The application fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be in addition to the state license fee required 1363 1364 pursuant to § 4.1-231.1 and shall not be refunded.

1365 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however,
1366 all licensees shall file and maintain with the Board a current, accurate record of the information required
1367 by the Board pursuant to subsection A and notify the Board of any changes to such information in
1368 accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the
Board. Such permits shall confer upon their holders no authority to make solicitations in the
Commonwealth as otherwise provided by law.

1372 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for1373 applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied1374 by the number of months for which the permit is granted.

1375 F. The Board shall have the authority to increase state license fees from the amounts set forth in § 4.1-231.1 as it was in effect on January 1, 2022. The Board shall set the amount of such increases on 1376 1377 the basis of the consumer price index and shall not increase fees more than once every three years. Prior 1378 to implementing any state license fee increase, the Board shall provide notice to all licensees and the 1379 general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be 1380 required for any license affected by the Board's proposed fee increases. Such notice shall be provided on 1381 or before November 1 in any year in which the Board has decided to increase state license fees, and 1382 such increases shall become effective July 1 of the following year.

1383 § 4.1-231.1. Fees on state licenses.

- **1384** A. (Contingent expiration date) The annual fees on state licenses shall be as follows:
- **1385** 1. Manufacturer licenses. For each:

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

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured
during the year in which the license is granted, \$380; if not more than 10,000 barrels of beer
manufactured during the year in which the license is granted, \$2,350; and if more than 10,000 barrels
manufactured during such year, \$4,690;

c. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$215, and if more than 5,000 gallons manufactured during such year, \$4,210;

- d. Farm winery license, \$245 for any Class A license and \$4,730 for any Class B license;
- e. Wine importer's license, \$460; and
- 1398 f. Beer importer's license, \$460.

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1399 2. Wholesale licenses. For each: 1400 a. (1) Wholesale beer license, \$1,005 for any wholesaler who sells 300,000 cases of beer a year or less, \$1,545 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a 1401 1402 year, and \$2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and 1403 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be 1404 the amount set forth in subdivision a (1), multiplied by the number of separate locations covered by the 1405 license; 1406 b. (1) Wholesale wine license, \$240 for any wholesaler who sells 30,000 gallons of wine or less per 1407 year, \$1,200 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 1408 gallons of wine per year, \$1,845 for any wholesaler who sells more than 150,000 but not more than 1409 300,000 gallons of wine per year, and \$2,400 for any wholesaler who sells more than 300,000 gallons 1410 of wine per year; and 1411 (2) Wholesale wine license, including that granted pursuant to subdivision 3 of 4.1-206.2, applicable to two or more premises, the annual state license tax shall be the amount set forth in 1412 1413 subdivision b (1), multiplied by the number of separate locations covered by the license. 1414 3. Retail licenses — mixed beverage. For each: 1415 a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants 1416 located on premises of and operated by hotels or motels, or other persons: 1417 (1) With a seating capacity at tables for up to 100 persons, \$1,050; 1418 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,495; 1419 (3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, 1420 \$1,980; 1421 (4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, 1422 \$2,500; and 1423 (5) With a seating capacity at tables for more than 1,000 persons, \$3,100; 1424 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by 1425 private, nonprofit clubs: 1426 (1) With an average yearly membership of not more than 200 resident members, \$1,250; 1427 (2) With an average yearly membership of more than 200 but not more than 500 resident members, 1428 \$2,440; and 1429 (3) With an average yearly membership of more than 500 resident members, \$3,410; 1430 c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a 1431 casino gaming establishment, \$3,100 plus an additional \$5 for each gaming station located on the 1432 premises of the casino gaming establishment; 1433 d. Mixed beverage caterer's license, \$1,990; 1434 e. Mixed beverage limited caterer's license, \$550; 1435 f. Mixed beverage carrier license: 1436 (1) \$520 for each of the average number of dining cars, buffet cars, or club cars operated daily in 1437 the Commonwealth by a common carrier of passengers by train; 1438 (2) \$910 for each common carrier of passengers by boat; (3) \$520 for each common carrier of passengers by bus; and 1439 1440 (4) \$2,360 for each license granted to a common carrier of passengers by airplane; 1441 g. Annual mixed beverage motor sports facility license, \$630; 1442 h. Limited mixed beverage restaurant license: 1443 (1) With a seating capacity at tables for up to 100 persons, \$945; 1444 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,385; and 1445 (3) With a seating capacity at tables for more than 150 persons, \$1,875; 1446 i. Annual mixed beverage performing arts facility license, \$630; 1447 j. Bed and breakfast license, \$100; 1448 k. Museum license, \$260; 1449 1. Motor car sporting event facility license, \$300; 1450 m. Commercial lifestyle center license, \$300; 1451 n. Mixed beverage port restaurant license, \$1,050; and 1452 o. Annual mixed beverage special events license, \$630. 4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer 1453 1454 license, \$450. 1455 5. Retail licenses — off-premises wine and beer. For each: 1456 a. Retail off-premises wine and beer license, \$300;

- 1457 b. Gourmet brewing shop license, \$320; and
- 1458 c. Confectionery license, \$170.
- 1459 6. Retail licenses banquet, special event, and tasting licenses.

- a. Per-day event licenses. For each:
- (1) Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by theBoard pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
- 1463 (2) Mixed beverage special events license, \$45 for each day of each event;
- 1464 (3) Mixed beverage club events license, \$35 for each day of each event; and
- **1465** (4) Tasting license, \$40.
- 1466 b. Annual licenses. For each:
- 1467 (1) Annual banquet license, \$300;
- 1468 (2) Banquet facility license, \$260;
- (3) Designated outdoor refreshment area license, \$300. However, for any designated outdoorrefreshment area license issued pursuant to a local ordinance, the annual fee shall be \$3,000;
- 1471 (4) Annual mixed beverage banquet license, \$630;
- 1472 (5) Equine sporting event license, \$300; and
- 1473 (6) Annual arts venue event license, \$300.
- 1474 7. Retail licenses marketplace. For each marketplace license, \$1,000.
- 1475 8. Retail licenses shipper, bottler, and related licenses. For each:
- 1476 a. Wine and beer shipper's license, \$230;
- b. Internet wine and beer retailer license, \$240;
- 1478 c. Bottler license, \$1,500;
- d. Fulfillment warehouse license, \$210; and
- e. Marketing portal license, \$285; and

f. Third-party delivery license, \$7,500, unless the licensee provides written certification to the Board
that the licensee has no more than 25 delivery personnel, including employees, agents, and independent
contractors that engage in direct-to-consumer alcoholic beverage delivery, in which case the license fee
shall be \$2,500.

1485 9. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

1487 B. The tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

1491 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state 1492 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, 1493 shall be liable to state merchants' license taxation and state restaurant license taxation and other state 1494 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer 1495 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license 1496 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining 1497 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the 1498 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases 1499 shall be disregarded.

1500 D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license 1501 purchased in person from the Board if such license is available for purchase online.

1502 § 18.2-323.1. Drinking while operating a motor vehicle; possession of open container while 1503 operating a motor vehicle and presumption; penalty.

A. It shall be *is* unlawful for any person to consume an alcoholic beverage while driving a motor vehicle upon a public highway of this *the* Commonwealth.

B. A Unless the driver is delivering alcoholic beverages in accordance with the provisions of \$ 4.1-212.1, a rebuttable presumption that the driver has consumed an alcoholic beverage in violation of this section shall be created if (i) an open container is located within the passenger area of the motor vehicle, (ii) the alcoholic beverage in the open container has been at least partially removed, and (iii) the appearance, conduct, odor of alcohol, speech, or other physical characteristic of the driver of the motor vehicle may be reasonably associated with the consumption of an alcoholic beverage.

1512 *C*. For the purposes of this section:

1513 "Open container" means any vessel containing an alcoholic beverage, except the originally sealed 1514 manufacturer's container.

"Passenger area" means the area designed to seat the driver of any motor vehicle, any area within the reach of the driver, including an unlocked glove compartment, and the area designed to seat passengers.
This term shall "Passenger area" does not include the trunk of any passenger vehicle, the area behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle, or any similar vehicle, the living quarters of a motor home, or the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, including a bus, taxi,

1521 or limousine, while engaged in the transportation of such persons.

1522 D. A violation of this section is punishable as a Class 4 misdemeanor.

1523 2. That the second enactment of Chapter 281 and the second enactment of Chapter 282 of the 1524 Acts of Assembly of 2021, Special Session I, are amended and reenacted as follows:

1525 2. That the provisions of this act shall expire on July 1, 2022 2024.

1526 3. That the Virginia Alcoholic Beverage Control Authority shall collect data regarding the 1527 compliance of third-party delivery licensees with the provisions of this act and report such data to 1528 the Chairmen of the House Committee on General Laws and the Senate Committee on 1529 Rehabilitation and Social Services by November 1, 2023.

4. That the Virginia Alcoholic Beverage Control Authority (the Authority) shall monitor the
implementation of the provisions of this act to identify any difficulties of third-party delivery
licensees in determining locations to which alcoholic beverages may be delivered and the adequacy

1532 Incensees in determining locations to which alcoholic beverages may be derivered and the adequacy 1533 of applicable training and education programs. The Board of Directors of the Authority shall

1534 promulgate regulations, if necessary, to address any issues identified during such monitoring 1535 process.