

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 551

An Act to amend and reenact §§ 4.1-231.1 and 4.1-233.1 of the Code of Virginia, relating to alcoholic beverage control; marketplace license fees.

[H 2336]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-231.1 and 4.1-233.1 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-231.1. Fees on state licenses.

A. (Contingent expiration date) The annual fees on state licenses shall be as follows:

1. Manufacturer licenses. For each:

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

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

f. Beer importer's license, \$460.

2. Wholesale licenses. For each:

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 year, and \$2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision a (1), multiplied by the number of separate locations covered by the license;

b. (1) Wholesale wine license, \$240 for any wholesaler who sells 30,000 gallons of wine or less per year, \$1,200 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,845 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and \$2,400 for any wholesaler who sells more than 300,000 gallons of wine per year; and

(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 subdivision b (1), multiplied by the number of separate locations covered by the license.

3. Retail licenses — mixed beverage. For each:

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

(1) With a seating capacity at tables for up to 100 persons, \$1,050;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,495;

(3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, \$1,980;

(4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, \$2,500; and

(5) With a seating capacity at tables for more than 1,000 persons, \$3,100;

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

(1) With an average yearly membership of not more than 200 resident members, \$1,250;

(2) With an average yearly membership of more than 200 but not more than 500 resident members, \$2,440; and

(3) With an average yearly membership of more than 500 resident members, \$3,410;

c. Mixed beverage casino license, \$3,100 plus an additional \$5 for each gaming station located on the premises of the casino gaming establishment. For the purposes of this subdivision, "gaming station" means each slot machine and each casino gaming table that is in active use, as determined annually on December 31;

- d. Mixed beverage caterer's license, \$1,990;
- e. Mixed beverage limited caterer's license, \$550;
- f. Mixed beverage carrier license:
 - (1) \$520 for each of the average number of dining cars, buffet cars, or club cars operated daily in the Commonwealth by a common carrier of passengers by train;
 - (2) \$910 for each common carrier of passengers by boat;
 - (3) \$520 for each common carrier of passengers by bus; and
 - (4) \$2,360 for each license granted to a common carrier of passengers by airplane;
- g. Annual mixed beverage motor sports facility license, \$630;
- h. Limited mixed beverage restaurant license:
 - (1) With a seating capacity at tables for up to 100 persons, \$945;
 - (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,385; and
 - (3) With a seating capacity at tables for more than 150 persons, \$1,875;
- i. Annual mixed beverage performing arts facility license, \$630;
- j. Bed and breakfast license, \$100;
- k. Museum license, \$260;
- l. Motor car sporting event facility license, \$300;
- m. Commercial lifestyle center license, \$300;
- n. Mixed beverage port restaurant license, \$1,050; and
- 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 license, \$450.
 - 5. Retail licenses — off-premises wine and beer. For each:
 - a. Retail off-premises wine and beer license, \$300;
 - b. Gourmet brewing shop license, \$320; and
 - c. Confectionery license, \$170.
 - 6. Retail licenses — banquet, special event, and tasting licenses.
 - a. Per-day event licenses. For each:
 - (1) Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
 - (2) Mixed beverage special events license, \$45 for each day of each event;
 - (3) Mixed beverage club events license, \$35 for each day of each event; and
 - (4) Tasting license, \$40.
 - b. Annual licenses. For each:
 - (1) Annual banquet license, \$300;
 - (2) Banquet facility license, \$260;
 - (3) Designated outdoor refreshment area license, \$300. However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$3,000;
 - (4) Annual mixed beverage banquet license, \$630;
 - (5) Equine sporting event license, \$300; and
 - (6) Annual arts venue event license, \$300.
 - 7. Retail licenses — marketplace. For each marketplace license, \$1,000. *However, if the license privileges are exercised during a period of six or less consecutive months and such period is specified prior to the beginning of the license year, the annual fee shall be \$500.*
 - 8. Retail licenses — shipper, bottler, and related licenses. For each:
 - a. Wine and beer shipper's license, \$230;
 - b. Internet wine and beer retailer license, \$240;
 - c. Bottler license, \$1,500;
 - d. Fulfillment warehouse license, \$210;
 - 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.
 - 9. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.
 - B. The tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.
 - C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer

wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

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

§ 4.1-233.1. Fees on local licenses.

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

1. Manufacturer licenses. For each:
 - a. Distiller's license and limited distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;
 - 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, \$250, and if more than 500 barrels manufactured during such year, \$1,000;
 - c. Winery license, \$50; and
 - d. Farm winery license, \$50.
2. Wholesale licenses. For each:
 - a. Wholesale beer license, in a city, \$250, and in a county or town, \$75; and
 - b. Wholesale wine license, \$50.
3. Retail licenses — mixed beverage. For each:
 - a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants located on premises of and operated by casinos, hotels or motels, or other persons:
 - (1) With a seating capacity at tables for up to 100 persons, \$200;
 - (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350;
 - (3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, \$500;
 - (4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, \$650; and
 - (5) With a seating capacity at tables for more than 1,000 persons, \$800;
 - b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs, \$350;
 - c. Mixed beverage casino license, \$800 plus an additional \$2 for each gaming station located on the premises of the casino gaming establishment. For the purposes of this subdivision, "gaming station" means each slot machine and each casino gaming table that is in active use, as determined annually on December 31;
 - d. Mixed beverage caterer's license, \$500;
 - e. Mixed beverage limited caterer's license, \$100;
 - f. Annual mixed beverage motor sports facility license, \$300;
 - g. Limited mixed beverage restaurant license:
 - (1) With a seating capacity at tables for up to 100 persons, \$100;
 - (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250; or
 - (3) With a seating capacity at tables for more than 150 persons, \$400;
 - h. Annual mixed beverage performing arts facility license, \$300;
 - i. Bed and breakfast license, \$40;
 - j. Museum license, \$10;
 - k. Motor car sporting event facility license, \$10;
 - l. Commercial lifestyle center license, \$60; and
 - m. Annual mixed beverage special events license, \$300.
4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer license issued to:
 - a. Hotels, restaurants, and clubs, in a city, \$150, and in a county or town, \$37.50;
 - b. Hospitals, \$10;
 - c. Rural grocery stores, \$37.50; and
 - d. Historic cinema houses, \$20.
5. Retail licenses — off-premises wine and beer. For each:
 - a. Retail off-premises wine and beer license, in a city, \$150, and in a county or town, \$37.50;
 - b. Gourmet brewing shop license, \$150; and
 - c. Confectionery license, \$20.
6. Retail licenses — banquet, special event, and tasting licenses. For each:
 - a. Per-day event licenses. For each:
 - (1) Banquet license, \$5 per license granted by the Board, except for banquet licenses granted by the

Board pursuant to subsection A of § 4.1-215, which shall be \$20 per license;

- (2) Mixed beverage special events license, \$10 for each day of each event;
- (3) Mixed beverage club events license, \$10 for each day of each event; and
- (4) Tasting license, \$10.

b. Annual licenses. For each:

- (1) Annual banquet license, \$15;
- (2) Designated outdoor refreshment area license, \$60. However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee *tax* shall be \$600;
- (3) Annual mixed beverage banquet license, \$75;
- (4) Equine sporting event license, \$10; and
- (5) Annual arts venue event license, \$10.

7. Retail licenses — marketplace. For each marketplace license, \$200. *However, if the license privileges are exercised during a period of six or less consecutive months and such period is specified prior to the beginning of the license year, the annual tax shall be \$100.*

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

- a. Wine and beer shipper's license, \$10; and
- b. Bottler license, \$500.

B. Common carriers. No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats, buses, or airplanes or (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. The governing body of each county, city, or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city, or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

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

E. Application of county tax within town. Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town imposes a town license tax on the same privilege.