

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 731

An Act to amend and reenact §§ 4.1-100, 4.1-206.1, as it is currently effective and as it shall become effective, 4.1-219, and 4.1-231.1 of the Code of Virginia, relating to alcoholic beverage control; winery and farm winery licenses; requirements and privileges.

[S 983]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-206.1, as it is currently effective and as it shall become effective, 4.1-219, and 4.1-231.1 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other

like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

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

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

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

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a *winery or farm winery* license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the *winery or farm winery* licensee. For all purposes of this subtitle, wine produced by a contract winemaking facility for a *winery or farm winery* shall be considered to be wine owned and produced by the *winery or farm winery* that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the *winery or farm winery* for its services. *A winery licensee may utilize contract winemaking services only for the manufacture or processing of wine of which no less than 90 percent of the grapes, fruits, and other agricultural products used to make such wine are grown in the Commonwealth.*

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

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

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

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

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

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

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

"Farm winery" means (i) an establishment ~~(a) or cooperative~~ located ~~on a farm~~ in the Commonwealth on land zoned agricultural ~~with that has (a) a producing~~ vineyard, orchard, or similar growing area ~~that produces fruits or other agricultural products used to manufacture the wine of such farm winery, subject to the requirements set forth in § 4.1-219, and with (b) facilities for fermenting and bottling wine on the premises where the owner or lessee such farm winery manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume~~ or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" ~~shall include term~~ "cooperative" means a cooperative formed by an association of individuals for the purpose of manufacturing wine. ~~In the event that such~~

determining whether a cooperative is licensed as a farm winery; *has met the term "farm" as used in this definition includes requirements set forth in clause (i), the Board shall consider all of the land in the Commonwealth that is owned or leased by the individual members a member of the cooperative as long as such land is located in the Commonwealth.* For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

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

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

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

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

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

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

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

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

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

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

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

"Licensed" means the holding of a valid license granted by the Authority.

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

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

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this subtitle, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the Commonwealth.

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

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

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal

descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

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

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

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

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

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

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

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

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

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities both to its members and to the general public; or (iii) operated by a corporation that operates as a management company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

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

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

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

beverages.

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

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

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

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

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

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

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

§ 4.1-206.1. (Effective until July 1, 2024) Manufacturer licenses.

The Board may grant the following manufacturer licenses:

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

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

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

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned

agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

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

5. Winery licenses, which shall authorize the licensee to (i) manufacture wine and to sell and deliver or ship ~~the~~ *such* wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. ~~In addition, such license shall authorize the licensee to~~ (i); (ii) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; ~~(ii)~~ (iii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; ~~(iii)~~ (iv) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and ~~(iv)~~ (v) sell wine at retail at the place of business designated in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and ~~any~~ *no less than 20 percent of the wine sold for on-premises consumption* is manufactured on the licensed premises.

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

Such licenses shall also authorize the licensee to sell wine at retail *for on-premises consumption or in closed containers for off-premises consumption* at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. ~~Wine may be sold. The licensee may sell at these places of business places for on-premises consumption and in closed containers for off-premises consumption, provided that any brand of wine manufactured by such licensee, wine manufactured by a contract winemaking facility with which the licensee has entered into an agreement pursuant to the provisions of this subtitle and Board regulations, and wine not owned by the farm winery licensee is purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises or off-premises consumption may pre-mix wine and sell such wine at these places of business places.~~

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

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

§ 4.1-206.1. (Effective July 1, 2024) Manufacturer licenses.

The Board may grant the following manufacturer licenses:

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

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural

products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

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

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

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

5. Winery licenses, which shall authorize the licensee to (i) manufacture wine and to sell and deliver or ship ~~the~~ *such* wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. ~~In addition, such license shall authorize the licensee to~~ (i); (ii) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (iii) (iii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) (iv) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) (v) sell wine at retail at the place of business designated in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and ~~any~~ *no less than 20 percent of the* wine sold for on-premises consumption is manufactured on the licensed premises.

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

Such licenses shall also authorize the licensee to sell wine at retail *for on-premises consumptions or in closed containers for off-premises consumption* at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. ~~Wine may be sold~~ *The licensee may sell* at these places of business ~~places for on-premises consumption and in closed~~

containers for off-premises consumption, provided that any brand of wine manufactured by such licensee, wine manufactured by a contract winemaking facility with which the licensee has entered into an agreement pursuant to the provisions of this subtitle and Board regulations, and wine not owned by the farm winery licensee is purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises consumption may pre-mix wine and sell such wine at these places of business places.

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

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

§ 4.1-219. Limitations on Class I, II, III, and IV farm wineries.

A. For Class A I farm winery licensees, all of the fruits or agricultural products used by the licensee to manufacture wine shall be grown or produced on the licensed premises. Class I farm winery licensees shall have on the licensed premises a growing area no smaller than one and one-half acres that produces fruits or agricultural products used to manufacture the wine of such farm winery. Class I farm winery licensees shall ferment on the licensed premises no less than 2,250 liters of wine per year, and all of the wine sold by such licensee shall be fermented on the licensed premises.

B. For Class II farm winery licensees, at least 51 percent of the fruits or agricultural products used by the owner or licensee to manufacture the wine shall be grown or produced on such farm property in the Commonwealth that is owned or leased by the licensee and no more than 25 percent of the fruits, fruit juices or other agricultural products used by the licensee to manufacture wine shall be grown or produced outside the Commonwealth. Class II farm winery licensees shall have on the licensed premises a growing area no smaller than three acres that produces fruits or agricultural products used to manufacture the wine of such farm winery.

C. For Class B III farm winery licensees, 75 percent of the fruits or agricultural products used by the owner or lessee licensee to manufacture the wine shall be grown or produced in the Commonwealth and no more than 25 percent of the fruits, fruit juices or other agricultural products shall be grown or produced outside the Commonwealth. No Class B III farm winery license licensees shall be issued to any person who has not operated under an existing Virginia farm winery license for at least seven years ferment on the licensed premises no less than 4,500 liters of wine per year, and no less than 75 percent of the wine sold by such licensee shall be fermented on the licensed premises.

~~C. Farm~~ D. For Class IV farm winery licensees, 75 percent of the fruits or agricultural products used by the licensee to manufacture wine shall be grown or produced in the Commonwealth. Class IV farm winery licensees shall have on the licensed premises a growing area no smaller than 10 acres that produces fruits or agricultural products used to manufacture the wine of such farm winery. No Class IV farm winery license shall be issued to any person that has not operated under an existing farm winery license for at least seven years.

E. A farm winery licensee licensee may trade with other farm winery licensees fruits or agricultural products grown or produced on such farms with other property in the Commonwealth that is owned or leased by such farm winery licensees. For the purposes of this section, fruit or agricultural products traded or exchanged between farm winery licensees shall be considered grown or produced on the licensed premises of the receiving farm licensee for the purposes of meeting the fruit sourcing requirement in subsections A and, B, C, and D, provided that verification is provided to the receiving farm licensee that the fruit or agricultural products traded or exchanged were grown or produced in the Commonwealth by the farm winery licensee engaging in such trade or exchange. Both licensees shall maintain complete and accurate records of the quantity and source of any fruit or agricultural products traded or exchanged. Such trades or exchanges shall be bona fide transactions based on the fair market value of the fruits or agricultural products traded or exchanged. For the purposes of this subsection, "agricultural products" means the raw materials used or intended to be used in the manufacture of wine or cider by farm winery licensees.

~~D. F.~~ F. Notwithstanding the provisions of subsections A and, B, C, and D, upon petition by the Department of Agriculture and Consumer Services, the Board may permit the use (i) of a greater quantity of out-of-state products if supplies grown or produced in the Commonwealth are insufficient for a farm winery licensee, whether Class A or I, Class B II, Class III, or Class IV, to achieve the level of production which that otherwise could be anticipated during a given license year or (ii) by a Class A I, Class II, or Class IV farm winery of a lesser percentage of products grown or produced on the farm licensed premises or on property in the Commonwealth that is owned or leased by the licensee, as applicable, if unusually severe weather or disease conditions cause a significant reduction in the availability of fruit or other agricultural products grown or produced on the farm such property to manufacture wine during a given license year.

G. As used in this section, the terms "owner" and "lessee" phrase "property in the Commonwealth that is owned or leased by the licensee" shall include, in the case of a cooperative formed by an association of individuals for the purpose of manufacturing wine. The term "farm" as used in this section includes all of the land licensed as a farm winery, any property in the Commonwealth that is owned or leased by the farm winery licensee as long as such land is located in the Commonwealth a member of such cooperative.

§ 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~~ \$275 for any Class A I or Class II license and ~~\$4,730~~, \$500 for any Class B III license, and \$4,000 for any Class IV 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.
 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.
- 2. That any person that holds a farm winery license that was applied for prior to July 1, 2023,**

and granted prior to January 1, 2024, by the Board of Directors of the Virginia Alcoholic Beverage Control Authority shall, until July 1, 2028, (i) be exempt from the requirements created by this act in §§ 4.1-219 and 4.1-231.1 of the Code of Virginia and (ii) remain subject to the requirements of §§ 4.1-219 and 4.1-231.1 of the Code of Virginia as those sections were in effect on June 30, 2023.