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SENATE BILL NO. 1387

Offered January 11, 2023

Prefiled January 11, 2023

A BILL to amend and reenact §§ 4.1-100 and 4.1-204, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to alcoholic beverage control; slotting fees.

Patron—Norment

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100 and 4.1-204, as it is currently effective and as it shall become effective, 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

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59 forth in this subtitle or Board regulation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

182 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal
183 descendants of a bona fide member, whether alive or deceased, of a national or international
184 organization to which an individual lodge holding a club license is an authorized member in the same
185 locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the
186 annual dues of resident members of the club, the full amount of such contribution being paid in advance
187 in a lump sum.

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

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

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

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

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

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

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

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

224 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities
225 located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with
226 voluntary membership which, as its primary function, makes available golf, ski, and other recreational
227 facilities both to its members and to the general public; or (iii) operated by a corporation that operates
228 as a management company which, as its primary function, makes available (a) vacation accommodations,
229 guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the
230 managed entities and the general public. The hotel or corporation shall have or manage a minimum of
231 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not
232 contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is
233 not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the
234 same locality. The Authority may consider the purpose, characteristics, and operation of the applicant
235 establishment in determining whether it shall be considered as a resort complex. All other pertinent
236 qualifications established by the Board for a hotel operation shall be observed by such licensee.

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

240 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant
241 license, an established place of business (i) where meals with substantial entrees are regularly sold and
242 (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such
243 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.

"Slotting fee" means a fee, paid by money or any other thing of value, charged to a beverage manufacturer by a retailer in exchange for the placement of the manufacturer's products in the retailer's establishment, securing a certain amount of shelf space or a specific shelf placement, or guaranteed advertising for products placed in the retailer's establishment.

"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.

§ 4.1-204. (Effective until July 1, 2024) 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.

B. Retailers. — Every retail licensee shall keep complete, accurate, and separate records, in accordance with Board regulations, of all (i) purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. ~~Every retail licensee shall also preserve all;~~ (ii) invoices showing his purchases for a period as specified by Board regulations; and (iii) slotting fees received from a manufacturer of both alcoholic and nonalcoholic beverages, including a manufacturer that licenses its nonalcoholic products brand to another manufacturer for use with an alcoholic product. He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection 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 retail licenses that require sales of food to determine their qualifications for such licenses, the records 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.

C. Common carriers. — Common carriers of passengers by train, boat, bus, or airplane shall keep 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.

E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to § 4.1-212.1 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 (i) the types of alcoholic beverages sold, (ii) the total quantities of alcoholic beverages sold, (iii) the total price charged for such alcoholic beverages, (iv) the name and date of birth of the person to whom the alcoholic beverages are delivered, and (v) the address to which the alcoholic beverages are delivered. Licensees and permittees shall remit such records on a monthly basis for any month during which the licensee or permittee makes a delivery for which the licensee or permittee is required to collect and remit excise taxes due to the Authority pursuant to subsection H of § 4.1-212.1.

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 hours to every place in the Commonwealth and to the premises of both (i) every wine and beer shipper 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 examining and inspecting such place and all records, invoices and accounts therein. The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine and beer shipper licensee, licensee or permittee authorized to make deliveries, or 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.

§ 4.1-204. (Effective July 1, 2024) 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.

B. Retailers. — Every retail licensee shall keep complete, accurate, and separate records, in accordance with Board regulations, of all (i) purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased; ~~Every retail licensee shall also preserve all;~~ (ii) invoices showing his purchases for a period as specified by Board regulations; and (iii) *slotting fees received from a manufacturer of both alcoholic and nonalcoholic beverages, including a manufacturer that licenses its nonalcoholic products brand to another manufacturer for use with an alcoholic product.* He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection 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 retail licenses that require sales of food to determine their qualifications for such licenses, the records 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.

C. Common carriers. — Common carriers of passengers by train, boat, bus, or airplane shall keep 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.

E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to § 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in accordance with Board regulations of all deliveries of wine or beer to persons in the Commonwealth. Such records shall include (i) the 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, (iv) the name and date of birth of the person to whom the wine and beer is delivered, and (v) the address to which the wine and beer is delivered. Licensees and permittees shall remit such records on a monthly basis for any month during which the licensee or permittee makes a delivery for which the licensee or permittee is required to collect and remit excise taxes due to the Authority pursuant to subsection E of § 4.1-212.1.

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 hours to every place in the Commonwealth and to the premises of both (i) every wine and beer shipper 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 examining and inspecting such place and all records, invoices and accounts therein. The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine and beer shipper licensee, licensee or permittee authorized to make deliveries, or 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.