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**HOUSE BILL NO. 959**

Offered January 26, 1998

*A BILL to amend and reenact §§ 4.1-100, 4.1-210, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; mixed beverage nightclub license.*

\_\_\_\_\_  
Patron—Robinson

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Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-100, 4.1-210, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted as follows:**

§ 4.1-100. Definitions.

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

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

"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, 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.

"Barrel" means any container or vessel having a capacity of more than forty-three ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than fifteen 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.

"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 Virginia Alcoholic Beverage Control Board.

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

"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.

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

"Convenience grocery store" means an establishment which (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.

"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.

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

"Farm winery" means an establishment located on a farm in the Commonwealth with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the

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premises where the owner or lessee manufactures wine that contains not more than fourteen percent alcohol by volume. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event 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.

"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 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 Board for the sale of alcoholic beverages.

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

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

"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.

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

"Licensed" means the holding of a valid license issued by the Board.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"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 or local chapter 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 ten 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.

"Nightclub" means an establishment to provide entertainment at night, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold, and which has a floor show or provides music and space for dancing.

"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.

"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 highway, street, lane, park, or place of public resort or amusement.

The term shall 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 Board 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 which 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 with a hotel owning year-round sports and recreational facilities located contiguously on the same property. The hotel must have a minimum of 150 private guest rooms contained on not less than 50 acres. The Board 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 beer, or wine and beer 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, 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.

"Special agent" means an employee of the Department of Alcoholic Beverage Control 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 which 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 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. The term 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 twenty-one 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 § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-210. Mixed beverages licenses.

A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to mixed beverages:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas on the premises of such restaurant.

183 Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts  
184 from the sale of food cooked or prepared; and consumed on the premises and nonalcoholic beverages  
185 served on the premises, after issuance of such license, amount to at least forty-five percent of the gross  
186 receipts from the sale of mixed beverages and food.

187 If the restaurant is located on the premises of a hotel or motel with not less than four permanent  
188 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,  
189 bedrooms and other private rooms of such hotel or motel, such licensee may (i) sell and serve mixed  
190 beverages for consumption in such designated areas, bedrooms and other private rooms and (ii) sell  
191 spirits packaged in original closed containers purchased from the Board for on-premises consumption to  
192 registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private  
193 rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale  
194 and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed  
195 appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own  
196 lawfully acquired spirits in bedrooms or private rooms.

197 If the restaurant is located on the premises of and operated by a private, nonprofit or profit club  
198 exclusively for its members and their guests, or members of another private, nonprofit or profit club in  
199 another city with which it has an agreement for reciprocal dining privileges, such license shall also  
200 authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club  
201 prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the  
202 Board and located on another portion of the premises of the same hotel or motel building, this fact shall  
203 not prohibit the granting of a license by the Board to such club qualifying in all other respects. The  
204 club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold  
205 to its members and guests and consumed on the premises shall amount to at least forty-five percent of  
206 its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to  
207 such a club shall be excluded in any consideration of the qualifications of such restaurant for a license  
208 from the Board.

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

215 3. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in  
216 charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for  
217 on-premises consumption in areas approved by the Board on the premises of the place designated in the  
218 license. A separate license shall be required for each day of each special event.

219 4. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or  
220 association operating a performing arts facility or (ii) a nonprofit corporation or association chartered by  
221 Congress for the preservation of sites, buildings and objects significant in American history and culture.  
222 The operation in either case shall be upon premises owned by such licensee or occupied under a bona  
223 fide lease the original term of which was for more than one year's duration. Such license shall authorize  
224 the sale, on the dates of performances or events in furtherance of the purposes of the nonprofit  
225 corporation or association, of alcoholic beverages, for on-premises consumption in areas upon the  
226 licensed premises approved by the Board.

227 5. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat  
228 or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the  
229 Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms  
230 of establishments of air carriers at airports in the Commonwealth.

231 6. *Mixed beverage nightclub licenses, which shall authorize the licensee to sell and serve mixed*  
232 *beverages for consumption in areas designated on the premises of such nightclub. Such license may be*  
233 *granted only to persons (i) who operate a nightclub and (ii) whose gross receipts from the sale of food*  
234 *cooked or prepared and consumed on the premises and nonalcoholic beverages served on the premises,*  
235 *after issuance of such license, amount to at least twenty-five percent of the gross receipts from the sale*  
236 *of mixed beverages and food.*

237 B. The granting of any license under subdivisions 1 and 5 shall automatically include a license to  
238 sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local  
239 taxes required by §§ 4.1-231 and 4.1-233.

240 § 4.1-231. Taxes on state licenses.

241 A. The annual taxes on state licenses shall be as follows:

242 1. Alcoholic beverage licenses. For each:

243 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured  
244 during the year in which the license is granted, \$350; and if more than 5,000 gallons manufactured

- 245 during such year, \$2,860;
- 246 b. Fruit distiller's license, \$2,860;
- 247 c. Banquet facility license, \$145;
- 248 d. Bed and breakfast establishment license, \$25; and
- 249 e. Tasting license, \$30 per license granted.
- 250 2. Wine licenses. For each:
- 251 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the
- 252 license is granted, \$350, and if more than 5,000 gallons manufactured during such year, \$2,860;
- 253 b. Wholesale wine license, \$715 for any wholesaler who sells 150,000 gallons of wine or less per
- 254 year, \$1,100 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine
- 255 per year, and \$1,430 for any wholesaler who sells more than 300,000 gallons of wine per year;
- 256 c. Wine importer's license, \$285;
- 257 d. Retail off-premises winery license, \$110; and
- 258 e. Farm winery license, \$145.
- 259 3. Beer licenses. For each:
- 260 a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which
- 261 the license is granted, \$1,650, and if more than 10,000 barrels manufactured during such year, \$3,300;
- 262 b. Bottler's license, \$1,100;
- 263 c. Wholesale beer license, \$715 for any wholesaler who sells 300,000 cases of beer a year or less,
- 264 and \$1,100 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a
- 265 year, and \$1,430 for any wholesaler who sells more than 600,000 cases of beer a year;
- 266 d. Beer importer's license, \$285;
- 267 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
- 268 carrier of passengers by train or boat, \$110; for each such license to a common carrier of passengers by
- 269 train or boat, \$110 per annum for each of the average number of boats, dining cars, buffet cars or club
- 270 cars operated daily in the Commonwealth;
- 271 f. Retail off-premises beer license, \$90; and
- 272 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
- 273 town or in a rural area outside the corporate limits of any city or town, \$230.
- 274 4. Wine and beer licenses. For each:
- 275 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
- 276 common carrier of passengers by train, boat or airplane, \$230; for each such license to a common
- 277 carrier of passengers by train or boat, \$230 per annum for each of the average number of boats, dining
- 278 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
- 279 a common carrier of passengers by airplane, \$575;
- 280 b. Retail on-premises wine and beer license to a hospital, \$110;
- 281 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
- 282 grocery store license, \$175;
- 283 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$460;
- 284 e. Banquet license, \$30 per license granted by the Board; and
- 285 f. Gourmet brewing shop license, \$175.
- 286 5. Mixed beverage licenses. For each:
- 287 a. Mixed beverage *nightclub license or mixed beverage* restaurant license granted to persons
- 288 operating *nightclubs or* restaurants, including restaurants located on premises of and operated by hotels
- 289 or motels, or other persons:
- 290 (i) With a seating capacity at tables for up to 100 persons, \$430;
- 291 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$750; and
- 292 (iii) With a seating capacity at tables for more than 150 persons, \$1,100.
- 293 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
- 294 private, nonprofit clubs:
- 295 (i) With an average yearly membership of not more than 200 resident members, \$575;
- 296 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
- 297 \$1,430; and
- 298 (iii) With an average yearly membership of more than 500 resident members, \$2,125.
- 299 c. Mixed beverage caterer's license, \$1,430.
- 300 d. Mixed beverage special events license, \$35 for each day of each event.
- 301 e. Annual mixed beverage special events license, \$430.
- 302 f. Mixed beverage carrier license:
- 303 (i) \$145 for each of the average number of dining cars, buffet cars or club cars operated daily in the
- 304 Commonwealth by a common carrier of passengers by train;
- 305 (ii) \$430 for each common carrier of passengers by boat; and

(iii) \$1,135 for each license granted to a common carrier of passengers by airplane.

6. 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 such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent:: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than twelve 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.

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.

§ 4.1-233. Taxes on local licenses.

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

1. Alcoholic beverages. - For each:

a. Distiller's license, \$1,000; no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Fruit distiller's license, \$1,500;

c. Bed and breakfast establishment license, \$40; and

d. Tasting license, \$5 per license granted.

2. Beer. - For each:

a. Brewery license, \$1,000;

b. Bottler's license, \$500;

c. Wholesale beer license, in a city, \$250, and in a county or town, \$75; and

d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer license in a city, \$100, and in a county or town, \$25.

3. Wine. - For each:

a. Winery license, \$1,000; and

b. Wholesale wine license, \$50.

4. Wine and beer. - For each:

a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;

b. Hospital license, \$10;

c. Banquet license, \$5 for each license granted; and

d. Gourmet brewing shop license, \$150.

5. Mixed beverages. - For each:

a. Mixed beverage *nightclub license, or mixed beverage restaurant license, including nightclubs or restaurants located on the premises of and operated by hotels or motels, or other persons:*

(i) With a seating capacity at tables for up to 100 persons, \$200;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and

(iii) With a seating capacity at tables for more than 150 persons, \$500.

b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;

368 c. Mixed beverage caterer's license, \$500; and

369 d. Mixed beverage special events licenses, \$10 for each day of each event.

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

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

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

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

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