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**HOUSE BILL NO. 328**

Offered January 12, 2022

Prefiled January 11, 2022

A *BILL to amend and reenact §§ 4.1-100, 4.1-103, 4.1-111, 4.1-115, 4.1-121, 4.1-122, 4.1-201, 4.1-206.1, as it is currently effective and as it shall become effective, 4.1-206.3, as it is currently effective and as it shall become effective, 4.1-215, 4.1-231.1, 4.1-233.1, 4.1-234, 4.1-235, 4.1-303, and 4.1-330 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 4.1-118.1, 4.1-120.1, 4.1-210.1, and 4.1-214.1; and to repeal §§ 4.1-119 and 4.1-120 of the Code of Virginia, relating to alcoholic beverage control; retail privatization of government stores.*

Patrons—Freitas and Scott, P.A.

Committee Referral Pending

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

1. § 1. *The Board of Directors of the Virginia Alcoholic Beverage Control Authority (the Board) shall, on or before January 1, 2023, complete an implementation study for the discontinuation of government stores, in accordance with the provisions of this act, and for the disposition of all real property owned or leased by the Board that is used for government stores.*

§ 2. *The Board shall auction or cause to be auctioned or otherwise dispose of all real property owned by it and used for government stores.*

§ 3. *When government stores are leased by the Board, the Board shall review all such leases to determine the (i) assignability of the lease to a person, firm, or corporation, which shall be eligible for licensure as a package store licensee; (ii) applicable lease termination provisions; and (iii) notice of termination provisions contained in such leases.*

*Upon completion of such review, the Board shall ensure that the Commonwealth's obligation to pay rent terminates at a time coincident with the effective date of this act, to the extent practicable.*

§ 4. *The Board shall adopt regulations, in accordance with the provisions of this act, governing the issuance of package store licenses, which regulations shall include a provision requiring the establishment of one package store per 20,000 people in each locality of the Commonwealth, subject to the requirements of §§ 4.1-121 and 4.1-124 of the Code of Virginia.*

2. That §§ 4.1-100, 4.1-103, 4.1-111, 4.1-115, 4.1-121, 4.1-122, 4.1-201, 4.1-206.1, as it is currently effective and as it shall become effective, 4.1-206.3, as it is currently effective and as it shall become effective, 4.1-215, 4.1-231.1, 4.1-233.1, 4.1-234, 4.1-235, 4.1-303, and 4.1-330 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 4.1-118.1, 4.1-120.1, 4.1-210.1, and 4.1-214.1 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.

"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

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59 works of art are sold or displayed.

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

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

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

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

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

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

75 "Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20  
76 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the  
77 Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24  
78 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with  
79 charging stations at every seat for cellular phones or other portable devices, and (vi) during the  
80 transportation of passengers, is staffed by an attendant who has satisfied all training requirements set  
81 forth in this title or Board regulation.

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

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

94 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum of  
95 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain  
96 stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a  
97 physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial  
98 owners' association that is responsible for the management, maintenance, and operation of the common  
99 areas thereof.

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

102 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains  
103 grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes,  
104 processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with  
105 the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility  
106 for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied  
107 the grapes, fruits, or other agricultural products used in the production of the wine. The contract  
108 winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have  
109 not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm  
110 winery for its services.

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

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

120 "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) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area 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 (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 a cooperative formed by an association of 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 title.

"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

182 telephone orders are taken and shipped directly to consumers and which establishment is not a retail  
183 store open to the public.

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

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

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

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

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

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

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

202 "Member of a club" means (i) a person who maintains his membership in the club by the payment of  
203 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii)  
204 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal  
205 descendants of a bona fide member, whether alive or deceased, of a national or international  
206 organization to which an individual lodge holding a club license is an authorized member in the same  
207 locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the  
208 annual dues of resident members of the club, the full amount of such contribution being paid in advance  
209 in a lump sum.

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

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

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

219 *"Package store" means the licensed premises where spirits, wine produced by farm wineries, low*  
220 *alcohol beverage coolers produced by licensed distillers, vermouth, mixers, and products used in*  
221 *connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of*  
222 *distilled spirits, are sold at retail.*

223 *"Package store licensee" means any person licensed pursuant to subdivision A 15 of § 4.1-206.3.*

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

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

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

239 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for  
240 private meetings or private parties limited in attendance to members and guests of a particular group,  
241 association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or  
242 similar facilities while such restaurant is closed to the public and in use for private meetings or parties  
243 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.

#### **§ 4.1-103. General powers of Board.**

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

305 2. Adopt, use, and alter at will a common seal;  
306 3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the  
307 sale of products of, or services rendered by the Authority at rates to be determined by the Authority for  
308 the purpose of providing for the payment of the expenses of the Authority;  
309 4. Make and enter into all contracts and agreements necessary or incidental to the performance of its  
310 duties, the furtherance of its purposes, and the execution of its powers under this title, including  
311 agreements with any person or federal agency;  
312 5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial  
313 experts, investment bankers, superintendents, managers, and such other employees and special agents as  
314 may be necessary and fix their compensation to be payable from funds made available to the Authority.  
315 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5  
316 (§ 2.2-500 et seq.) of Title 2.2;  
317 6. Receive and accept from any federal or private agency, foundation, corporation, association, or  
318 person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive  
319 and accept from the Commonwealth or any state and any municipality, county, or other political  
320 subdivision thereof or from any other source aid or contributions of either money, property, or other  
321 things of value, to be held, used, and applied only for the purposes for which such grants and  
322 contributions may be made. All federal moneys accepted under this section shall be accepted and  
323 expended by the Authority upon such terms and conditions as are prescribed by the United States and as  
324 are consistent with state law, and all state moneys accepted under this section shall be expended by the  
325 Authority upon such terms and conditions as are prescribed by the Commonwealth;  
326 7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business  
327 shall be transacted and the manner in which the powers of the Authority shall be exercised and its  
328 duties performed. The Board may delegate or assign any duty or task to be performed by the Authority  
329 to any officer or employee of the Authority. The Board shall remain responsible for the performance of  
330 any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be  
331 accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate,  
332 the guidelines shall require that the Board receive summaries of actions taken. Such delegation or  
333 assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties  
334 and tasks;  
335 8. Conduct or engage in any lawful business, activity, effort, or project consistent with the  
336 Authority's purposes or necessary or convenient to exercise its powers;  
337 9. Develop policies and procedures generally applicable to the procurement of goods, services, and  
338 construction, based upon competitive principles;  
339 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of  
340 Title 2.2;  
341 11. Buy, import, and sell ~~alcoholic beverages other than beer and wine not produced by farm~~  
342 ~~wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its~~  
343 ~~possession for sale spirits at wholesale;~~  
344 ~~12. Buy and sell any mixers;~~  
345 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international  
346 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass),  
347 and 25 (clothing);  
348 14. Control the possession, sale, transportation, and delivery of alcoholic beverages;  
349 15. Determine, subject to § 4.1-121, the localities within which ~~government package~~ stores ~~shall may~~  
350 be established or operated and the ~~location~~ *maximum number* of such stores *in each such locality based*  
351 *on criteria established by Board regulation*;  
352 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic  
353 beverages to and from such warehouses;  
354 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,  
355 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the  
356 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest  
357 therein, at such annual rental and on such terms and conditions as may be determined by the Board;  
358 lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest  
359 therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual  
360 rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey  
361 any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired  
362 or held by the Authority on such terms and conditions as may be determined by the Board; and occupy  
363 and improve any land or building required for the purposes of this title;  
364 18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be  
365 considered necessary or useful in carrying into effect the purposes of this title, including rectifying,  
366 blending, and processing plants. The Board may purchase, build, lease, and operate distilleries and

manufacture alcoholic beverages;

19. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this title, and prescribe the form and content of all labels and seals to be placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline alcohol;

20. Appoint every agent and employee required for its operations; require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts and professionals;

21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

22. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111;

24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;

25. Assess and collect civil penalties and civil charges for violations of this title and Board regulations;

26. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

27. Establish minimum food sale requirements for all retail licensees;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this title;

30. Establish and collect fees for all permits set forth in this title, including fees associated with applications for such permits;

31. Impose a requirement that a mixed beverage restaurant licensee located on the premises of and operated by a casino gaming establishment pay for any cost incurred by the Board to enforce such license in excess of the applicable state license fee; and

32. Do all acts necessary or advisable to carry out the purposes of this title.

#### **§ 4.1-111. Regulations of Board.**

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution, and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of

arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

~~7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.~~

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct, or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this title, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this title and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55.1-1100, but only in accordance with this title.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour and any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees from using creative marketing techniques in such advertisements, provided that such techniques do not tend to induce overconsumption or consumption by minors.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass,



ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shops granted a retail off-premises wine and beer license. Growlers sold by gourmet shops shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shops granted a retail off-premises wine and beer license for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other documents necessary to verify the licensee's compliance with applicable minimum food sale requirements within 30 days of the date such records or documents are due.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

#### **§ 4.1-115. Reports and accounting systems of Board; auditing books and records.**

A. The Board shall make reports to the Governor as he may require covering the administration and enforcement of this title. Additionally, the Board shall submit an annual report to the Governor and General Assembly on or before December 15 each year, which shall contain:

1. A statement of the nature and amount of the business transacted by ~~each government store~~ any warehouse operated by the Board during the year;

2. A statement of the assets and liabilities of the Board, including a statement of income and expenses and such other financial statements and matters as may be necessary to show the result of the operations of the Board for the year;

3. A statement showing the taxes collected under this title during the year;

4. General information and remarks about the working of the alcoholic beverage control laws within the Commonwealth; and

5. Any other information requested by the Governor.

B. The Board shall maintain an accounting system in compliance with generally accepted accounting principles and approved in accordance with § 2.2-803.

C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual

audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

**§ 4.1-118.1. Operation of warehouses by Board.**

A. The Board shall fix the wholesale price at which the various classes, varieties, and brands of alcoholic beverages are to be sold. However, the Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the U.S. Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices that may be greater or less than the wholesale price charged other authorized purchasers.

B. Alcoholic beverages at warehouses operated by the Board shall be sold by employees of the Board, who shall carry out the provisions of this title and Board regulations governing the operation of such warehouses and the wholesale sale of alcoholic beverages.

C. All alcoholic beverages sold from warehouses operated by the Board shall be in closed containers, sealed, and affixed with labels prescribed by the Board.

D. No alcoholic beverages shall be consumed by any person in a warehouse operated by the Board.

E. With respect to purchases by licensees from warehouses operated by the Board, the Board shall accept in payment for any purchase or series of purchases cash, electronic funds transfer, or check payable to the Board, in the exact amount of any such purchase or series of purchases, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

F. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste, or color shall be sold by the Board at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

**§ 4.1-120.1. Program for employees of discontinued government stores.**

The Board shall establish a program for its employees whose positions are terminated as a result of the discontinuation of government stores and who do not qualify for or who choose not to accept early retirement. The program, developed in consultation with the Virginia Board of Workforce Development, shall provide needed adult education and workforce training.

Notwithstanding any other provision of law, the Board shall give preference to qualified employees of the Authority whose jobs are terminated as a result of the discontinuance of government stores (i) when hiring to fill vacant positions within the Authority or (ii) who apply for a package store license and who otherwise meet the licensing requirements of this title and Board regulations.

**§ 4.1-121. Referendum on establishment of package stores.**

A. The qualified voters of any county, city, or town having a population of 1,000 or more may file a petition with the circuit court of the county or city, or of the county wherein the town or the greater part thereof is situated, asking that a referendum be held on the question of whether the sale of alcoholic beverages by package store licensees of the Virginia Alcoholic Beverage Control Authority of alcoholic beverages, other than beer and wine not produced by farm wineries, should be prohibited within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the jurisdiction on January 1 preceding its filing or by at least 100 qualified voters, whichever is greater. Upon the filing of a petition, the court shall order the election officials of the county, city, or town, on the date fixed in the order, to conduct a referendum on the question. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the county, city, or town once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale by package store licensees of the Virginia Alcoholic Beverage Control Authority of alcoholic beverages, other than beer and wine not produced by farm wineries, be prohibited in \_\_\_\_\_ (name of county, city, or town)?"

The referendum shall be ordered and held and the results certified as provided in § 24.2-684. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the county, city, or town.

B. Once a referendum has been held, no other referendum on the same question shall be held in the county, city, or town within four years of the date of the prior referendum. However, a town shall not be prescribed from holding a referendum within such period although an election has been held in the county in which the town or a part thereof is located less than four years prior thereto.

**§ 4.1-122. Effect of local option referenda.**

A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a majority of the qualified voters vote "Yes" on the question, then on and after 60 days from the date on which the order of the court, setting forth the results of such referendum was entered of record, none of the alcoholic beverages voted against shall be sold in such county, city, or town except for delivery or shipment to persons outside of such county, city, or town authorized under this title to acquire the alcoholic beverages for resale. This subsection shall not apply to common carriers of passengers by

train, boat or airplane selling wine and beer to bona fide passengers.

B. If in any such referendum held in any county, city, or town in which a majority of the qualified voters have previously voted to prohibit the sale of alcoholic beverages by *package store licensees* of the Board and in a subsequent election a majority of the voters of the county, city, or town vote "No" on the question stated in § 4.1-121, then such alcoholic beverages may, in accordance with this title, be sold within the county, city, or town on and after 60 days from the day on which the order of the court setting forth the results of such election is entered of record.

C. If any referendum is held under the provisions of § 4.1-124 in any county, town, or supervisor's election district of a county and the majority of voters voting in such referendum voted "Yes," the sale by *package store licensees* of the Board of alcoholic beverages, ~~other than beer and wine not produced by farm wineries~~, shall be prohibited in such county, town, or supervisor's election district of a county. Notwithstanding this section and any referendum held under § 4.1-121 to the contrary, persons licensed to sell mixed beverages in such county, town, or supervisor's election district of a county shall also be permitted to sell wine and beer for on-premises consumption, provided the appropriate license fees are paid for the privilege.

D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery or shipment of alcoholic beverages specified in § 4.1-200 to and by persons therein authorized to sell alcoholic beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations into any county, city, or town, except as otherwise prohibited by this title.

E. For the purpose of this section, when any referendum is held in any town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county.

**§ 4.1-201. Conduct not prohibited by this title; limitation.**

A. Nothing in this title or any Board regulation adopted pursuant thereto shall prohibit:

1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or given away in violation of this title.

2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in accordance with Board regulations.

3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic beverages.

4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the places of business or establishments for which the retail licenses are desired are located upon the premises occupied or to be occupied by such distillery, winery, or brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary.

6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to another farm winery or winery licensee for the purpose of additional bottling in accordance with Board

regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

9. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the extent it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth. The selling licensee shall provide to the receiving licensee, and both shall maintain complete and accurate records of, the source of the fresh fruits or agricultural products used to produce the wine so transferred.

10. Any retail on-and-off-premises wine and beer licensee, his agent or employee, from giving a sample of wine or beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall not exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not exceed one-half ounce, unless served as a mixed beverage, in which case a sample of spirits may contain up to one and one-half ounces of spirits. No more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given to any person per day.

11. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not licensed in the Commonwealth, from selling service items bearing alcoholic brand references to on-premises retail licensees or prohibit any such retail licensee from displaying the service items on the premises of his licensed establishment. Each such retail licensee purchasing such service items shall retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of not less than two years from the date of each sale of the service items. As used in this subdivision, "service items" mean articles of tangible personal property normally used by the employees of on-premises retail licensees to serve alcoholic beverages to customers including, but not limited to, glasses, napkins, buckets, and coasters.

12. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in the Commonwealth, from distributing to retail licensees and their employees novelties and specialties, including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage advertising. Such items may be distributed to retail licensees in quantities equal to the number of employees of the retail establishment present at the time the items are delivered. Thereafter, such employees may wear or display the items on the licensed premises.

13. Any (i) retail on-premises wine and beer licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines or beers consisting of samples of not more than five different wines or beers and (ii) mixed beverage licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of distilled spirits consisting of samples of not more than five different spirits products.

14. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired wine, beer, or cider by bona fide customers on the premises in all areas and locations covered by the license, provided that (i) all such wine, beer, or cider shall have been acquired by the customer from a retailer licensed to sell such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto the licensed premises by the customer except in sealed, nonresealable bottles or cans. The licensee may charge a corkage fee to such customer for the wine, beer, or cider so consumed; however, the licensee shall not charge any other fee to such customer.

15. Any winery, farm winery, wine importer, wine wholesaler, brewery, limited brewery, beer importer, beer wholesaler, or distiller licensee from providing to adult customers of licensed retail establishments information about wine, beer, or spirits being consumed on such premises.

16. Any private swim club operated by a duly organized nonprofit corporation or association from allowing members to bring lawfully acquired alcoholic beverages onto the premises of such club and consume such alcoholic beverages on the premises of such club.

17. Any distiller licensed under this title from selling spirits on the licensed premises of the distiller in accordance with subdivision A 16 of § 4.1-206.3.

B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from receiving or selling the same.

#### **§ 4.1-206.1. (Effective until July 1, 2022) 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. Such licensee may also hold a limited package store license under the conditions specified in subdivision A 16 of § 4.1-206.3.

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 manufacture wine and to sell and deliver or ship the 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) 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) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) 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 wine sold for on-premises consumption is manufactured on the licensed premises.

6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship the 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) acquire and receive deliveries and shipments of wine and sell and deliver or ship this 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) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) 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 Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an

797 agreement in accordance with Board regulations with a winery or farm winery licensee operating a  
798 contract winemaking facility.

799 Such licenses shall also authorize the licensee to sell wine at retail at the places of business  
800 designated in the licenses, which may include no more than five additional retail establishments of the  
801 licensee. Wine may be sold at these business places for on-premises consumption and in closed  
802 containers for off-premises consumption, provided that any brand of wine not owned by the farm winery  
803 licensee is purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the  
804 licensee to be served and sold for on-premises or off-premises consumption at these business places.

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

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

813 **§ 4.1-206.1. (Effective July 1, 2022) Manufacturer licenses.**

814 The Board may grant the following manufacturer licenses:

815 1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other  
816 than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in  
817 closed containers, to the Board and to persons outside the Commonwealth for resale outside the  
818 Commonwealth. ~~When the Board has established a government store on the distiller's licensed premises~~  
819 ~~pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to~~  
820 ~~consumers to participate in an organized tasting event conducted in accordance with subsection G of~~  
821 ~~§ 4.1-119 and Board regulations. Such licensee may also hold a limited package store license under the~~  
822 ~~conditions specified in subdivision A 16 of § 4.1-206.3.~~

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

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

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

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

857 5. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or  
858 ship the 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) 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) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) 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 wine sold for on-premises consumption is manufactured on the licensed premises.

6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship the 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) acquire and receive deliveries and shipments of wine and sell and deliver or ship this 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) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) 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 Class B 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 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 at these business places for on-premises consumption and in closed containers for off-premises consumption, provided that any brand of 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 at these 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.

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

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

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

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

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club

920 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in  
921 another city with which it has an agreement for reciprocal dining privileges, such license shall also  
922 authorize the licensees to (1) sell and serve mixed beverages for on-premises or off-premises  
923 consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity  
924 of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where  
925 such club prepares no food in its restaurant but purchases its food requirements from a restaurant  
926 licensed by the Board and located on another portion of the premises of the same hotel or motel  
927 building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all  
928 other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the  
929 premises and food resold to its members and guests and consumed on the premises shall amount to at  
930 least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made  
931 by a restaurant to such a club shall be excluded in any consideration of the qualifications of such  
932 restaurant for a license from the Board.

933 If the restaurant is located on the premises of and operated by a municipal golf course, the Board  
934 shall recognize the seasonal nature of the business and waive any applicable monthly food sales  
935 requirements for those months when weather conditions may reduce patronage of the golf course,  
936 provided that prepared food, including meals, is available to patrons during the same months. The gross  
937 receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic  
938 beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent  
939 of the gross receipts from the sale of mixed beverages and food on an annualized basis.

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

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

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

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

964 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,  
965 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in  
966 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated  
967 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its  
968 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air  
969 carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same  
970 airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the  
971 alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express  
972 carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the  
973 inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be  
974 delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records  
975 of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The  
976 granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a  
977 license to sell and serve wine and beer for on-premises consumption or in closed containers for  
978 off-premises consumption; however, the licensee shall be required to pay the local fee required for such  
979 additional license pursuant to § 4.1-233.1.

980 5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell  
981 mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans,



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

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for on-premises consumption in dining areas of the restaurant or off-premises consumption. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

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

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

1043 h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax  
1044 County, provided that the corporate and performing arts facility (i) is occupied under a bona fide  
1045 long-term lease, management, or concession agreement, the original term of which was more than one  
1046 year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the  
1047 dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the  
1048 licensed premises approved by the Board.

1049 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any  
1050 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to  
1051 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and  
1052 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed  
1053 beverage caterer at the same business premises designated in the license, with a common alcoholic  
1054 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the  
1055 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision  
1056 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to  
1057 this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and  
1058 beer for on-premises consumption or in closed containers for off-premises consumption; however, the  
1059 licensee shall be required to pay the local fee required for such additional license pursuant to  
1060 § 4.1-233.1.

1061 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in  
1062 dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is  
1063 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and  
1064 without regard to the amount of gross receipts from the sale of food prepared and consumed on the  
1065 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom  
1066 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas  
1067 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas"  
1068 includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more  
1069 than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor  
1070 dining areas are under the control of the licensee and approved by the Board. Such noncontiguous  
1071 designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of  
1072 § 4.1-201.

1073 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under  
1074 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the  
1075 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide  
1076 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any  
1077 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in  
1078 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,  
1079 regularly occupied and utilized as such.

1080 11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the  
1081 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof  
1082 during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly  
1083 or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the  
1084 licensee's premises designated by the Board that are regularly occupied and utilized for motor car  
1085 sporting events.

1086 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'  
1087 association governing a commercial lifestyle center, which shall authorize any retail on-premises  
1088 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any  
1089 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion  
1090 of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,  
1091 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant  
1092 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of  
1093 such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail  
1094 on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle  
1095 center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers  
1096 with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed.  
1097 Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center  
1098 licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of  
1099 the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall  
1100 provide adequate security for the licensed premises to ensure compliance with the applicable provisions  
1101 of this title and Board regulations.

1102 13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve  
1103 mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such  
1104 license may be granted only to persons operating a business (i) that is primarily engaged in the sale of

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

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

15. *Package store licenses, which shall authorize the licensee to sell alcoholic beverages, including wine, beer, and wine produced by farm wineries, in closed containers for off-premises consumption and to deliver or ship such alcoholic beverages to purchasers in accordance with Board regulations. Such licensee shall purchase such alcoholic beverages in a manner prescribed by Board regulation. Products used in connection with alcoholic beverages, including any mixers, garnish, or garnishment applied to the rim of a glass of distilled spirits, may be sold by such licensee in accordance with Board regulations.*

16. *Limited package store licenses, which shall authorize the licensee to sell spirits in accordance with the provisions of this title and Board regulations only under the following conditions:*

- a. *The licensee also holds a distiller's license;*
- b. *The spirits are manufactured by the licensee in accordance with subdivision 1 of § 4.1-206.1;*
- c. *The sale of such spirits is conducted on the distiller's licensed premises; and*
- d. *At least 51 percent of the agricultural products used by such licensee to manufacture the spirits are grown on the licensee's farm and no more than 25 percent of the agricultural products are grown or produced outside the Commonwealth. However, upon petition by the Department of Agriculture and Consumer Services, the Board may permit the use of a lesser percentage of products grown on the licensee's farm if unusually severe weather or disease conditions cause a significant reduction in the availability of agricultural products grown on the farm to manufacture the spirits during a given license year; or*

e. *Such licensee is a duly organized nonprofit association holding title to real property, together with improvements thereon that are significant in American history, under a charter from the Commonwealth to preserve such property, and which association accepts no federal, state, or local funds.*

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

- 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident

1166 may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic  
1167 beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other  
1168 designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises,  
1169 which may have more than one means of ingress and egress to an adjacent public thoroughfare,  
1170 provided that such outdoor dining areas are under the control of the licensee and approved by the Board.  
1171 Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to  
1172 subdivision A 5 of § 4.1-201.

1173 2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for  
1174 their on-premises consumption only in such rooms, provided the consent of the patient's attending  
1175 physician is first obtained or (ii) in closed containers for off-premises consumption.

1176 3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises  
1177 consumption or in closed containers for off-premises consumption. No license shall be granted unless (i)  
1178 the grocery store is located in any town or in a rural area outside the corporate limits of any city or  
1179 town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment  
1180 exists and that public convenience and the purposes of this title will be promoted by granting the  
1181 license.

1182 4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer  
1183 during any event and immediately subsequent thereto to patrons within all seating areas, concourses,  
1184 walkways, concession areas, and additional locations designated by the Board (i) in closed containers for  
1185 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original  
1186 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and  
1187 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations  
1188 covered by the license. Such licenses may be granted to persons operating food concessions at  
1189 coliseums, stadiums, racetracks, or similar facilities.

1190 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer  
1191 during the performance of any event to patrons within all seating areas, concourses, walkways, or  
1192 concession areas, or other areas approved by the Board (i) in closed containers for off-premises  
1193 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for  
1194 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his  
1195 own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the  
1196 license. Such licenses may be granted to persons operating food concessions at any outdoor performing  
1197 arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is  
1198 located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more  
1199 than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania,  
1200 or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than  
1201 9,500 persons and is located in Henrico County.

1202 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to  
1203 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,  
1204 and such additional locations designated by the Board in such facilities (i) in closed containers for  
1205 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original  
1206 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and  
1207 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations  
1208 covered by the license. Such licenses may be granted to persons operating food concessions at exhibition  
1209 or exposition halls, convention centers, or similar facilities located in any county operating under the  
1210 urban county executive form of government or any city that is completely surrounded by such county.  
1211 For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities  
1212 conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000  
1213 square feet of floor space.

1214 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events  
1215 to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,  
1216 dining areas, and such additional locations designated by the Board in such facilities, for on-premises  
1217 consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this  
1218 subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such  
1219 licenses may be granted to persons operating concert or dinner-theater venues on property fronting  
1220 Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High  
1221 School.

1222 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or  
1223 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be  
1224 lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The  
1225 privileges of this license shall be limited to the premises of the historic cinema house regularly occupied  
1226 and utilized as such.

1227 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises

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

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

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

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

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

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

1. Per-day event licenses.

a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

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

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable

1289 membership organizations that are exempt from state and federal taxation and in charge of banquets  
1290 conducted exclusively for members and their guests, which shall authorize the licensee to serve wine  
1291 and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such  
1292 rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per  
1293 calendar year. For the purposes of this subdivision, when the location named in the original application  
1294 for a license is outdoors, the application may also name an alternative location in the event of inclement  
1295 weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail  
1296 wine and beer license.

1297 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services  
1298 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic  
1299 beverages on the premises of the licensee by any person, and bona fide members and guests thereof,  
1300 otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be  
1301 purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the  
1302 premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency  
1303 station or both, regularly occupied as such and recognized by the governing body of the county, city, or  
1304 town in which it is located. Under conditions as specified by Board regulation, such premises may be  
1305 other than a volunteer fire or volunteer emergency medical services agency station, provided such other  
1306 premises are occupied and under the control of the volunteer fire department or volunteer emergency  
1307 medical services agency while the privileges of its license are being exercised.

1308 c. Designated outdoor refreshment area licenses to a locality, business improvement district, or  
1309 nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic  
1310 beverages within the area designated by the Board for the designated outdoor refreshment area and (ii)  
1311 any permanent retail on-premises licensee that is located within the area designated by the Board for the  
1312 designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for  
1313 consumption in the area designated for the designated outdoor refreshment area, including sidewalks and  
1314 the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such  
1315 businesses. In determining the designated area for the designated outdoor refreshment area, the Board  
1316 shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16  
1317 events per year, and the duration of any event shall not exceed three consecutive days. However, the  
1318 Board may increase the frequency and duration of events after adoption of an ordinance by a locality  
1319 requesting such increase in frequency and duration. Such ordinance shall include the size and scope of  
1320 the area within which such events will be held, a public safety plan, and any other considerations  
1321 deemed necessary by the Board. Such limitations on the number of events that may be held shall not  
1322 apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State  
1323 Health Commissioner to meet a public health emergency and that effectively reduces allowable  
1324 restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all  
1325 other applicable provisions of this title and Board regulations and shall provide notice to the Board  
1326 regarding the days and times during which the privileges of the license will be exercised. Only alcoholic  
1327 beverages purchased from permanent retail on-premises licensees located within the designated area may  
1328 be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar  
1329 disposable containers that clearly display the name or logo of the retail on-premises licensee from which  
1330 the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way  
1331 by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee  
1332 shall post appropriate signage clearly demarcating for the public the boundaries of the event; however,  
1333 no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee  
1334 shall provide adequate security for the event to ensure compliance with the applicable provisions of this  
1335 title and Board regulations.

1336 d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or  
1337 charitable membership organizations that are exempt from state and federal taxation and in charge of  
1338 banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve  
1339 mixed beverages for on-premises consumption in areas approved by the Board on the premises of the  
1340 place designated in the license. Such license shall authorize the licensee to conduct no more than 12  
1341 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically  
1342 authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption;  
1343 however, the licensee shall be required to pay the local fee required for such additional license pursuant  
1344 to § 4.1-233.1.

1345 e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and  
1346 steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired  
1347 alcoholic beverages on the premises of the licensee by patrons thereof during such event. However,  
1348 alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this  
1349 license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian,  
1350 hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

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

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

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

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

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

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

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

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

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

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

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 of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas

1412 may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such  
1413 areas are under the control of the licensee and approved by the Board. Such noncontiguous designated  
1414 areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

1415 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent  
1416 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,  
1417 bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed  
1418 beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell  
1419 spirits packaged in original closed containers purchased from the Board for on-premises consumption to  
1420 registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private  
1421 rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale  
1422 and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed  
1423 appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own  
1424 lawfully acquired spirits in bedrooms or private rooms.

1425 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club  
1426 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in  
1427 another city with which it has an agreement for reciprocal dining privileges, such license shall also  
1428 authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell  
1429 spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or  
1430 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no  
1431 food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and  
1432 located on another portion of the premises of the same hotel or motel building, this fact shall not  
1433 prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's  
1434 gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its  
1435 members and guests and consumed on the premises shall amount to at least 45 percent of its gross  
1436 receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club  
1437 shall be excluded in any consideration of the qualifications of such restaurant for a license from the  
1438 Board.

1439 If the restaurant is located on the premises of and operated by a municipal golf course, the Board  
1440 shall recognize the seasonal nature of the business and waive any applicable monthly food sales  
1441 requirements for those months when weather conditions may reduce patronage of the golf course,  
1442 provided that prepared food, including meals, is available to patrons during the same months. The gross  
1443 receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic  
1444 beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent  
1445 of the gross receipts from the sale of mixed beverages and food on an annualized basis.

1446 If the restaurant is located on the premises of and operated by a culinary lodging resort, such license  
1447 shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard  
1448 to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas  
1449 upon the licensed premises approved by the Board and other designated areas of the resort, including  
1450 outdoor areas under the control of the licensee, and (B) permit the possession and consumption of  
1451 lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in  
1452 bedrooms and private guest rooms.

1453 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to  
1454 obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers  
1455 for off-premises consumption; however, the licensee shall be required to pay the local fee required for  
1456 such additional license pursuant to § 4.1-233.1.

1457 2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the  
1458 business of providing food and beverages to others for service at private gatherings or at special events,  
1459 which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption.  
1460 The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic  
1461 beverages served at gatherings and events referred to in this subdivision shall amount to at least 45  
1462 percent of the gross receipts from the sale of mixed beverages and food.

1463 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly  
1464 engaged in the business of providing food and beverages to others for service at private gatherings or at  
1465 special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell  
1466 and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of  
1467 food cooked and prepared for service and nonalcoholic beverages served at gatherings and events  
1468 referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of  
1469 mixed beverages and food.

1470 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,  
1471 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in  
1472 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated  
1473 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its



airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

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

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a

1535 bona fide long-term lease or concession agreement, the original term of which was more than five years;  
1536 (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross  
1537 receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic  
1538 beverages served on the premises that meet or exceed the monthly minimum established by Board  
1539 regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

1540 e. Persons operating food concessions at any multipurpose theater located in the historical district of  
1541 the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity  
1542 and (ii) has a total capacity in excess of 100 patrons;

1543 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar  
1544 facility that has seating for more than 20,000 persons and is located in Prince William County or the  
1545 City of Virginia Beach;

1546 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar  
1547 facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City  
1548 of Portsmouth; or

1549 h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax  
1550 County, provided that the corporate and performing arts facility (i) is occupied under a bona fide  
1551 long-term lease, management, or concession agreement, the original term of which was more than one  
1552 year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the  
1553 dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the  
1554 licensed premises approved by the Board.

1555 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any  
1556 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to  
1557 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and  
1558 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed  
1559 beverage caterer at the same business premises designated in the license, with a common alcoholic  
1560 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the  
1561 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision  
1562 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to  
1563 this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and  
1564 beer for on-premises consumption or in closed containers for off-premises consumption; however, the  
1565 licensee shall be required to pay the local fee required for such additional license pursuant to  
1566 § 4.1-233.1.

1567 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in  
1568 dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is  
1569 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and  
1570 without regard to the amount of gross receipts from the sale of food prepared and consumed on the  
1571 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom  
1572 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas  
1573 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas"  
1574 includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more  
1575 than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor  
1576 dining areas are under the control of the licensee and approved by the Board. Such noncontiguous  
1577 designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of  
1578 § 4.1-201.

1579 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under  
1580 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the  
1581 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide  
1582 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any  
1583 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in  
1584 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,  
1585 regularly occupied and utilized as such.

1586 11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the  
1587 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof  
1588 during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly  
1589 or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the  
1590 licensee's premises designated by the Board that are regularly occupied and utilized for motor car  
1591 sporting events.

1592 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'  
1593 association governing a commercial lifestyle center, which shall authorize any retail on-premises  
1594 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any  
1595 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion  
1596 of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,

seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.

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

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

15. *Package store licenses, which shall authorize the licensee to sell alcoholic beverages, including wine, beer, and wine produced by farm wineries, in closed containers for off-premises consumption and to deliver or ship such alcoholic beverages to purchasers in accordance with Board regulations. Such licensee shall purchase such alcoholic beverages in a manner prescribed by Board regulation. Products used in connection with alcoholic beverages, including any mixers, garnish, or garnishment applied to the rim of a glass of distilled spirits, may be sold by such licensee in accordance with Board regulations.*

16. *Limited package store licenses, which shall authorize the licensee to sell spirits in accordance with the provisions of this title and Board regulations only under the following conditions:*

- a. The licensee also holds a distiller's license;*
- b. The spirits are manufactured by the licensee in accordance with subdivision 1 of § 4.1-206.1;*
- c. The sale of such spirits is conducted on the distiller's licensed premises; and*
- d. At least 51 percent of the agricultural products used by such licensee to manufacture the spirits are grown on the licensee's farm and no more than 25 percent of the agricultural products are grown or produced outside the Commonwealth. However, upon petition by the Department of Agriculture and Consumer Services, the Board may permit the use of a lesser percentage of products grown on the licensee's farm if unusually severe weather or disease conditions cause a significant reduction in the availability of agricultural products grown on the farm to manufacture the spirits during a given license year; or*
- e. Such licensee is a duly organized nonprofit association holding title to real property, together with improvements thereon that are significant in American history, under a charter from the Commonwealth to preserve such property, and which association accepts no federal, state, or local funds.*

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

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Per-day event licenses.

a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

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

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall

1781 authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members  
1782 and their guests in areas approved by the Board on the club premises. A separate license shall be  
1783 required for each day of each club event. No more than 12 such licenses shall be granted to a club in  
1784 any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize  
1785 the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however,  
1786 the licensee shall be required to pay the local fee required for such additional license pursuant to  
1787 § 4.1-233.1.

1788 d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages  
1789 of the type specified in the license in designated areas at events held by the licensee. A tasting license  
1790 shall be issued for the purpose of featuring and educating the consuming public about the alcoholic  
1791 beverages being tasted. A separate license shall be required for each day of each tasting event. No  
1792 tasting license shall be required for conduct authorized by § 4.1-201.1.

1793 2. Annual licenses.

1794 a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable  
1795 membership organizations that are exempt from state and federal taxation and in charge of banquets  
1796 conducted exclusively for members and their guests, which shall authorize the licensee to serve wine  
1797 and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such  
1798 rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per  
1799 calendar year. For the purposes of this subdivision, when the location named in the original application  
1800 for a license is outdoors, the application may also name an alternative location in the event of inclement  
1801 weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail  
1802 wine and beer license.

1803 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services  
1804 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic  
1805 beverages on the premises of the licensee by any person, and bona fide members and guests thereof,  
1806 otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be  
1807 purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the  
1808 premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency  
1809 station or both, regularly occupied as such and recognized by the governing body of the county, city, or  
1810 town in which it is located. Under conditions as specified by Board regulation, such premises may be  
1811 other than a volunteer fire or volunteer emergency medical services agency station, provided such other  
1812 premises are occupied and under the control of the volunteer fire department or volunteer emergency  
1813 medical services agency while the privileges of its license are being exercised.

1814 c. Designated outdoor refreshment area licenses to a locality, business improvement district, or  
1815 nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic  
1816 beverages within the area designated by the Board for the designated outdoor refreshment area and (ii)  
1817 any permanent retail on-premises licensee that is located within the area designated by the Board for the  
1818 designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for  
1819 consumption in the area designated for the designated outdoor refreshment area, including sidewalks and  
1820 the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such  
1821 businesses. In determining the designated area for the designated outdoor refreshment area, the Board  
1822 shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16  
1823 events per year, and the duration of any event shall not exceed three consecutive days. However, the  
1824 Board may increase the frequency and duration of events after adoption of an ordinance by a locality  
1825 requesting such increase in frequency and duration. Such ordinance shall include the size and scope of  
1826 the area within which such events will be held, a public safety plan, and any other considerations  
1827 deemed necessary by the Board. Such limitations on the number of events that may be held shall not  
1828 apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State  
1829 Health Commissioner to meet a public health emergency and that effectively reduces allowable  
1830 restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all  
1831 other applicable provisions of this title and Board regulations and shall provide notice to the Board  
1832 regarding the days and times during which the privileges of the license will be exercised. Only alcoholic  
1833 beverages purchased from permanent retail on-premises licensees located within the designated area may  
1834 be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar  
1835 disposable containers that clearly display the name or logo of the retail on-premises licensee from which  
1836 the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way  
1837 by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee  
1838 shall post appropriate signage clearly demarcating for the public the boundaries of the event; however,  
1839 no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee  
1840 shall provide adequate security for the event to ensure compliance with the applicable provisions of this  
1841 title and Board regulations.

1842 d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or

charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

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

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

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

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

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

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

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

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

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive

orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

**§ 4.1-210.1. Operation of package stores.**

A. All spirits and vermouth sold by package store licensees shall be purchased from the Board.

B. Package store licensees shall operate their stores in accordance with this title and Board regulations. All alcoholic beverages authorized by this chapter to be sold in such stores shall be in closed containers, sealed, and have such label as prescribed by the Board. No alcoholic beverages shall be consumed in such stores by any person, except as may be permitted by this title or Board regulations.

C. No package store licensee or employee of such licensee shall sell or have in his possession any spirits or vermouth that have not been obtained from the Board. Title to spirits shipped and delivered to such licensee shall not pass from the Board while in the custody and care of the licensee until the spirits have actually been sold by the licensee to a bona fide purchaser.

D. Nothing in this title shall be construed to prohibit any person holding a retail off-premises wine and beer license from obtaining a package store license, provided that such licensee otherwise meets the licensing requirements of this title and Board regulations and the appropriate license fees are paid.

**§ 4.1-214.1. Limitation on package store licensees.**

A. The Board shall grant a package store license only if the majority of the voters of the county, city, or town voting therein voted "Yes" in the referendum authorized by § 4.1-121, and such applicant has obtained prior approval of the local governing body in which the licensed premises will be located. The Board shall determine the manner by which such approval shall be obtained.

B. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste, or color shall be sold by package store licensees at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

**§ 4.1-215. Limitation on manufacturers, bottlers, and wholesalers; exemptions.**

A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall be granted to any (i) manufacturer, bottler, or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler, or wholesaler; (iii) partnership or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler, or wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another subsidiary corporation which is a manufacturer, bottler, or wholesaler of alcoholic beverages; or (v) manufacturer, bottler, or wholesaler of alcoholic beverages who has a financial interest in a corporation which has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler, or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such manufacturer, bottler, or wholesaler and such retailer are under common control, by stock ownership or otherwise.

2. Notwithstanding any other provision of this title, a manufacturer of wine or malt beverages, or two or more of such manufacturers together, whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-206.3 upon application to the Board, provided that the event for which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about wine or malt beverage products. Such manufacturer shall be limited to eight banquet licenses, whether or not jointly obtained, for such events per year without regard to the number of wineries or breweries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event.

3. Notwithstanding any other provision of this title, a manufacturer of distilled spirits, whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in subdivision D 1 b of § 4.1-206.3 upon application to the Board, provided that such event is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than eight banquet licenses for such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license shall authorize the manufacturer to sell or give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas at the special event, provided that (a) no single sample shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits, and (b) no more than three ounces of spirits may be offered to any patron per day. Nothing in this paragraph shall prohibit such manufacturer from serving such samples as part of a mixed beverage.



- 1966 B. This section shall not apply to:
- 1967 1. Corporations operating dining cars, buffet cars, club cars, or boats;
- 1968 2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of
- 1969 § 4.1-201;
- 1970 3. Farm winery licensees engaging in conduct authorized by subdivision 6 of § 4.1-206.1;
- 1971 4. Manufacturers, bottlers, or wholesalers of alcoholic beverages who do not (i) sell or otherwise
- 1972 furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail
- 1973 license or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such
- 1974 person to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, or
- 1975 wholesalers;
- 1976 5. Wineries, farm wineries, or breweries engaging in conduct authorized by subsection F of
- 1977 § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1; ~~or~~
- 1978 6. One out-of-state winery, not under common control or ownership with any other winery, that is
- 1979 under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so
- 1980 long as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the
- 1981 restaurant before it is offered for sale to consumers; *or*
- 1982 7. *Distiller licensees engaging in conduct authorized by subdivision A 16 of § 4.1-206.3.*
- 1983 C. The General Assembly finds that it is necessary and proper to require a separation between
- 1984 manufacturing interests, wholesale interests, and retail interests in the production and distribution of
- 1985 alcoholic beverages in order to prevent suppliers from dominating local markets through vertical
- 1986 integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing
- 1987 techniques. The exceptions established by this section to the general prohibition against tied interests
- 1988 shall be limited to their express terms so as not to undermine the general prohibition and shall therefore
- 1989 be construed accordingly.
- 1990 **§ 4.1-231.1. Fees on state licenses.**
- 1991 A. (Contingent expiration date) The annual fees on state licenses shall be as follows:
- 1992 1. Manufacturer licenses. For each:
- 1993 a. Distiller's license and limited distiller's license, if not more than 5,000 gallons of alcohol or spirits,
- 1994 or both, manufactured during the year in which the license is granted, \$490; if more than 5,000 gallons
- 1995 but not more than 36,000 gallons manufactured during such year, \$2,725; and if more than 36,000
- 1996 gallons manufactured during such year, \$4,060;
- 1997 b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured
- 1998 during the year in which the license is granted, \$380; if not more than 10,000 barrels of beer
- 1999 manufactured during the year in which the license is granted, \$2,350; and if more than 10,000 barrels
- 2000 manufactured during such year, \$4,690;
- 2001 c. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the
- 2002 license is granted, \$215, and if more than 5,000 gallons manufactured during such year, \$4,210;
- 2003 d. Farm winery license, \$245 for any Class A license and \$4,730 for any Class B license;
- 2004 e. Wine importer's license, \$460; and
- 2005 f. Beer importer's license, \$460.
- 2006 2. Wholesale licenses. For each:
- 2007 a. (1) Wholesale beer license, \$1,005 for any wholesaler who sells 300,000 cases of beer a year or
- 2008 less, \$1,545 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a
- 2009 year, and \$2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and
- 2010 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
- 2011 the amount set forth in subdivision a (1), multiplied by the number of separate locations covered by the
- 2012 license;
- 2013 b. (1) Wholesale wine license, \$240 for any wholesaler who sells 30,000 gallons of wine or less per
- 2014 year, \$1,200 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000
- 2015 gallons of wine per year, \$1,845 for any wholesaler who sells more than 150,000 but not more than
- 2016 300,000 gallons of wine per year, and \$2,400 for any wholesaler who sells more than 300,000 gallons
- 2017 of wine per year; and
- 2018 (2) Wholesale wine license, including that granted pursuant to subdivision 3 of § 4.1-206.2,
- 2019 applicable to two or more premises, the annual state license tax shall be the amount set forth in
- 2020 subdivision b (1), multiplied by the number of separate locations covered by the license.
- 2021 3. Retail licenses — mixed beverage. For each:
- 2022 a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants
- 2023 located on premises of and operated by hotels or motels, or other persons:
- 2024 (1) With a seating capacity at tables for up to 100 persons, \$1,050;
- 2025 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,495;
- 2026 (3) With a seating capacity at tables for more than 150 persons but not more than 500 persons,

- 2027 \$1,980;
- 2028 (4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons,
- 2029 \$2,500; and
- 2030 (5) With a seating capacity at tables for more than 1,000 persons, \$3,100;
- 2031 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
- 2032 private, nonprofit clubs:
- 2033 (1) With an average yearly membership of not more than 200 resident members, \$1,250;
- 2034 (2) With an average yearly membership of more than 200 but not more than 500 resident members,
- 2035 \$2,440; and
- 2036 (3) With an average yearly membership of more than 500 resident members, \$3,410;
- 2037 c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a
- 2038 casino gaming establishment, \$3,100 plus an additional \$5 for each gaming station located on the
- 2039 premises of the casino gaming establishment;
- 2040 d. Mixed beverage caterer's license, \$1,990;
- 2041 e. Mixed beverage limited caterer's license, \$550;
- 2042 f. Mixed beverage carrier license:
- 2043 (1) \$520 for each of the average number of dining cars, buffet cars, or club cars operated daily in
- 2044 the Commonwealth by a common carrier of passengers by train;
- 2045 (2) \$910 for each common carrier of passengers by boat;
- 2046 (3) \$520 for each common carrier of passengers by bus; and
- 2047 (4) \$2,360 for each license granted to a common carrier of passengers by airplane;
- 2048 g. Annual mixed beverage motor sports facility license, \$630;
- 2049 h. Limited mixed beverage restaurant license:
- 2050 (1) With a seating capacity at tables for up to 100 persons, \$945;
- 2051 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,385; and
- 2052 (3) With a seating capacity at tables for more than 150 persons, \$1,875;
- 2053 i. Annual mixed beverage performing arts facility license, \$630;
- 2054 j. Bed and breakfast license, \$100;
- 2055 k. Museum license, \$260;
- 2056 l. Motor car sporting event facility license, \$300;
- 2057 m. Commercial lifestyle center license, \$300;
- 2058 n. Mixed beverage port restaurant license, \$1,050; ~~and~~
- 2059 o. Annual mixed beverage special events license, \$630;
- 2060 *p. Package store license, \$2,500; and*
- 2061 *q. Limited package store license, \$800.*
- 2062 4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer
- 2063 license, \$450.
- 2064 5. Retail licenses — off-premises wine and beer. For each:
- 2065 a. Retail off-premises wine and beer license, \$300;
- 2066 b. Gourmet brewing shop license, \$320; and
- 2067 c. Confectionery license, \$170.
- 2068 6. Retail licenses — banquet, special event, and tasting licenses.
- 2069 a. Per-day event licenses. For each:
- 2070 (1) Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
- 2071 Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
- 2072 (2) Mixed beverage special events license, \$45 for each day of each event;
- 2073 (3) Mixed beverage club events license, \$35 for each day of each event; and
- 2074 (4) Tasting license, \$40.
- 2075 b. Annual licenses. For each:
- 2076 (1) Annual banquet license, \$300;
- 2077 (2) Banquet facility license, \$260;
- 2078 (3) Designated outdoor refreshment area license, \$300. However, for any designated outdoor
- 2079 refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$3,000;
- 2080 (4) Annual mixed beverage banquet license, \$630;
- 2081 (5) Equine sporting event license, \$300; and
- 2082 (6) Annual arts venue event license, \$300.
- 2083 7. Retail licenses — marketplace. For each marketplace license, \$1,000.
- 2084 8. Retail licenses — shipper, bottler, and related licenses. For each:
- 2085 a. Wine and beer shipper's license, \$230;
- 2086 b. Internet wine and beer retailer license, \$240;
- 2087 c. Bottler license, \$1,500;
- 2088 d. Fulfillment warehouse license, \$210; and

e. Marketing portal license, \$285.

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

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

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

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

**§ 4.1-233.1. Fees on local licenses.**

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

1. Manufacturer licenses. For each:

a. Distiller's license and limited distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 500 barrels manufactured during such year, \$1,000;

c. Winery license, \$50; and

d. Farm winery license, \$50.

2. Wholesale licenses. For each:

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

b. Wholesale wine license, \$50.

3. Retail licenses — mixed beverage. For each:

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

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

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

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

(4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, \$650; and

(5) With a seating capacity at tables for more than 1,000 persons, \$800;

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs, \$350;

c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a casino gaming establishment, \$800 plus an additional \$2 for each gaming station located on the premises of the casino gaming establishment;

d. Mixed beverage caterer's license, \$500;

e. Mixed beverage limited caterer's license, \$100;

f. Annual mixed beverage motor sports facility license, \$300;

g. Limited mixed beverage restaurant license:

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

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250; or

(3) With a seating capacity at tables for more than 150 persons, \$400;

h. Annual mixed beverage performing arts facility license, \$300;

i. Bed and breakfast license, \$40;

j. Museum license, \$10;

k. Motor car sporting event facility license, \$10;

l. Commercial lifestyle center license, \$60; and

m. Annual mixed beverage special events license, \$300;

2150 *n. Package store license, \$500; and*  
 2151 *o. Limited package store license, \$100.*  
 2152 4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer  
 2153 license issued to:  
 2154 a. Hotels, restaurants, and clubs, in a city, \$150, and in a county or town, \$37.50;  
 2155 b. Hospitals, \$10;  
 2156 c. Rural grocery stores, \$37.50; and  
 2157 d. Historic cinema houses, \$20.  
 2158 5. Retail licenses — off-premises wine and beer. For each:  
 2159 a. Retail off-premises wine and beer license, in a city, \$150, and in a county or town, \$37.50;  
 2160 b. Gourmet brewing shop license, \$150; and  
 2161 c. Confectionery license, \$20.  
 2162 6. Retail licenses — banquet, special event, and tasting licenses. For each:  
 2163 a. Per-day event licenses. For each:  
 2164 (1) Banquet license, \$5 per license granted by the Board, except for banquet licenses granted by the  
 2165 Board pursuant to subsection A of § 4.1-215, which shall be \$20 per license;  
 2166 (2) Mixed beverage special events license, \$10 for each day of each event;  
 2167 (3) Mixed beverage club events license, \$10 for each day of each event; and  
 2168 (4) Tasting license, \$10.  
 2169 b. Annual licenses. For each:  
 2170 (1) Annual banquet license, \$15;  
 2171 (2) Designated outdoor refreshment area license, \$60. However, for any designated outdoor  
 2172 refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$600;  
 2173 (3) Annual mixed beverage banquet license, \$75;  
 2174 (4) Equine sporting event license, \$10; and  
 2175 (5) Annual arts venue event license, \$10.  
 2176 7. Retail licenses — marketplace. For each marketplace license, \$200.  
 2177 8. Retail licenses — shipper, bottler, and related licenses. For each:  
 2178 a. Wine and beer shipper's license, \$10; and  
 2179 b. Bottler license, \$500.  
 2180 B. Common carriers. No local license tax shall be either charged or collected for the privilege of  
 2181 selling alcoholic beverages in (i) passenger trains, boats, buses, or airplanes or (ii) rooms designated by  
 2182 the Board of establishments of air carriers of passengers at airports in the Commonwealth for  
 2183 on-premises consumption only.  
 2184 C. Merchants' and restaurants' license taxes. The governing body of each county, city, or town in the  
 2185 Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail  
 2186 merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may  
 2187 include alcoholic beverages in the base for measuring such local license taxes the same as if the  
 2188 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter  
 2189 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local  
 2190 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license  
 2191 taxes authorized by this chapter.  
 2192 The governing body of any county, city, or town, in adopting an ordinance under this section, shall  
 2193 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation  
 2194 under the ordinance, and in computing the local wholesale merchants' license tax on such beer  
 2195 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be  
 2196 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license  
 2197 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine  
 2198 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale  
 2199 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall  
 2200 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary  
 2201 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax  
 2202 paid by such wholesale wine licensee.  
 2203 D. Delivery. No county, city, or town shall impose any local alcoholic beverage license tax on any  
 2204 wholesaler for the privilege of delivering alcoholic beverages in the county, city, or town when such  
 2205 wholesaler maintains no place of business in such county, city, or town.  
 2206 E. Application of county tax within town. Any county license tax imposed under this section shall  
 2207 not apply within the limits of any town located in such county, where such town imposes a town license  
 2208 tax on the same privilege.  
 2209 **§ 4.1-234. Tax on wine and other alcoholic beverages; exceptions.**  
 2210 A. In addition to the taxes imposed pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, a tax of  
 2211 40 cents is levied on each liter of wine sold in the Commonwealth. Additionally, on vermouth and on

farm winery wines sold to consumers by ~~the Board~~ *package store licensees*, the state tax shall be four percent of the price charged.

B. There is levied on other alcoholic beverages sold by the Board a tax of 20 percent of the price charged. ~~This subsection shall also apply to all alcoholic beverages purchased from the Board by any mixed beverage licensee a tax of 20 percent of the price charged.~~

C. The provisions of this section shall not apply to (i) beer, (ii) wine coolers, (iii) sales of wine by manufacturers to wholesale wine licensees for resale to retail licensees, (iv) sales, other than by or through ~~government stores~~ *warehouses operated by the Board*, of alcoholic beverages for manufacturing and industrial purposes, or either, (v) sales, other than by or through ~~government stores~~ *warehouses operated by the Board*, of alcohol for hospital and laboratory purposes, or either, (vi) alcoholic beverages shipped from the Commonwealth to points outside the Commonwealth, for resale outside the Commonwealth, (vii) alcoholic beverages shipped from the Commonwealth to consumers outside the Commonwealth for personal consumption and not for resale, and (viii) sales to any instrumentality of the federal government.

**§ 4.1-235. Collection; computation, distribution of tax on wine and other alcoholic beverages; refunds and adjustments.**

A. ~~The Board shall collect the state~~ *State* taxes levied pursuant to §§ 4.1-213 and 4.1-234 *shall be collected* as follows:

1. Collection shall be from the purchaser at the time of or prior to sale, except as to sales made to wholesale wine *and package store* licensees. Wholesale wine licensees shall collect the taxes at the time of or prior to sale to retail licensees, ~~and. Package store licensees shall collect the taxes at the time of or prior to sale to consumers.~~ Both wholesale wine and package store licensees shall remit such taxes monthly to the Board, along with such reports as may be required by the Board, at the time and in the manner prescribed by the Board.

2. In establishing the prices for items sold by it to persons other than wholesale licensees, the Board shall include a reasonable markup. The liter tax or 20 percent tax, as appropriate, shall then be added to the price of each container of alcoholic beverages. The four percent tax on vermouth and farm winery wines and ciders shall then be added for those products. In all cases the final price for each container may be established so as to be a multiple of five or rounded to end with a nine.

In accounting for the state tax on sales the Board shall divide the net sales for the quarter by 1.20 and multiply the result by 20 percent. As to the sale of vermouth and farm winery wine and cider, the Board shall divide the net sales for the quarter by 1.04 and multiply the result by four percent.

B. The amount of tax collected under this section during each quarter shall, within 50 days after the close of such quarter, be certified to the Comptroller by the Board and shall be transferred by him from the special fund described in § 4.1-116 to the general fund of the state treasury. The Board shall, not later than June 20 of every year, estimate the yield of the state tax on sales imposed by §§ 4.1-213 and 4.1-234 for the quarter ending June 30 and certify the amount of such estimate to the Comptroller, whereupon the Comptroller shall, before the end of the month, transfer the amount of such estimate from the special fund described in § 4.1-116 to the general fund of the state treasury, subject to such adjustment on account of an overestimate or underestimate as may be indicated within 50 days after the close of the quarter ending on June 30.

Forty-four percent of the amount derived from the liter tax levied pursuant to §§ 4.1-213 and 4.1-234 shall be transferred to the general fund and paid to the several counties, cities, and towns of the Commonwealth in proportion to their respective populations, and is appropriated for such purpose.

The counties, cities, and towns shall in no event receive from the taxes derived from the sale of wines less revenue than was received by such counties, cities, and towns for the year ending June 30, 1976.

The portion of wine liter tax and cider markup collected pursuant to §§ 4.1-213 and 4.1-234 that is attributable to the sale of wine and cider produced by a farm winery shall be deposited in the Virginia Wine Promotion Fund established pursuant to § 3.2-3005.

Twelve percent of the amount derived from the liter tax levied shall be retained by the Board as operating revenue and distributed as provided in § 4.1-117.

C. As used in this section, the term "net sales" means gross sales less refunds to customers.

D. The Board may make a refund or adjustment of any tax paid to it under this section when (i) the wine upon which such tax has been paid has been condemned and is not permitted to be sold in the Commonwealth, or (ii) wine is returned by a retail licensee to a wholesale wine licensee for refund in accordance with Board regulations or approval. Any claim for such refund or adjustment shall be made to the Board in the report filed with the Board by the wholesale wine licensee for the period in which such return and refund occurs.

**§ 4.1-303. Purchase of alcoholic beverages from person not authorized to sell; penalty.**

If any person buys alcoholic beverages from any person other than ~~the Board~~, a ~~government store~~ or

2273 a person authorized under this title to sell alcoholic beverages, he shall be guilty of a Class 1  
2274 misdemeanor.

2275 **§ 4.1-330. Solicitation by persons interested in manufacture, etc., of alcoholic beverages;**  
2276 **penalty.**

2277 A. No person having any interest, direct or indirect, in the manufacture, distribution, or sale of spirits  
2278 or other alcoholic beverages shall, without a permit granted by the Board and upon such conditions as  
2279 the Board may prescribe, solicit either directly or indirectly (i) a mixed beverage licensee; (ii) any agent,  
2280 servant, or employee of such licensee; or (iii) any person connected with the licensee in any capacity  
2281 whatsoever in his licensed business, to sell or offer for sale the particular spirits or other alcoholic  
2282 beverage in which such person may be so interested.

2283 The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate  
2284 ~~the sale through government stores or its purchase of the brand of spirits or other alcoholic beverage~~  
2285 ~~which was the subject matter of the unlawful solicitation or promotion.~~ In addition, the Board may  
2286 suspend or terminate ~~the sale through such stores or its purchase of all brands of spirits or other~~  
2287 ~~alcoholic beverages manufactured or distributed by either the employer or principal of such solicitor, the~~  
2288 ~~broker, or by the owner of the brand of spirits unlawfully solicited or promoted.~~ The Board may impose  
2289 a civil penalty not to exceed \$250,000 in lieu of such suspension or termination of ~~sales through~~  
2290 ~~government stores or its purchases by the Board or portion thereof, or both.~~

2291 Any person convicted of a violation of this subsection shall be guilty of a Class 1 misdemeanor.

2292 B. No mixed beverage licensee or any agent, servant, or employee of such licensee, or any person  
2293 connected with the licensee in any capacity whatsoever in his licensed business shall, either directly or  
2294 indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

2295 The Board may suspend or revoke the license granted to such licensee, or may impose a civil penalty  
2296 not to exceed \$25,000 in lieu of such suspension or any portion thereof, or both.

2297 Any person convicted of a violation of this subsection shall be guilty of a Class 1 misdemeanor.

2298 **3. That an emergency exists and this act is in force from its passage, except that the provisions of**  
2299 **the second and fourth enactments shall become effective on January 1, 2023.**

2300 **4. That §§ 4.1-119 and 4.1-120 of the Code of Virginia are repealed.**

2301 **5. That the Board of Directors for the Virginia Alcoholic Beverage Control Authority shall make**  
2302 **every reasonable effort to dispose of all real property owned or leased by it that is operated as a**  
2303 **government store by January 1, 2023, and shall implement the initial package store licensing**  
2304 **program by January 1, 2024.**

2305 **6. That in any jurisdiction in which the establishment of government stores has been approved in**  
2306 **a referendum pursuant to § 4.1-121 of the Code of Virginia, as amended in this act, no additional**  
2307 **referendum approving the establishment of a package store shall be required.**

2308 **7. That the Board of Directors for the Virginia Alcoholic Beverage Control Authority (the Board)**  
2309 **shall form an advisory group to assist in conducting the implementation study to dispose of all**  
2310 **real property owned or leased by the Board that is operated as a government store. The Board**  
2311 **shall include as participants in this study representatives of each general licensing category,**  
2312 **law-enforcement officials, and others as it deems appropriate. The Board shall complete the**  
2313 **implementation study and submit an implementation plan to the House Committee on General**  
2314 **Laws and the Senate Committee on Rehabilitation and Social Services on or before December 31,**  
2315 **2022.**

2316 **8. That the Board of Directors for the Alcoholic Beverage Control Authority shall promulgate**  
2317 **regulations to implement the provisions of this act to be effective within 280 days of its enactment.**