

22105395D

HOUSE BILL NO. 426

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on January 27, 2022)

(Patron Prior to Substitute—Delegate Bulova)

A BILL to amend and reenact §§ 4.1-204, 4.1-206.3, and 4.1-212.1, as they are currently effective and as they shall become effective, 4.1-230, 4.1-231.1, and 18.2-323.1 of the Code of Virginia and the second enactment of Chapter 281 and the second enactment of Chapter 282 of the Acts of Assembly of 2021, Special Session I, and to amend the Code of Virginia by adding a section numbered 4.1-212.2, relating to alcoholic beverage control; delivery of alcoholic beverages; third-party delivery license; container.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-204, 4.1-206.3, and 4.1-212.1, as they are currently effective and as they shall become effective, 4.1-230, 4.1-231.1, and 18.2-323.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-212.2 as follows:

§ 4.1-204. (Effective until July 1, 2022) Records of licensees; inspection of records and places of business.

A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by § 4.1-234 or 4.1-236, if any.

B. Retailers. — Every retail licensee shall keep complete, accurate, and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every retail licensee shall also preserve all invoices showing his purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection D, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding retail licenses that require sales of food to determine their qualifications for such licenses, the records shall also include purchases and sales of food and nonalcoholic beverages.

Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the retail licensee may obtain Board approval, for good cause shown, to permit the retail licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Common carriers. — Common carriers of passengers by train, boat, bus, or airplane shall keep records of purchases and sales of alcoholic beverages and food as required by Board regulation.

D. Wine and beer shippers. — Every wine and beer shipper licensee shall keep complete, accurate, and separate records in accordance with Board regulations of all shipments of wine or beer to persons in the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether any wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine and beer sold and the total price charged for such wine and beer. Such records shall include the names and addresses of the purchasers to whom the wine and beer is shipped.

E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to § 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in accordance with Board regulations of all deliveries of ~~wine or beer~~ *alcoholic beverages* to persons in the Commonwealth. Such records shall include (i) the ~~brands types of wine and beer~~ *alcoholic beverages* sold, (ii) the total quantities of ~~wine and beer~~ *alcoholic beverages* sold, (iii) the total price charged for such ~~wine and beer, and~~ *alcoholic beverages*, (iv) the ~~names, addresses, and signatures of the purchasers~~ *name and date of birth of the person to whom the wine and beer is alcoholic beverages are delivered.* Such ~~purchaser signatures may be in an electronic format, and~~ *the address to which the alcoholic beverages are delivered.* Licensees and permittees shall remit such records on a monthly basis for any month during which the licensee or permittee makes a delivery for which the licensee or permittee is required to collect and remit excise taxes due to the Authority pursuant to subsection H of § 4.1-212.1.

Every licensee that is authorized to make deliveries pursuant to § 4.1-212.2 shall keep complete,

60 *accurate, and separate records for a period of at least two years in accordance with Board regulations*
61 *of all deliveries of alcoholic beverages to persons in the Commonwealth. Such records shall include all*
62 *information prescribed by Board regulations. Licensees shall remit such records within 24 hours of a*
63 *records request by the Authority; however, the licensee may obtain Board approval, for good cause*
64 *shown, to permit the licensee to provide records to a special agent of the Board within three business*
65 *days or less, as determined by the Board, after a request is made to inspect the records.*

66 F. Inspection. — The Board and its special agents shall be allowed free access during reasonable
67 hours to every place in the Commonwealth and to the premises of both (i) every wine and beer shipper
68 licensee and (ii) every licensee or permittee authorized to make deliveries wherever located where
69 alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of
70 examining and inspecting such place and all records, invoices and accounts therein. The Board may
71 engage the services of alcoholic beverage control authorities in any state to assist with the inspection of
72 the premises of a wine and beer shipper licensee, licensee or permittee authorized to make deliveries, or
73 any applicant for such license or permit.

74 For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means
75 the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public
76 substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee
77 is open to the public. At any other time of day, if the retail licensee's records are not available for
78 inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a
79 request is made to inspect the records.

80 **§ 4.1-204. (Effective July 1, 2022) Records of licensees; inspection of records and places of**
81 **business.**

82 A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler shall
83 keep complete, accurate and separate records in accordance with Board regulations of all alcoholic
84 beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by
85 § 4.1-234 or 4.1-236, if any.

86 B. Retailers. — Every retail licensee shall keep complete, accurate, and separate records, in
87 accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such
88 licensee therefor, and the names and addresses of the persons from whom purchased. Every retail
89 licensee shall also preserve all invoices showing his purchases for a period as specified by Board
90 regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic
91 beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection
92 D, such account need not give the names or addresses of the purchasers thereof, except as may be
93 required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding
94 retail licenses that require sales of food to determine their qualifications for such licenses, the records
95 shall also include purchases and sales of food and nonalcoholic beverages.

96 Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored
97 off site, provided that such records are readily retrievable and available for electronic inspection by the
98 Board or its special agents at the licensed premises. However, in the case that such electronic records
99 are not readily available for electronic inspection on the licensed premises, the retail licensee may obtain
100 Board approval, for good cause shown, to permit the retail licensee to provide the records to a special
101 agent of the Board within three business days or less, as determined by the Board, after a request is
102 made to inspect the records.

103 C. Common carriers. — Common carriers of passengers by train, boat, bus, or airplane shall keep
104 records of purchases and sales of alcoholic beverages and food as required by Board regulation.

105 D. Wine and beer shippers. — Every wine and beer shipper licensee shall keep complete, accurate,
106 and separate records in accordance with Board regulations of all shipments of wine or beer to persons in
107 the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating
108 whether any wine, farm wine, or beer products were sold and shipped and, if so, stating the total
109 quantities of wine and beer sold and the total price charged for such wine and beer. Such records shall
110 include the names and addresses of the purchasers to whom the wine and beer is shipped.

111 E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to
112 § 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in
113 accordance with Board regulations of all deliveries of wine or beer to persons in the Commonwealth.
114 Such records shall include (i) the ~~brands types~~ of wine and beer sold, (ii) the total quantities of wine
115 and beer sold, (iii) the total price charged for such wine and beer, ~~and~~ (iv) the ~~names, addresses, and~~
116 ~~signatures of the purchasers name and date of birth of the person to whom the wine and beer is~~
117 ~~delivered. Such purchaser signatures may be in an electronic format, and (v) the address to which the~~
118 ~~wine and beer is delivered.~~ Licensees and permittees shall remit such records on a monthly basis for any
119 month during which the licensee or permittee makes a delivery for which the licensee or permittee is
120 required to collect and remit excise taxes due to the Authority pursuant to subsection E of § 4.1-212.1.

121 *Every licensee that is authorized to make deliveries pursuant to § 4.1-212.2 shall keep complete,*

accurate, and separate records for a period of at least two years in accordance with Board regulations of all deliveries of alcoholic beverages to persons in the Commonwealth. Such records shall include all information prescribed by Board regulations. Licensees shall remit such records within 24 hours of a records request by the Authority; however, the licensee may obtain Board approval, for good cause shown, to permit the licensee to provide records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

F. Inspection. — The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of both (i) every wine and beer shipper licensee and (ii) every licensee or permittee authorized to make deliveries wherever located where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein. The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine and beer shipper licensee, licensee or permittee authorized to make deliveries, or any applicant for such license or permit.

For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public. At any other time of day, if the retail licensee's records are not available for inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

§ 4.1-206.3. (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 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises or off-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross

183 receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic
184 beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent
185 of the gross receipts from the sale of mixed beverages and food on an annualized basis.

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

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

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

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

210 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,
211 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in
212 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated
213 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its
214 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air
215 carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same
216 airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the
217 alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express
218 carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the
219 inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be
220 delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records
221 of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The
222 granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a
223 license to sell and serve wine and beer for on-premises consumption or in closed containers for
224 off-premises consumption; however, the licensee shall be required to pay the local fee required for such
225 additional license pursuant to § 4.1-233.1.

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

239 6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve
240 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs
241 shall be combined with coffee or other nonalcoholic beverages, for on-premises consumption in dining
242 areas of the restaurant or off-premises consumption. Such license may be granted only to persons who
243 operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with
244 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

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

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. 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

306 § 4.1-233.1.

307 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in
308 dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is
309 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and
310 without regard to the amount of gross receipts from the sale of food prepared and consumed on the
311 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom
312 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas
313 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas"
314 includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more
315 than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor
316 dining areas are under the control of the licensee and approved by the Board. Such noncontiguous
317 designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of
318 § 4.1-201.

319 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under
320 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the
321 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide
322 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any
323 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in
324 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,
325 regularly occupied and utilized as such.

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

332 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'
333 association governing a commercial lifestyle center, which shall authorize any retail on-premises
334 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any
335 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion
336 of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,
337 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant
338 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of
339 such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail
340 on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle
341 center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers
342 with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed.
343 Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center
344 licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of
345 the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall
346 provide adequate security for the licensed premises to ensure compliance with the applicable provisions
347 of this title and Board regulations.

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

364 14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or
365 association operating either a performing arts facility or an art education and exhibition facility; (ii) a
366 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and
367 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.

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

429 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original
430 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and
431 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations
432 covered by the license. Such licenses may be granted to persons operating food concessions at exhibition
433 or exposition halls, convention centers, or similar facilities located in any county operating under the
434 urban county executive form of government or any city that is completely surrounded by such county.
435 For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities
436 conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000
437 square feet of floor space.

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

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

451 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises
452 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such
453 licenses may be granted to persons operating a nonprofit museum exempt from taxation under
454 § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to
455 educating the consuming public about historic beer products. The privileges of this license shall be
456 limited to the premises of the museum, regularly occupied and utilized as such.

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

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

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

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

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

480 1. Per-day event licenses.

481 a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or
482 associations in charge of special events, which shall authorize the licensee to sell or give wine and beer
483 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms
484 or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also
485 be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises
486 consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one
487 such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may
488 ship such wine, in accordance with Board regulations, in closed containers to persons located within the
489 Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of
490 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 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 wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. 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. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this title and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may

552 be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar
553 disposable containers that clearly display the name or logo of the retail on-premises licensee from which
554 the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way
555 by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee
556 shall post appropriate signage clearly demarcating for the public the boundaries of the event; however,
557 no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee
558 shall provide adequate security for the event to ensure compliance with the applicable provisions of this
559 title and Board regulations.

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

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

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

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

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

599 1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in
600 § 4.1-209.1.

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

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

611 4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a
612 place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer
613 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.

6. *Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-212.2.*

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

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

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas

675 upon the licensed premises approved by the Board and other designated areas of the resort, including
676 outdoor areas under the control of the licensee, and (B) permit the possession and consumption of
677 lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in
678 bedrooms and private guest rooms.

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

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

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

696 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,
697 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in
698 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated
699 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its
700 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air
701 carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same
702 airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the
703 alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express
704 carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the
705 inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be
706 delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records
707 of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The
708 granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a
709 license to sell and serve wine and beer for on-premises consumption or in closed containers for
710 off-premises consumption; however, the licensee shall be required to pay the local fee required for such
711 additional license pursuant to § 4.1-233.1.

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

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

735 7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to
736 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

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

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. 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.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom

overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. 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.

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

11. Motor car sporting event facility licenses, 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 events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion 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.

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.

921 For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities
922 conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000
923 square feet of floor space.

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

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

937 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises
938 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such
939 licenses may be granted to persons operating a nonprofit museum exempt from taxation under
940 § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to
941 educating the consuming public about historic beer products. The privileges of this license shall be
942 limited to the premises of the museum, regularly occupied and utilized as such.

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

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

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

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

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

966 1. Per-day event licenses.

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

980 b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in
981 charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for
982 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 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 wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. 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. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

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

shall provide adequate security for the event to ensure compliance with the applicable provisions of this title and Board regulations.

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.

6. *Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-212.2.*

§ 4.1-212.1. (Effective until July 1, 2022) Delivery of wine and beer; kegs; regulations of Board.

A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is authorized to engage in the retail sale of wine or beer for off-premises consumption may deliver the brands of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers to consumers within the Commonwealth for personal off-premises consumption.

B. Any person licensed to sell wine and beer at retail for off-premises consumption in the Commonwealth, and who is not a brewery, winery, or farm winery, may deliver the brands of beer, wine, and farm wine it is authorized to sell in closed containers to consumers within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered beer, wine, or farm wine in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail for off-premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery, may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the Commonwealth for personal off-premises consumption.

D. Any person licensed to sell mixed beverages at retail for off-premises consumption in the Commonwealth may deliver any mixed beverages it is authorized to sell in closed containers to consumers within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

E. Any distiller that has been appointed as an agent of the Board pursuant to subsection D of § 4.1-119 may deliver to consumers within the Commonwealth for personal consumption any alcoholic beverages the distiller is authorized to sell through organized tasting events in accordance with subsection G of § 4.1-119 and Board regulations. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

F. All deliveries made pursuant to this section shall be to consumers within the Commonwealth for personal consumption only and not for resale. Such deliveries shall be performed by either (i) the owner or any agent, officer, director, shareholder, or employee of the licensee or permittee or (ii) ~~an independent contractor of the licensee or permittee, provided that (a) the licensee or permittee has entered into a written agreement with the independent contractor establishing that the licensee or permittee shall be vicariously a third-party delivery licensee pursuant to § 4.1-212.2. The licensee performing the delivery shall be liable for any administrative violations of this section or § 4.1-304 committed by the independent contractor relating to any deliveries of alcoholic beverages made on behalf of the licensee or permittee and (b) only during transport through completion of the delivery. Alcoholic beverages shall not be delivered after 11:00 p.m. or before 6:00 a.m. Only one individual takes may take possession of the alcoholic beverages during the course of the delivery. No more than four cases of wine nor more than four cases of beer may be delivered at one time to any person in Virginia to whom alcoholic beverages may be lawfully sold, except that the licensee or permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the Authority in writing at least one business day in advance of any such delivery, which notice contains the name and address of the intended recipient. Except as otherwise provided in this subtitle, alcoholic beverages sold for off-premises consumption or delivered pursuant to this section that are not in the manufacturer's original sealed container shall (a) be enclosed in a container that has no straw holes or other openings and is sealed in a manner that allows a person to readily discern whether the container has been opened or tampered with subsequent to its original closure; (b) display the name of the licensee from which the alcoholic beverages were purchased; (c) be clearly marked with the phrase "contains~~

1167 *alcoholic beverages"; (d) in the case of wine, beer, or, if purchased from a mixed beverage restaurant*
1168 *or limited mixed beverage restaurant licensee, mixed beverages, have a maximum volume of 16 ounces*
1169 *per beverage; and (e) during delivery, be stored (1) in the trunk of the vehicle, (2) in an area that is*
1170 *rear of the driver's seat, (3) in a locked container or compartment, or (4) in the case of delivery by*
1171 *bicycle, in a compartment behind the bicyclist.*

1172 The Board may adopt such regulations as it reasonably deems necessary to implement the provisions
1173 of this section. Such regulations shall include provisions that require ~~(1)~~ (A) the recipient to demonstrate,
1174 upon delivery, that he is at least 21 years of age and ~~(2)~~ (B) the recipient to sign an electronic or paper
1175 form or other acknowledgement of receipt as approved by the Board.

1176 G. In addition to other applicable requirements set forth in this section, the following provisions shall
1177 apply to the sale of mixed beverages for off-premises consumption and the delivery of mixed beverages
1178 pursuant to this section:

1179 1. ~~Mixed beverages shall not be sold for off-premises consumption or delivered after 11:00 p.m. or~~
1180 ~~before 6:00 a.m.;~~

1181 2. No distiller shall sell for off-premises consumption or deliver more than two mixed beverages at
1182 any one time, and no mixed beverage restaurant or limited mixed beverage restaurant licensee may sell
1183 for off-premises consumption or deliver more than four mixed beverages at any one time;

1184 3. 2. All mixed beverages sold for off-premises consumption or delivered by a mixed beverage
1185 restaurant or limited mixed beverage restaurant licensee shall contain at least one mixer ~~and have a~~
1186 ~~maximum combined volume of 16 ounces; and~~

1187 4. 3. Mixed beverage restaurant and limited mixed beverage restaurant licensees shall serve at least
1188 one meal with every two mixed beverages sold for off-premises consumption or delivered; ~~and~~

1189 5. ~~Mixed beverages sold for off-premises consumption or delivered shall be in single original metal~~
1190 ~~cans or in glass, paper, plastic, or similar disposable containers that include a secure lid, cap, or similar~~
1191 ~~closure that prevents the mixed beverage from being consumed without removal of such lid, cap, or~~
1192 ~~similar closure.~~

1193 The Board may summarily revoke a licensee's privileges to sell or deliver mixed beverages for
1194 off-premises consumption for noncompliance with the provisions of this section or § 4.1-225 or 4.1-325.
1195 Any summary revocation by the Board pursuant to this paragraph (i) shall not be subject to the
1196 provisions of § 4.1-227, (ii) shall not be subject to appeal, and (iii) shall become effective upon personal
1197 service of the notice of summary revocation to the licensee or upon the fourth business day after such
1198 notice is mailed to the licensee's residence or the address listed for the licensed premises on the initial
1199 license application.

1200 H. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each
1201 delivery of wine, beer, or mixed beverages by a licensee or permittee shall constitute a sale in Virginia.
1202 The licensee or permittee shall collect the taxes due to the Commonwealth and remit any excise taxes
1203 monthly to the Authority and any sales taxes to the Department of Taxation, if such taxes have not
1204 already been paid.

1205 I. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises
1206 consumption may sell such wine or beer in kegs, subject to any limitations imposed by Board
1207 regulation. The Board may impose a fee for keg registration seals. For purposes of this subsection, "keg
1208 registration seal" means any document, stamp, declaration, seal, decal, sticker, or device that is approved
1209 by the Board, designed to be affixed to kegs, and displays a registration number and such other
1210 information as may be prescribed by the Board.

1211 **§ 4.1-212.1. (Effective July 1, 2022) Delivery of wine and beer; kegs; regulations of Board.**

1212 A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is
1213 authorized to engage in the retail sale of wine or beer for off-premises consumption may deliver the
1214 brands of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed
1215 containers to consumers within the Commonwealth for personal off-premises consumption.

1216 B. Any person licensed to sell wine and beer at retail for off-premises consumption in the
1217 Commonwealth, and who is not a brewery, winery, or farm winery, may deliver the brands of beer,
1218 wine, and farm wine it is authorized to sell in closed containers to consumers within the Commonwealth
1219 for personal off-premises consumption. Notwithstanding any provision of law to the contrary, such
1220 deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's
1221 premises where such person has electronically ordered beer, wine, or farm wine in advance of the
1222 delivery or (ii) such other locations as may be permitted by Board regulation.

1223 C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail for
1224 off-premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery,
1225 may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm
1226 wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the
1227 Commonwealth for personal off-premises consumption.

1228 D. All such deliveries shall be to consumers within the Commonwealth for personal consumption

only and not for resale. All such deliveries of beer, wine, or farm wine shall be performed by either (i) the owner or any agent, officer, director, shareholder, or employee of the licensee or permittee or (ii) an independent contractor of the licensee or permittee, provided that (a) the licensee or permittee has entered into a written agreement with the independent contractor establishing that the licensee or permittee shall be vicariously a third-party delivery licensee pursuant to § 4.1-212.2. The licensee performing the delivery shall be liable for any administrative violations of this section or § 4.1-304 committed by the independent contractor relating to any deliveries of beer, wine, or farm wine made on behalf of the licensee or permittee and (b) only during transport through completion of the delivery. Alcoholic beverages shall not be delivered after 11:00 p.m. or before 6:00 a.m. Only one individual takes may take possession of the beer, wine, or farm wine during the course of the delivery. No more than four cases of wine nor more than four cases of beer may be delivered at one time to any person in Virginia to whom alcoholic beverages may be lawfully sold, except that the licensee or permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the Authority in writing at least one business day in advance of any such delivery, which notice contains the name and address of the intended recipient. Except as otherwise provided in this subtitle, wine or beer sold for off-premises consumption or delivered pursuant to this section that are not in the manufacturer's original sealed container shall (a) be enclosed in a container that has no straw holes or other openings and is sealed in a manner that allows a person to readily discern whether the container has been opened or tampered with subsequent to its original closure; (b) display the name of the licensee from which the wine or beer was purchased; (c) be clearly marked with the phrase "contains alcoholic beverages"; (d) have a maximum volume of 16 ounces per beverage; and (e) during delivery, be stored (1) in the trunk of the vehicle, (2) in an area that is rear of the driver's seat, (3) in a locked container or compartment, or (4) in the case of delivery by bicycle, in a compartment behind the bicyclist.

The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this section. Such regulations shall include provisions that require (1) (A) the recipient to demonstrate, upon delivery, that he is at least 21 years of age and (2) (B) the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board.

E. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each delivery of wine or beer by a licensee or permittee shall constitute a sale in Virginia. The licensee or permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the Authority and any sales taxes to the Department of Taxation, if such taxes have not already been paid.

F. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises consumption may sell such wine or beer in kegs, subject to any limitations imposed by Board regulation. The Board may impose a fee for keg registration seals. For purposes of this subsection, "keg registration seal" means any document, stamp, declaration, seal, decal, sticker, or device that is approved by the Board, designed to be affixed to kegs, and displays a registration number and such other information as may be prescribed by the Board.

§ 4.1-212.2. Third-party deliveries; limitations; penalties.

A. For the purposes of this section, "delivery personnel" means any employee, agent, or independent contractor of the third-party delivery licensee that engages in direct-to-consumer alcoholic beverage delivery on behalf of the third-party delivery licensee.

B. A third-party delivery license shall authorize the licensee to deliver alcoholic beverages to a consumer pursuant to an order for such alcoholic beverages placed with a licensee vested with delivery privileges. Except as otherwise permitted under § 4.1-212.1, no person shall provide alcoholic beverage delivery services in the Commonwealth unless such person holds a third-party delivery license and is registered with the State Corporation Commission. All deliveries of alcoholic beverages by a third-party delivery licensee shall comply with the following: (i) alcoholic beverages shall be delivered only to persons who are 21 years of age or older and have provided valid identification that provides bona fide evidence of legal age, as prescribed in § 4.1-304; (ii) the third-party delivery licensee shall verify at the time of delivery that the recipient is 21 years of age or older, ensure that the recipient's identification bears a photograph that reasonably appears to match the appearance of the recipient, and record the recipient's name and date of birth and the address to which the alcoholic beverages were delivered; (iii) alcoholic beverages shall not be delivered to any person whom the third-party delivery licensee knows or has reason to believe is intoxicated; (iv) except for deliveries made on behalf of the Authority, alcoholic beverages shall be delivered only for personal use and not for resale; (v) alcoholic beverages shall not be delivered to a correctional facility, a reformatory, a locker mailbox, a package shipping or storage facility, a retail licensee, or undergraduate housing at an institution of higher education; (vi) any alcoholic beverage that cannot be lawfully delivered shall be promptly returned to the licensed establishment at which the alcoholic beverage was purchased; (vii) only alcoholic beverages obtained directly from the licensed establishment with which the order was placed may be delivered; and (viii) the provisions of § 4.1-212.1 and any other requirements imposed on the delivery of alcoholic beverages

1290 by this subtitle or Board regulation.

1291 C. In addition to the application requirements set forth in § 4.1-230 and any regulations or
1292 requirements adopted pursuant thereto, third-party delivery licensees shall provide to the Board, at the
1293 time of application and annually thereafter or as otherwise required by the Board, written certification
1294 that the third-party delivery licensee is in compliance with all applicable requirements set forth in
1295 Article 2 (§ 46.2-2141 et seq.) of Chapter 21 of Title 46.2. Third-party delivery licensees shall also
1296 provide to the Board, upon request, a copy of any contracts entered into by the licensee with any person
1297 offering alcoholic beverages for delivery.

1298 D. Third-party delivery licensees shall provide to the Board, at the time of application and annually
1299 thereafter or as otherwise required by the Board, written certification that all delivery personnel (i)
1300 prior to delivering alcoholic beverages and annually thereafter, have completed and passed with a score
1301 of no less than 80 percent a Board-approved public safety course; (ii) are 21 years of age or older; (iii)
1302 have a valid driver's license, vehicle inspection, and vehicle registration; (iv) within the last seven years,
1303 have not been convicted of any of the following offenses under Virginia law or a substantially similar
1304 ordinance or law in any other jurisdiction: driving under the influence in violation of § 18.2-266 or
1305 46.2-341.24 or a violation of § 4.1-304, 18.2-36.1, 18.2-51.4, 18.2-95, 18.2-357.1, or 46.2-894; (v)
1306 within the last three years, have not been convicted of more than three vehicle moving violations; and
1307 (vi) are not required to register with the Sex Offender and Crimes Against Minors Registry pursuant to
1308 Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 or listed on the U.S. Department of Justice's National Sex
1309 Offender Public Website.

1310 E. Any person who violates the provisions of this section shall be required to pay (i) \$2,500 for a
1311 first violation and (ii) \$5,000 for any second or subsequent violation. The penalties provided under this
1312 subsection may be imposed in addition to or without imposing any other penalties or actions provided
1313 by law.

1314 F. Notwithstanding subsection B, a third-party delivery licensee may deliver alcoholic beverages to a
1315 retail licensee if such alcoholic beverages are being delivered on behalf of the Authority.

1316 **§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.**

1317 A. Every person intending to apply for any license authorized by this chapter shall file with the
1318 Board an application on forms provided by the Board and a statement in writing by the applicant
1319 swearing and affirming that all of the information contained therein is true.

1320 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a
1321 food establishment permit from the Department of Health or an inspection by the Department of
1322 Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a
1323 pending application for such permit, or proof of a pending request for such inspection. If the applicant
1324 provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or
1325 proof of a pending request for an inspection, a license may be issued to the applicant. If a license is
1326 issued on the basis of a pending application or inspection, such license shall authorize the licensee to
1327 purchase alcoholic beverages in accordance with the provisions of this title; however, the licensee shall
1328 not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

1329 B. In addition, each applicant for a license under the provisions of this chapter, except applicants for
1330 annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine and
1331 beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of
1332 Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application
1333 with the Board on the front door of the building, place, or room where he proposes to engage in such
1334 business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain
1335 such information as required by the Board, including a statement that any objections shall be submitted
1336 to the Board not more than 30 days following initial publication of the notice required pursuant to this
1337 subsection.

1338 The applicant shall also cause notice to be published at least once a week for two consecutive weeks
1339 in a newspaper published in or having a general circulation in the county, city, or town wherein such
1340 applicant proposes to engage in such business. Such notice shall contain such information as required by
1341 the Board, including a statement that any objections to the issuance of the license be submitted to the
1342 Board not later than 30 days from the date of the initial newspaper publication. In the case of wine and
1343 beer shipper's licensees, *third-party delivery licensees*, delivery permittees, or operators of boats, dining
1344 cars, buffet cars, club cars, buses, and airplanes, the posting and publishing of notice shall not be
1345 required.

1346 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club
1347 events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts
1348 venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal
1349 history records search, which may include a fingerprint-based national criminal history records search,
1350 on each applicant for a license. However, the Board may waive, for good cause shown, the requirement
1351 for a criminal history records search and completed personal data form for officers, directors,

nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement or administrative officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant to § 4.1-231.1 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the number of months for which the permit is granted.

F. The Board shall have the authority to increase state license fees from the amounts set forth in § 4.1-231.1 as it was in effect on January 1, 2022. The Board shall set the amount of such increases on the basis of the consumer price index and shall not increase fees more than once every three years. Prior to implementing any state license fee increase, the Board shall provide notice to all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any license affected by the Board's proposed fee increases. Such notice shall be provided on or before November 1 in any year in which the Board has decided to increase state license fees, and such increases shall become effective July 1 of the following year.

§ 4.1-231.1. Fees on state licenses.

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

1. Manufacturer licenses. For each:

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

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$380; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,350; and if more than 10,000 barrels manufactured during such year, \$4,690;

c. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$215, and if more than 5,000 gallons manufactured during such year, \$4,210;

d. Farm winery license, \$245 for any Class A license and \$4,730 for any Class B license;

e. Wine importer's license, \$460; and

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

2. Wholesale licenses. For each:

a. (1) Wholesale beer license, \$1,005 for any wholesaler who sells 300,000 cases of beer a year or less, \$1,545 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and

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

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

1413 (2) Wholesale wine license, including that granted pursuant to subdivision 3 of § 4.1-206.2,
1414 applicable to two or more premises, the annual state license tax shall be the amount set forth in
1415 subdivision b (1), multiplied by the number of separate locations covered by the license.

1416 3. Retail licenses — mixed beverage. For each:

1417 a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants
1418 located on premises of and operated by hotels or motels, or other persons:

1419 (1) With a seating capacity at tables for up to 100 persons, \$1,050;
1420 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,495;
1421 (3) With a seating capacity at tables for more than 150 persons but not more than 500 persons,
1422 \$1,980;
1423 (4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons,
1424 \$2,500; and
1425 (5) With a seating capacity at tables for more than 1,000 persons, \$3,100;

1426 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
1427 private, nonprofit clubs:

1428 (1) With an average yearly membership of not more than 200 resident members, \$1,250;
1429 (2) With an average yearly membership of more than 200 but not more than 500 resident members,
1430 \$2,440; and
1431 (3) With an average yearly membership of more than 500 resident members, \$3,410;

1432 c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a
1433 casino gaming establishment, \$3,100 plus an additional \$5 for each gaming station located on the
1434 premises of the casino gaming establishment;

1435 d. Mixed beverage caterer's license, \$1,990;
1436 e. Mixed beverage limited caterer's license, \$550;
1437 f. Mixed beverage carrier license:

1438 (1) \$520 for each of the average number of dining cars, buffet cars, or club cars operated daily in
1439 the Commonwealth by a common carrier of passengers by train;
1440 (2) \$910 for each common carrier of passengers by boat;
1441 (3) \$520 for each common carrier of passengers by bus; and
1442 (4) \$2,360 for each license granted to a common carrier of passengers by airplane;

1443 g. Annual mixed beverage motor sports facility license, \$630;
1444 h. Limited mixed beverage restaurant license:

1445 (1) With a seating capacity at tables for up to 100 persons, \$945;
1446 (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,385; and
1447 (3) With a seating capacity at tables for more than 150 persons, \$1,875;

1448 i. Annual mixed beverage performing arts facility license, \$630;
1449 j. Bed and breakfast license, \$100;
1450 k. Museum license, \$260;
1451 l. Motor car sporting event facility license, \$300;
1452 m. Commercial lifestyle center license, \$300;
1453 n. Mixed beverage port restaurant license, \$1,050; and
1454 o. Annual mixed beverage special events license, \$630.

1455 4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer
1456 license, \$450.

1457 5. Retail licenses — off-premises wine and beer. For each:

1458 a. Retail off-premises wine and beer license, \$300;
1459 b. Gourmet brewing shop license, \$320; and
1460 c. Confectionery license, \$170.

1461 6. Retail licenses — banquet, special event, and tasting licenses.

1462 a. Per-day event licenses. For each:

1463 (1) Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
1464 Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
1465 (2) Mixed beverage special events license, \$45 for each day of each event;
1466 (3) Mixed beverage club events license, \$35 for each day of each event; and
1467 (4) Tasting license, \$40.

1468 b. Annual licenses. For each:

1469 (1) Annual banquet license, \$300;
1470 (2) Banquet facility license, \$260;
1471 (3) Designated outdoor refreshment area license, \$300. However, for any designated outdoor
1472 refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$3,000;
1473 (4) Annual mixed beverage banquet license, \$630;
1474 (5) Equine sporting event license, \$300; and

- (6) Annual arts venue event license, \$300.
7. Retail licenses — marketplace. For each marketplace license, \$1,000.
8. Retail licenses — shipper, bottler, and related licenses. For each:
- a. Wine and beer shipper's license, \$230;
 - b. Internet wine and beer retailer license, \$240;
 - c. Bottler license, \$1,500;
 - d. Fulfillment warehouse license, \$210; ~~and~~
 - e. Marketing portal license, \$285; *and*
 - f. *Third-party delivery license, \$7,500, unless the licensee provides written certification to the Board that the licensee has no more than 25 delivery personnel, including employees, agents, and independent contractors that engage in direct-to-consumer alcoholic beverage delivery, in which case the license fee shall be \$2,500.*
9. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.
- B. The tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.
- C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.
- D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.
- § 18.2-323.1. Drinking while operating a motor vehicle; possession of open container while operating a motor vehicle and presumption; penalty.**
- A. ~~It shall be~~ *is* unlawful for any person to consume an alcoholic beverage while driving a motor vehicle upon a public highway of ~~this~~ *the* Commonwealth.
- B. ~~A~~ *Unless the driver is delivering alcoholic beverages in accordance with the provisions of § 4.1-212.1,* a rebuttable presumption that the driver has consumed an alcoholic beverage in violation of this section shall be created if (i) an open container is located within the passenger area of the motor vehicle, (ii) the alcoholic beverage in the open container has been at least partially removed, and (iii) the appearance, conduct, odor of alcohol, speech, or other physical characteristic of the driver of the motor vehicle may be reasonably associated with the consumption of an alcoholic beverage.
- C. For the purposes of this section:
- "Open container" means any vessel containing an alcoholic beverage, except the originally sealed manufacturer's container.
- "Passenger area" means the area designed to seat the driver of any motor vehicle, any area within the reach of the driver, including an unlocked glove compartment, and the area designed to seat passengers. ~~This term shall~~ *"Passenger area" does not include the trunk of any passenger vehicle, the area behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle, or any similar vehicle, the living quarters of a motor home, or the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, including a bus, taxi, or limousine, while engaged in the transportation of such persons.*
- C. A violation of this section is punishable as a Class 4 misdemeanor.
- 2. That the second enactment of Chapter 281 and the second enactment of Chapter 282 of the Acts of Assembly of 2021, Special Session I, are amended and reenacted as follows:**
- 2. That the provisions of this act shall expire on July 1, 2022 2024.**
- 3. That the Virginia Alcoholic Beverage Control Authority shall collect data regarding the compliance of third-party delivery licensees with the provisions of this act and report such data to the Chairmen of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services by November 1, 2023.**
- 4. That the Virginia Alcoholic Beverage Control Authority (the Authority) shall monitor the implementation of the provision of this act to identify any difficulties of third-party delivery licensees in determining locations to which alcoholic beverages may be delivered and the adequacy of applicable training and education programs. The Board of Directors of the Authority shall**

1536 promulgate regulations, if necessary, to address any issues identified during such monitoring
1537 process.