

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 4.1-100, 4.1-111, and 4.1-206.3 of the Code of Virginia, relating to alcoholic*
 3 *beverage control; food-to-beverage ratio; report.*

4 [H 975]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 4.1-100, 4.1-111, and 4.1-206.3 of the Code of Virginia are amended and reenacted as**
8 **follows:**9 **§ 4.1-100. Definitions.**

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

11 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented
12 liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but
13 shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by
14 the government of the United States.15 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages
16 with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.17 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties
18 containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and
19 every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable
20 of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall
21 be considered as belonging to that variety which has the higher percentage of alcohol, however obtained,
22 according to the order in which they are set forth in this definition; except that beer may be manufactured to
23 include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49
24 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other
25 nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent
26 by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as
27 no more than one and one-half percent of the volume of the finished product consists of alcohol derived from
28 added flavors and other nonbeverage ingredients containing alcohol.29 "Arts venue" means a commercial or nonprofit establishment that is open to the public and in which
30 works of art are sold or displayed.

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

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

33 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii)
34 offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at
35 least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is
36 provided. For purposes of the licensing requirements of this subtitle, "bed and breakfast establishment"
37 includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other
38 than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom
39 overnight lodging is provided.40 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley,
41 malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more
42 of alcohol by volume.

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

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

45 "Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20
46 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the
47 Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24
48 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with
49 charging stations at every seat for cellular phones or other portable devices, and (vi) during the transportation
50 of passengers, is staffed by an attendant who has satisfied all training requirements set forth in this subtitle or
51 Board regulation.52 "Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of
53 an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but
54 not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment
55 so operated. A corporation or association shall not lose its status as a club because of the conduct of
56 charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in

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57 which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are
58 served or consumed in the room where such charitable gaming is being conducted while such gaming is being
59 conducted and that no alcoholic beverages are made available upon the premises to any person who is neither
60 a member nor a bona fide guest of a member.

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

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

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

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

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

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

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

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

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

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

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

99 "Farm winery" means (i) an establishment or cooperative located in the Commonwealth on land zoned
100 agricultural that has (a) a vineyard, orchard, or similar growing area that produces fruits or other agricultural
101 products used to manufacture the wine of such farm winery, subject to the requirements set forth in § 4.1-219,
102 and (b) facilities for fermenting and bottling wine on the premises where such farm winery manufactures
103 wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private
104 institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the
105 wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
106 manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and
107 apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance
108 with the requirements of this clause (ii) and Board regulations. As used in this definition, the term
109 "cooperative" means a cooperative formed by an association of individuals for the purpose of manufacturing
110 wine. In determining whether a cooperative licensed as a farm winery has met the requirements set forth in
111 clause (i), the Board shall consider all land in the Commonwealth that is owned or leased by a member of the
112 cooperative. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural
113 district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this
114 definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the
115 limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall
116 otherwise limit or affect local zoning authority.

117 "*Food-to-beverage ratio*" means, for purposes of mixed beverage restaurant licenses, the percentage
118 calculated by dividing (i) the licensee's gross receipts from the sale of food cooked or prepared and

119 *consumed on the premises and nonalcoholic beverages served on the premises by (ii) the licensee's gross*
 120 *receipts from the sale of mixed beverages served on the premises and from food cooked or prepared and*
 121 *consumed on the premises and nonalcoholic beverages served on the premises. "Food-to-beverage ratio"*
 122 *means, for purposes of mixed beverage caterer's and limited caterer's licenses, the percentage calculated by*
 123 *dividing (a) the licensee's gross receipts from the sale of food cooked and prepared for service and*
 124 *nonalcoholic beverages served at private gatherings and special events by (b) the licensee's gross receipts*
 125 *from the sale of mixed beverages and from food cooked and prepared for service and nonalcoholic beverages*
 126 *served at private gatherings and special events.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

177 "Member of a club" means (i) a person who maintains his membership in the club by the payment of
 178 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a
 179 person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal
 180 descendants of a bona fide member, whether alive or deceased, of a national or international organization to

181 which an individual lodge holding a club license is an authorized member in the same locality. It shall also
182 mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident
183 members of the club, the full amount of such contribution being paid in advance in a lump sum.

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

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

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

191 "Performing arts facility" means an indoor or outdoor amphitheater, arena, multipurpose theater, or
192 similar facility at which live musical, dance, theatre, or similar performances, the types of which are
193 approved by the Authority, are performed, provided that the facility has stationary stadium or similar seating
194 for more than 500 persons.

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

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

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

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

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

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

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

237 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license,
238 an established place of business (i) where meals with substantial entrees are regularly sold ~~and~~; (ii) ~~which~~
239 *that has at least as many seats at tables as at counters; and (iii) that* has adequate facilities and sufficient
240 employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the
241 premises, and includes establishments specializing in full course meals with a single substantial entree.

242 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;

243 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
244 beverages.

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

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

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

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

255 "Sports facility" means a coliseum, stadium, racetrack, or similar facility at which professional sports, as
256 defined in § 58.1-4030, or similar events, the types of which are approved by the Authority, are conducted.

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

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

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

273 **§ 4.1-111. Regulations of Board.**

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

279 B. The Board shall promulgate regulations that:

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

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

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

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

294 5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within
295 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on
296 record with the Board by certified mail, return receipt requested, and by regular mail.

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

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

304 8. Require that banquet licensees in charge of public events as defined by Board regulations report to the

305 Board the income and expenses associated with the public event on a form prescribed by the Board when the
306 banquet licensee engages another person to organize, conduct, or operate the event on behalf of the banquet
307 licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

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

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

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

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

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

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

327 b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this subtitle and (ii) the
328 display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter
329 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in
330 § 55.1-1100, but only in accordance with this subtitle.

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

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

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

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

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

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

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

363 21. Establish and make available to all licensees and permittees for which on-premises consumption of
364 alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or
365 otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training
366 module, which shall include (i) information that enables licensees, permittees, and their employees to

367 recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations
368 from culminating in sexual assault.

369 22. Require mixed beverage licensees, except for mixed beverage casino licensees, to have food,
370 including meals as defined in § 4.1-100, cooked or prepared on the licensed premises, available for
371 on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be
372 available in all areas of the licensed premises in which spirits are sold or served.

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

377 24. Prescribe the terms and conditions under which manufacturers, brokers, importers, and wholesalers
378 may advertise and promote alcoholic beverages via the Internet, social media, direct-to-consumer electronic
379 communication, or other electronic means in a manner not inconsistent with the provisions of this subtitle.

380 25. Prescribe the terms and conditions under which persons holding a mixed beverage restaurant,
381 caterer's, or limited caterer's license comply with the following food-to-beverage ratio provisions:

382 a. For such licensees with monthly food sales averaging at least \$48,000, the food-to-beverage ratio shall
383 not apply;

384 b. For such licensees with monthly food sales averaging at least \$25,000 but less than \$48,000, the food-
385 to-beverage ratio shall meet or exceed 30 percent; and

386 c. For such licensees with monthly food sales averaging at least \$4,000, but less than \$25,000, the food-
387 to-beverage ratio shall meet or exceed 45 percent, except that for any licensee with monthly food sales
388 averaging less than \$25,000 with a seating capacity of less than 30 seats and an occupancy permit for less
389 than 60 people total, the food-to-beverage ratio shall meet or exceed 30 percent.

390 C. The Board may promulgate regulations that:

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

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

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

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

403 E. Courts shall take judicial notice of Board regulations.

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

405 **§ 4.1-206.3. Retail licenses.**

406 A. The Board may grant the following mixed beverage licenses:

407 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed
408 beverages for on-premises consumption in dining areas and other designated areas of such restaurant or
409 off-premises consumption. Such license may be granted only to persons ~~(i)~~ who operate a restaurant ~~and (ii)~~
410 ~~whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and~~
411 ~~nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent~~
412 ~~of the gross receipts from the sale of mixed beverages and food that complies with the food-to-beverage ratio~~
413 ~~provisions set by Board regulation pursuant to § 4.1-111. For the purposes of this subdivision, other~~
414 designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises,
415 which outdoor dining areas may have more than one means of ingress and egress to an adjacent public
416 thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such
417 noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A
418 5 of § 4.1-201.

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

429 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club
 430 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in
 431 another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize
 432 the licensees to ~~(1)~~ (a) sell and serve mixed beverages for on-premises or off-premises consumption and ~~(2)~~
 433 (b) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or
 434 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food
 435 in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on
 436 another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of
 437 a license by the Board to such club qualifying in all other respects. ~~The club's gross receipts from the sale of~~
 438 ~~nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed~~
 439 ~~on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and~~
 440 ~~food club shall comply with the food-to-beverage ratio provisions set by Board regulation pursuant to~~
 441 ~~§ 4.1-111.~~ The food sales made by a restaurant to such a club shall be excluded in any consideration of the
 442 qualifications of such restaurant for a license from the Board.

443 If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall
 444 recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for
 445 those months when weather conditions may reduce patronage of the golf course, provided that prepared food,
 446 including meals, is available to patrons during the same months. ~~The gross receipts from the sale of food~~
 447 ~~cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after~~
 448 ~~the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed~~
 449 ~~beverages and food on an annualized basis restaurant shall comply with the food-to-beverage ratio provisions~~
 450 ~~set by Board regulation pursuant to § 4.1-111.~~

451 If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall
 452 authorize the licensee to ~~(A)~~ (1) sell alcoholic beverages, without regard to the amount of gross receipts from
 453 the sale of food prepared and consumed on the premises, for off-premises consumption or for on-premises
 454 consumption in areas upon the licensed premises approved by the Board and other designated areas of the
 455 resort, including outdoor areas under the control of the licensee, and ~~(B)~~ (2) permit the possession and
 456 consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being
 457 provided in bedrooms and private guest rooms.

458 If the restaurant is located on the premises of a mixed beverage casino licensee owned by an operator
 459 licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1, such mixed beverage restaurant
 460 license shall authorize the licensee to sell alcoholic beverages for on-premises consumption on the licensed
 461 premises of the restaurant during all hours of operation of the mixed beverage casino licensee. Any alcoholic
 462 beverages purchased from such restaurant may be ~~(H)~~ (A) taken onto the premises of the mixed beverage
 463 casino licensee and ~~(H)~~ (B) possessed or consumed in areas designated by the Board, after consultation with
 464 the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed
 465 beverage casino licensee, including entertainment venues, conference rooms, private rooms, hotels, pools,
 466 marinas, or green spaces. Alcoholic beverages purchased from a restaurant pursuant to this subdivision shall
 467 be contained in glassware or a paper, plastic, or similar disposable container that clearly displays the name or
 468 logo of the restaurant from which the alcoholic beverage was purchased.

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

473 2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the
 474 business of providing food and beverages to others for service at private gatherings or at special events,
 475 which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The
 476 annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages
 477 served at gatherings and events referred to in this subdivision shall ~~amount to at least 45 percent of the gross~~
 478 ~~receipts from the sale of mixed beverages and food comply with the food-to-beverage ratio provisions set by~~
 479 ~~Board regulation pursuant to § 4.1-111.~~

480 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in
 481 the business of providing food and beverages to others for service at private gatherings or at special events,
 482 not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic
 483 beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared
 484 for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall
 485 ~~amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food comply with the~~
 486 ~~food-to-beverage ratio provisions set by Board regulation pursuant to § 4.1-111.~~

487 4. Mixed beverage carrier licenses to (i) persons operating a common carrier of passengers by train, boat,
 488 bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the
 489 Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of
 490 establishments of air carriers at airports in the Commonwealth and (ii) financial institutions, subsidiaries of a

491 financial institution, or persons approved by the applicable airport authority that have entered into a contract
 492 with a financial institution or subsidiary of a financial institution to operate a passenger lounge, which shall
 493 authorize the licensee to sell and serve mixed beverages in designated areas of a passenger lounge for ticketed
 494 air carrier passengers that is located within an airport in the Commonwealth. For purposes of supplying its
 495 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier
 496 licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to
 497 transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages
 498 will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier
 499 licensee shall (a) designate for purposes of its license all locations where the inventory of alcoholic beverages
 500 may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and
 501 any such licensed express carrier and (b) maintain records of all alcoholic beverages to be transported, stored,
 502 and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall
 503 automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises
 504 consumption or in closed containers for off-premises consumption; however, the licensee shall be required to
 505 pay the local fee required for such additional license pursuant to § 4.1-233.1.

506 For the purposes of this subdivision:

507 "Financial institution" means any bank, trust company, savings institution, industrial loan association,
 508 consumer finance company, or credit union.

509 "Passenger lounge" means any restricted-access passenger waiting room or lounge leased to persons by
 510 the applicable airport authority in which food and beverage services are provided to ticketed passengers.

511 5. Annual mixed beverage sports facility licenses to persons operating a sports facility or food concessions
 512 at a sports facility, which shall authorize the licensee to sell mixed beverages during any event and
 513 immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas,
 514 and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii)
 515 in paper, plastic, or similar disposable containers or in single original metal cans for on-premises
 516 consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully
 517 acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting
 518 of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell
 519 and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption;
 520 however, the licensee shall be required to pay the local fee required for such additional license pursuant to
 521 § 4.1-233.1.

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

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

540 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or
 541 hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed
 542 beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize
 543 the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business
 544 premises designated in the license, with a common alcoholic beverage inventory for purposes of the
 545 restaurant and catering operations. Such licensee shall meet the separate food qualifications established for
 546 the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant
 547 to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the
 548 licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed
 549 containers for off-premises consumption; however, the licensee shall be required to pay the local fee required
 550 for such additional license pursuant to § 4.1-233.1.

551 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining
 552 areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being

553 provided, with or without meals, for on-premises consumption only in such rooms and areas, and without
554 regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii)
555 permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is
556 being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast
557 establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas,
558 whether or not contiguous to the licensed premises, which may have more than one means of ingress and
559 egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the
560 licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail
561 license issued pursuant to subdivision A 5 of § 4.1-201.

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

568 11. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association
569 governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that
570 is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom
571 alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the
572 commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses,
573 walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle
574 center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas.
575 Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on
576 the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in
577 paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the
578 alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the
579 commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the
580 public the boundaries of the licensed premises; however, no physical barriers shall be required for this
581 purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the
582 applicable provisions of this subtitle and Board regulations.

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

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

610 14. Mixed beverage casino licenses, which shall authorize the licensee to (i) sell and serve mixed
611 beverages for on-premises consumption in areas designated by the Board, after consultation with the mixed
612 beverage casino licensee, without regard to the amount of gross receipts from the sale of food prepared and
613 consumed on the premises and (ii) provide complimentary mixed beverages to patrons for on-premises
614 consumption in private areas or restricted access areas designated by the Board, after consultation with the

615 mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed
 616 beverage casino licensee, including entertainment venues, private rooms, conference rooms, hotels, pools,
 617 marinas, or green spaces. The granting of a license pursuant to this subdivision shall authorize the licensee to
 618 obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for
 619 off-premises consumption in accordance with the provisions of this subdivision governing mixed beverages;
 620 however, the licensee shall be required to pay the local fee required for such additional license pursuant to
 621 § 4.1-233.1. Notwithstanding any law or regulation to the contrary, a mixed beverage casino licensee may
 622 exercise the privileges of its license as set forth in this subdivision during all hours of operation of the casino
 623 gaming establishment; however, such licensee shall not sell wine or beer for off-premises consumption
 624 between the hours of 12 a.m. and 6 a.m.

625 A mixed beverage casino licensee may (a) provide patrons gifts of alcoholic beverages in closed
 626 containers for personal consumption off the licensed premises or in areas designated by the Board, after
 627 consultation with the mixed beverage casino licensee, and (b) enable patrons who participate in a loyalty or
 628 reward credit program to redeem credits for the purchase of alcoholic beverages for on-premises
 629 consumption. A summary of the operation of such loyalty or reward credit program shall be provided to the
 630 Board upon request.

631 A mixed beverage casino license may only be issued to a casino gaming establishment owned by an
 632 operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1.

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

634 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed
 635 containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in
 636 dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other
 637 designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with
 638 regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and
 639 consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board
 640 or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in
 641 dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being
 642 provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross
 643 receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is
 644 provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter
 645 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board
 646 under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own
 647 lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this
 648 subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed
 649 premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare,
 650 provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such
 651 noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A
 652 5 of § 4.1-201.

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

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

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

669 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during
 670 the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas,
 671 or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper,
 672 plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon
 673 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic
 674 beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to
 675 persons operating food concessions at any performing arts facility.

676 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or

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

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

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

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

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

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

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

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

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

725 1. Per-day event licenses.

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

738 b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in

739 charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-
 740 premises consumption in areas approved by the Board on the premises of the place designated in the license.
 741 A separate license shall be required for each day of each special event.

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

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

754 2. Annual licenses.

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

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

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

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

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

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

822 E. The Board may grant a marketplace license to persons operating a business enterprise of which the
823 primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve
824 complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations
825 imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two
826 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer
827 for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the
828 applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to
829 create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services;
830 (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager
831 on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training
832 requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed
833 wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether
834 to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the
835 business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation;
836 and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and
837 welfare.

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

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

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

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

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

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

863 portal licensees may also accept payment on behalf of the shipper.

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

865 **2. That the Virginia Alcoholic Beverage Control Authority's (the Authority) initial adoption of**
866 **regulations necessary to implement the provisions of this act shall be exempt from the provisions of the**
867 **Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), provided that, prior to the final**
868 **adoption of such regulations, the Authority publishes in the Virginia Register of Regulations and posts**
869 **on the Virginia Regulatory Town Hall an action that provides (i) a 30-day comment period; (ii) a**
870 **summary of the proposed regulations, the text of the proposed regulations, and the name, address,**
871 **email address, and telephone number of the agency contact person responsible for receiving public**
872 **comments; and (iii) the statutory authority to promulgate the regulations.**

873 **3. That the Virginia Alcoholic Beverage Control Authority (the Authority) shall collect data regarding**
874 **the compliance of mixed beverage licensees with the provisions of this act and the impact of the change**
875 **to the food-to-beverage ratio pursuant to this act on the gross amount of food consumed on a licensee's**
876 **premises. The Authority shall report such data to the Chairs of the House Committee on General Laws**
877 **and the Senate Committee on Rehabilitation and Social Services by November 1, 2027.**

ENROLLED

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