

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 4.1-235 and 4.1-332 of the Code of Virginia, relating to alcoholic beverage*  
 3 *control; payment of excise tax on beer, wine coolers, and wine; penalties.*

4 [S 788]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 4.1-235 and 4.1-332 of the Code of Virginia are amended and reenacted as follows:**8 **§ 4.1-235. Collection; computation, distribution of tax on wine and other alcoholic beverages;**  
 9 **refunds and adjustments.**

10 A. The Board shall collect the state taxes levied pursuant to §§ 4.1-213 and 4.1-234 as follows:

11 1. Collection shall be from the purchaser at the time of or prior to sale, except as to sales made to  
 12 wholesale wine licensees. Wholesale wine licensees shall collect the taxes at the time of or prior to sale to  
 13 retail licensees, and shall remit such taxes monthly to the Board, along with such reports as may be required  
 14 by the Board, ~~at the time and~~ in the manner prescribed by the Board. *Any such tax payments and reports as*  
 15 *may be required by the Board shall be postmarked or submitted electronically no later than the fifteenth of*  
 16 *the month.*

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

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

25 B. The amount of tax collected under this section during each quarter shall, within 50 days after the close  
 26 of such quarter, be certified to the Comptroller by the Board and shall be transferred by him from the special  
 27 fund described in § 4.1-116 to the general fund of the state treasury. The Board shall, not later than June 20 of  
 28 every year, estimate the yield of the state tax on sales imposed by §§ 4.1-213 and 4.1-234 for the quarter  
 29 ending June 30 and certify the amount of such estimate to the Comptroller, whereupon the Comptroller shall,  
 30 before the end of the month, transfer the amount of such estimate from the special fund described in  
 31 § 4.1-116 to the general fund of the state treasury, subject to such adjustment on account of an overestimate  
 32 or underestimate as may be indicated within 50 days after the close of the quarter ending on June 30.

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

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

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

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

43 Twenty percent of the portion of tax collected pursuant to subsection B of § 4.1-234 that is attributable to  
 44 the sale of spirits produced by a distiller licensee shall be deposited in the Virginia Spirits Promotion Fund  
 45 established pursuant to § 3.2-3012.

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

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

53 **§ 4.1-332. Nonpayment of excise tax on beer, wine coolers, and wine; additional penalties.**

54 A. No person shall sell (i) beer or wine coolers to retailers or consumers without paying the excise tax  
 55 imposed by § 4.1-236 or (ii) wine to retailers or consumers without paying the excise tax imposed by  
 56 subsection A of § 4.1-234. No retailer shall purchase, receive, transport, store or sell any beer, wine coolers,

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57 or wine on which such retailer has reason to know such tax has not been paid and may not be paid.

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

59 B. In addition to subsection A, on each manufacturer, bottler, or wholesaler who fails to make any return  
60 and pay the full amount of the tax required by § 4.1-236 or subsection A of § 4.1-234, as applicable, *and*  
61 *submit a wine wholesalers tax report or other report required by the Board to be submitted along with such*  
62 *tax payments*, there shall be imposed a civil penalty to be added to the tax ~~in the amount of~~ *not to exceed* five  
63 percent of the proper tax due if the failure is for not more than ~~thirty~~ 30 days, with an additional five percent  
64 for each additional ~~thirty~~ 30 days, or fraction thereof, during which the failure continues. Such civil penalty  
65 shall not exceed ~~twenty-five~~ 25 percent in the aggregate. In the case of a false or fraudulent return, where  
66 willful intent exists to defraud the Commonwealth of any excise tax due on beer, wine coolers, or wine, a  
67 civil penalty of ~~fifty~~ 50 percent of the amount of the proper tax due shall be assessed. All penalties and  
68 interest shall be payable to the Board and if not so paid shall be collectible in the same manner as if they were  
69 a part of the tax imposed.

70 C. After reasonable notice *is given* to the manufacturer, bottler, wholesaler, or retailer, *he shall have 60*  
71 *days in which to make any return, pay the full amount of the excise tax, and submit the wine wholesalers tax*  
72 *report or other report required by the Board to be submitted along with such tax payments. If the*  
73 *manufacturer, bottler, wholesaler, or retailer fails to make any return, pay the full amount of the excise tax,*  
74 *or submit any such report within the 60-day period*, the Board may suspend or revoke the license of the  
75 manufacturer, bottler, wholesaler, or retailer ~~who has failed to make any return or to pay the full amount of~~  
76 ~~the excise tax~~. *In the absence of willful intent to defraud the Commonwealth, if the manufacturer, bottler,*  
77 *wholesaler, or retailer makes the return, pays the full amount of the excise tax, and submits any such report,*  
78 *including any civil penalties imposed under this section, within the 60-day period, the violation shall be*  
79 *deemed cured and no further action shall be brought against such licensee on the matter.*

80 D. *Except for in the case of a false or fraudulent return where willful intent exists to defraud the*  
81 *Commonwealth, and notwithstanding any other provision of law or regulation, including §§ 4.1-225 and*  
82 *4.1-227, the penalties provided in this section shall be the sole penalties that may be imposed by the Board*  
83 *for a violation of this section.*

84 **2. That by January 1, 2027, the Virginia Alcoholic Beverage Control Authority (the Authority) shall**  
85 **implement an online electronic system for manufacturer and wholesale wine licensees to (i) report to**  
86 **the Authority the purchases and sales made during the preceding month and the amount of state wine**  
87 **tax collected from retailers pursuant to §§ 4.1-234 and 4.1-236 of the Code of Virginia and regulations**  
88 **and (ii) provide payment for the amount of taxes collected, less any refunds, replacements, or**  
89 **adjustments.**