

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 4.1-100, 4.1-114, 4.1-210, 4.1-231, and 4.1-233 of the Code of
2 Virginia, relating to alcoholic beverage control; mixed beverage licenses; Class C mixed
3 beverages restaurant license.

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

5 **1. That §§ 4.1-100, 4.1-114, 4.1-210, 4.1-231, and 4.1-233 of the Code of Virginia are amended and**
6 **reenacted as follows:**

8 § 4.1-100. Definitions.

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

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

14 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic
15 beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption
16 by inhalation.

17 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such
18 varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic
19 beverages, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and
20 capable of being consumed by a human being. Any liquid or solid containing more than one of the four
21 varieties shall be considered as belonging to that variety which has the higher percentage of alcohol,
22 however obtained, according to the order in which they are set forth in this definition; except that beer
23 may be manufactured to include flavoring materials and other nonbeverage ingredients containing
24 alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is
25 derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products

26 with an alcohol content of no more than six percent by volume; or, in the case of products with an
27 alcohol content of more than six percent by volume, as long as no more than one and one-half percent of
28 the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage
29 ingredients containing alcohol.

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

31 "Bed and breakfast establishment" means any establishment (i) having no more than 15
32 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations;
33 and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to
34 whom overnight lodging is provided.

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

38 "Board" means the Virginia Alcoholic Beverage Control Board.

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

41 "Canal boat operator" means any nonprofit organization that operates tourism-oriented canal
42 boats for recreational purposes on waterways declared nonnavigable by the United States Congress
43 pursuant to 33 U.S.C. § 59ii.

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

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

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

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

62 "Day spa" means any commercial establishment that offers to the public both massage therapy,
63 performed by persons certified in accordance with § 54.1-3029, and barbering or cosmetology services
64 performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

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

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

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

69 "Farm winery" means an establishment (i) located on a farm in the Commonwealth with a
70 producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine
71 on the premises where the owner or lessee manufactures wine that contains not more than 18 percent
72 alcohol by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar
73 growing area or agreements for purchasing grapes or other fruits from agricultural growers within the
74 Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or
75 lessee manufactures wine that contains not more than 18 percent alcohol by volume. As used in this
76 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of
77 individuals for the purpose of manufacturing wine. In the event such cooperative is licensed as a farm
78 winery, the term "farm" as used in this definition includes all of the land owned or leased by the
79 individual members of the cooperative as long as such land is located in the Commonwealth.

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

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

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

95 "Government store" means a store established by the Board for the sale of alcoholic beverages.

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

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

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

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

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

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

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

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

119 "Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-
120 premises consumption, ingredients for the preparation of meals and entrees in professional kitchen
121 facilities located at the establishment.

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

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

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

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

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

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

148 The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for
149 private meetings or private parties limited in attendance to members and guests of a particular group,
150 association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or
151 similar facilities while such restaurant is closed to the public and in use for private meetings or parties
152 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such
153 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in
154 use for private meetings or parties limited in attendance to employees and nonpaying guests of the
155 owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats
156 which are not licensed by the Board and on which alcoholic beverages are not sold.

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

160 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational
 161 facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable
 162 corporation with voluntary membership which, as its primary function, makes available golf, ski and
 163 other recreational facilities both to its members and the general public. The hotel or corporation shall
 164 have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The
 165 Board may consider the purpose, characteristics, and operation of the applicant establishment in
 166 determining whether it shall be considered as a resort complex. All other pertinent qualifications
 167 established by the Board for a hotel operation shall be observed by such licensee.

168 "Restaurant" means, for a beer, or wine and beer license ~~or a limited, or a Class B or C~~ mixed
 169 beverage restaurant license, any establishment provided with special space and accommodation, where,
 170 in consideration of payment, meals or other foods prepared on the premises are regularly sold.

171 "Restaurant" means, for a Class A mixed beverage restaurant license ~~other than a limited mixed~~
 172 ~~beverage restaurant license~~, an established place of business (i) where meals with substantial entrees are
 173 regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and
 174 serving such meals for consumption at tables in dining areas on the premises, and includes
 175 establishments specializing in full course meals with a single substantial entree.

176 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for
 177 sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means,
 178 alcoholic beverages.

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

182 "Special agent" means an employee of the Department of Alcoholic Beverage Control whom the
 183 Board has designated as a law-enforcement officer pursuant to § 4.1-105.

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

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

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

196 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume,
197 and not more than three and two-tenths percent of alcohol by weight or four percent by volume
198 consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may
199 also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include
200 other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar
201 fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-
202 236.

203 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees
204 for on-premises consumption whether or not accompanied by food so long as the total food-beverage
205 ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met
206 by such retail licensee.

207 § 4.1-114. Annual review of operations of certain mixed beverage licensees.

208 The Board shall at least annually review the operations of each establishment holding a Class A
209 or B mixed beverage restaurant license and each person holding a caterer's license to determine whether
210 during the preceding license year such licensee has met the food-beverage ratio required by § 4.1-210. If
211 not met, the license granted to such licensee may be suspended or revoked. If the license is revoked, no
212 new license may be granted to the licensee with respect to such establishment or catering business for at

213 least one year from the date of the revocation. For the purposes of this section and § 4.1-210,
214 "nonalcoholic beverage" shall not include any beverages, ice, water or other mixer served with an
215 alcoholic beverage.

216 4.1-210. Mixed beverages licenses.

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

219 1. ~~Mixed~~ Class A mixed beverage restaurant licenses, which shall authorize the licensee to sell
220 and serve mixed beverages for consumption in dining areas and other designated areas of such
221 restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross
222 receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic
223 beverages served on the premises, after issuance of such license, amount to at least 45 percent of the
224 gross receipts from the sale of mixed beverages and food. For the purposes of this paragraph, other
225 designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises,
226 which outdoor dining areas may have more than one means of ingress and egress to an adjacent public
227 thoroughfare, provided such areas are under the control of the licensee and approved by the Board.

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

238 If the restaurant is located on the premises of and operated by a private, nonprofit or profit club
239 exclusively for its members and their guests, or members of another private, nonprofit or profit club in

240 another city with which it has an agreement for reciprocal dining privileges, such license shall also
241 authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club
242 prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the
243 Board and located on another portion of the premises of the same hotel or motel building, this fact shall
244 not prohibit the granting of a license by the Board to such club qualifying in all other respects. The
245 club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold
246 to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross
247 receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club
248 shall be excluded in any consideration of the qualifications of such restaurant for a license from the
249 Board.

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

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

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

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

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

279 7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and
280 beer club license to sell and serve mixed beverages for on-premises consumption by club members and
281 their guests in areas approved by the Board on the club premises. A separate license shall be required for
282 each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar
283 year.

284 8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any
285 outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000
286 persons and is located in Prince William County or the City of Virginia Beach. Such license shall
287 authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic
288 or similar disposable containers to patrons within all seating areas, concourses, walkways, concession
289 areas, or similar facilities, for on-premises consumption.

290 9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any
291 outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000
292 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize
293 the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar

294 disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or
295 similar facilities, for on-premises consumption.

296 10. Annual mixed beverage motor sports facility license to persons operating food concessions at
297 any outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on
298 1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed
299 beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events
300 or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas,
301 viewing areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon
302 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic
303 beverages on the premises in all areas and locations covered by the license.

304 11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal,
305 patriotic or charitable membership organizations that are exempt from state and federal taxation and in
306 charge of banquets conducted exclusively for its members and their guests, which shall authorize the
307 licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the
308 premises of the place designated in the license. Such license shall authorize the licensee to conduct no
309 more than 12 banquets per calendar year.

310 12. ~~Limited Class B~~ mixed beverage restaurant licenses, which shall authorize the licensee to
311 sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs,
312 which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in
313 dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and
314 in no event shall the sale of such wine or liqueur-based drinks exceed 10 percent of the total annual
315 gross sales. **[Q: Retain these types of licenses?]**

316 13. Class C mixed beverage restaurant licenses, which shall authorize the licensee to sell and
317 serve mixed beverages for consumption in dining areas and other designated areas of the licensed
318 establishment. Such license may be granted only to persons who operate a restaurant that has adequate
319 facilities and sufficient employees for cooking, preparing, and serving meals or other food for
320 consumption at tables in dining areas on the premises. For the purposes of this paragraph, other

321 designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises,
 322 which outdoor dining areas may have more than one means of ingress and egress to an adjacent public
 323 thoroughfare, provided such areas are under the control of the licensee and approved by the Board. [Q:
 324 include outdoor premises (i.e. this last sentence?)]

325 If the restaurant is located on the premises of and operated by a private, nonprofit or profit club
 326 exclusively for its members and their guests, or members of another private, nonprofit or profit club in
 327 another city with which it has an agreement for reciprocal dining privileges, such license shall also
 328 authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club
 329 prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the
 330 Board and located on another portion of the premises of the same hotel or motel building, this fact shall
 331 not prohibit the granting of a license by the Board to such club qualifying in all other respects. [Q:
 332 Should clubs be eligible to have both types of mixed beverage licenses (i.e., Class A/restaurant and
 333 Class C/bar under this new scheme? If NO, don't need this paragraph]

334 B. The granting of any license under subdivision 1, 6, 7, 8, 9, 10, ~~or~~ 11, or 13 shall automatically
 335 include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay
 336 the state and local taxes required by §§ 4.1-231 and 4.1-233.
 337

338 4.1-231. Taxes on state licenses.

339 A. The annual fees on state licenses shall be as follows:

340 1. Alcoholic beverage licenses. For each:

341 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured
 342 during the year in which the license is granted, \$450; and if more than 5,000 gallons manufactured
 343 during such year, \$3,725;

344 b. Fruit distiller's license, \$3,725;

345 c. Banquet facility license or museum license, \$190;

346 d. Bed and breakfast establishment license, \$35;

347 e. Tasting license, \$40 per license granted;

348 f. Equine sporting event license, \$130;

- 349 g. Motor car sporting event facility license, \$130;
- 350 h. Day spa license, \$100;
- 351 i. Delivery permit, \$120 if the permittee holds no other license under this title;
- 352 j. Meal-assembly kitchen license, \$100; and
- 353 k. Canal boat operator license, \$100.
- 354 2. Wine licenses. For each:
- 355 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which
- 356 the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
- 357 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less
- 358 per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than
- 359 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more
- 360 than 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000
- 361 gallons of wine per year;
- 362 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or
- 363 more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied
- 364 by the number of separate locations covered by the license;
- 365 c. Wine importer's license, \$370;
- 366 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
- 367 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
- 368 which shall include a delivery permit;
- 369 f. Wine shipper's license, \$65; and
- 370 g. Internet wine retailer license, \$150.
- 371 3. Beer licenses. For each:
- 372 a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in
- 373 which the license is granted, \$2,150, and if more than 10,000 barrels manufactured during such year,
- 374 \$4,300;
- 375 b. Bottler's license, \$1,430;

376 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
377 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
378 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;

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

382 d. Beer importer's license, \$370;

383 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
384 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
385 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
386 cars operated daily in the Commonwealth;

387 f. Retail off-premises beer license, \$120, which shall include a delivery permit;

388 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
389 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
390 delivery permit; and

391 h. Beer shipper's license, \$65.

392 4. Wine and beer licenses. For each:

393 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
394 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier
395 of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars,
396 buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a
397 common carrier of passengers by airplane, \$750;

398 b. Retail on-premises wine and beer license to a hospital, \$145;

399 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and
400 convenience grocery store license, \$230, which shall include a delivery permit;

401 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which
402 shall include a delivery permit;

403 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by
404 the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall
405 be \$100 per license;

406 f. Gourmet brewing shop license, \$230;

407 g. Wine and beer shipper's license, \$65; and

408 h. Annual banquet license, \$150.

409 5. Mixed beverage licenses. For each:

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

412 (i) With a seating capacity at tables for up to 100 persons, \$560;

413 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and

414 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.

415 b. ~~Mixed Class A mixed~~ beverage restaurant license for restaurants located on the premises of
416 and operated by private, nonprofit clubs:

417 (i) With an average yearly membership of not more than 200 resident members, \$750;

418 (ii) With an average yearly membership of more than 200 but not more than 500 resident
419 members, \$1,860; and

420 (iii) With an average yearly membership of more than 500 resident members, \$2,765.

421 c. Mixed beverage caterer's license, \$1,860;

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

423 e. Mixed beverage special events license, \$45 for each day of each event;

424 f. Mixed beverage club events licenses, \$35 for each day of each event;

425 g. Annual mixed beverage special events license, \$560;

426 h. Mixed beverage carrier license:

427 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in
428 the Commonwealth by a common carrier of passengers by train;

429 (ii) \$560 for each common carrier of passengers by boat;

- 430 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
- 431 i. Annual mixed beverage amphitheater license, \$560;
- 432 j. Annual mixed beverage motor sports race track license, \$560;
- 433 k. Annual mixed beverage banquet license, \$500; ~~and~~
- 434 l. ~~Limited Class B~~ mixed beverage restaurant license:
- 435 (i) With a seating capacity at tables for up to 100 persons, \$460;
- 436 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875; and
- 437 (iii) With a seating capacity at tables for more than 150 persons, \$1,330; and
- 438 m. Class C mixed beverage restaurant license:
- 439 (i) With a seating capacity at tables for up to 100 persons, \$25,000;
- 440 (ii) With a seating capacity at tables for 100 but not more than 150 persons, \$50,000; and
- 441 (iii) With a seating capacity at tables for more than 150 persons, \$75,000.
- 442 **[Q: To limit proliferation of Class C licenses, what is best method?**
- 443 **Options:**
- 444 **1. High annual license fee, see above;**
- 445 **2. Seating capacity with graduated license fee based on seating; see above;**
- 446 **3. Square footage; set minimum OR graduated license fee based on square footage;**
- 447 **4. Give ABC the authority to grant no more than X in entire state);**
- 448 **5. Quota based on population--1 Class C license for every X number of people;**
- 449 **6. By lottery;**
- 450 **7. Local referendum;**
- 451 **8. Give local governments the authority to limit; or**
- 452 **9. All or some combination of the above.**
- 453 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
- 454 imposed by this section on the license for which the applicant applied.
- 455 B. The tax on each such license, except banquet and mixed beverage special events licenses,
- 456 shall be subject to proration to the following extent: If the license is granted in the second quarter of any

457 year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be
458 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by
459 three-fourths.

460 If the license on which the tax is prorated is a distiller's license to manufacture not more than
461 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery
462 license to manufacture not more than 5,000 gallons of wine during the year in which the license is
463 granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

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

470 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less
471 than 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the
472 nearest cent, multiplied by the number of months in the license period.

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

482 4.1-233. Taxes on local licenses.

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

485 1. Alcoholic beverages. - For each:

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

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

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

490 d. Museum license, \$10;

491 e. Tasting license, \$5 per license granted;

492 f. Equine sporting event license, \$10;

493 g. Day spa license, \$20;

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

495 i. Meal-assembly kitchen license, \$20; and

496 j. Canal boat operator license, \$20.

497 2. Beer. - For each:

498 a. Brewery license, \$1,000;

499 b. Bottler's license, \$500;

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

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

503 e. Beer shipper's license, \$10.

504 3. Wine. - For each:

505 a. Winery license, \$50;

506 b. Wholesale wine license, \$50;

507 c. Farm winery license, \$50; and

508 d. Wine shipper's license, \$10.

509 4. Wine and beer. - For each:

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

513 b. Hospital license, \$10;

514 c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board
515 pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20
516 per license;

517 d. Gourmet brewing shop license, \$150;

518 e. Wine and beer shipper's license, \$10; and

519 f. Annual banquet license, \$15.

520 5. Mixed beverages. - For each:

521 a. ~~Mixed Class A mixed~~ beverage restaurant license, including restaurants located on the
522 premises of and operated by hotels or motels, or other persons:

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

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

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

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

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

528 d. Mixed beverage limited caterer's license; \$100;

529 e. Mixed beverage special events licenses, \$10 for each day of each event;

530 f. Mixed beverage club events licenses, \$10 for each day of each event;

531 g. Annual mixed beverage amphitheater license, \$300;

532 h. Annual mixed beverage motor sports race track license, \$300;

533 i. Annual mixed beverage banquet license, \$75; ~~and~~

534 j. ~~Limited Class B~~ mixed beverage restaurant license:

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

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

- 537 (iii) With a seating capacity at tables for more than 150 persons, \$400; and
- 538 k. Class C mixed beverage restaurant license:
- 539 (i) With a seating capacity at tables for up to 100 persons, \$5,000;
- 540 (ii) With a seating capacity at tables for 100 but not more than 150 persons, \$10,000; and
- 541 (iii) With a seating capacity for more than 150 persons, \$20,000. [Q: To limit proliferation of
- 542 Class C licenses, what is best method? See options arrayed above in § 4.1-231].

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

547 C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town
 548 in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases,
 549 local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by
 550 sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if
 551 the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this
 552 chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such
 553 local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage
 554 license taxes authorized by this chapter.

555 The governing body of any county, city or town, in adopting an ordinance under this section,
 556 shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation
 557 under the ordinance, and in computing the local wholesale merchants' license tax on such beer
 558 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be
 559 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license
 560 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine
 561 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale
 562 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be
 563 disregarded, which stated amount shall be the amount of wine purchases which would be necessary to

564 produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax
565 paid by such wholesale wine licensee.

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

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

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