



Alcoholic Beverage Control Sampling Privileges and Limitations

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Introduction

Under the licensure scheme created by Title 4.1 of the Code of Virginia, no person is permitted to serve or sell alcoholic beverages in the Commonwealth without a valid license issued by the Board of Directors (the Board) of the Virginia Alcoholic Beverage Control Authority. There are 86 licenses set forth in statute and each carries a unique set of privileges and eligibility criteria.¹ The license privileges dictate whether the licensee is permitted to serve or sell wine, beer, or mixed beverages and whether such alcoholic beverages may be consumed on or off the licensed premises.

Due to public health, safety, and welfare concerns, the General Assembly has limited the number of licenses that permit on-premises consumption. Similarly, the General Assembly has exercised caution when creating licenses that authorize the licensee to provide samples of alcoholic beverages to customers for on-premises consumption. Only certain licenses carry a sampling privilege and, among those licenses, the privilege varies regarding whether samples may be sold or given gratuitously, the types of alcoholic beverages that may be provided, and limitations on the quantity of such samples.

This issue brief highlights the key licenses, broken down into seven basic categories, that authorize the licensee to provide samples of alcoholic beverages and sets forth the various restrictions on each such license.²

1. Manufacturer of Spirits

Subdivision A 3 of § 4.1-215 allows a manufacturer of distilled spirits, regardless of whether the manufacturer is licensed to manufacture spirits in the Commonwealth, to obtain up to four banquet licenses per year for special events "conducted for the purposes of featuring and educating the consuming public about the manufacturer's spirits products." This banquet license authorizes the manufacturer to sell or give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas at the special event, provided that (i) no single sample exceeds a half-ounce of spirits, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits, and (ii) no more than three ounces of spirits are offered to any patron per day.

¹ See Va. Code §§ 4.1-206 through 4.1-210 and 4.1-215.

² Additionally, two appendixes are included that allow for a speedier review and comparison of the licenses that contain sampling privileges. Appendix A sets forth the relevant statutory text and quantity limitations for each license. Appendix B compares the various quantity limitations and sale restrictions imposed on such licenses in a chart format.

2. Distiller-Agent

Subsection G of § 4.1-119 allows a licensed distiller or its officers and employees who have been appointed as agents of the Board for the sale of spirits to give samples of spirits, beer, wine, or cider to those who can legally purchase them, provided that the alcoholic beverages sampled are manufactured within the same licensed premises or on contiguous premises. However, single samples are limited to a maximum of four ounces of beer, two ounces of wine, or a half-ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits. Additionally, the licensee is prohibited from providing to any person in a single day more than four total samples of alcoholic beverage products or, in the case of spirits samples, more than three ounces of spirits. When providing spirits samples, the licensee is required to use a method to track the consumption of each consumer.

3. Manufacturers and Wine and Beer Wholesalers

Section 4.1-201.1 allows manufacturers of alcoholic beverages, whether or not licensed in the Commonwealth, and wine or beer wholesalers to conduct tastings of wine, beer, or spirits within hotels, restaurants, and clubs licensed for on-premises consumption. The types of alcoholic beverages that may be offered as samples are limited to the types of products that the retail licensee on whose premises the tasting is conducted is licensed to sell. Moreover, only 12 ounces of beer, five ounces of wine, or one and one-half ounces of spirits may be served to each person. And for spirits samples, no single sample may exceed a half-ounce of spirits and no more than three spirits products may be offered to any person.

4. Residential Wine and Beer Manufacturers

Section 4.1-200 provides sampling privileges to any person who manufactures wine, beer, or both at his residence or at a gourmet brewing shop for consumption at his residence. Specifically, subdivision 6 allows residential manufacturers to offer a sample of wine or beer that does not exceed one ounce of wine by volume or two ounces of beer by volume. Such samples may be given, not sold, for on-premises consumption at events organized for judging or exhibiting the manufacturer's wine or beer, including events held on the premises of a retail licensee.

5. Wine and Beer Licenses

Section 4.1-209 provides sampling privileges to numerous licensees, including gourmet shops,³ gift shops,⁴ gourmet oyster houses,⁵ and persons granted retail on-premises or on-and-off-premises wine and beer licenses pursuant to § 4.1-209 or subsection B of § 4.1-210 (mixed beverage licenses).⁶ Such licensees are authorized to give to any person to whom wine or beer may be lawfully sold (i) a sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume, "for on-premises consumption for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted." However, of the aforementioned licenses that carry this privilege, only licensees with retail on-premises or on-and-off-premises wine and beer licenses may sell or otherwise charge a fee for

³ Va. Code § 4.1-209(A)(3).

⁴ Va. Code § 4.1-209(A)(7).

⁵ Va. Code § 4.1-209(A)(12).

⁶ Va. Code § 4.1-209(D).



such samples. Conversely, licensees that are merely authorized to sell wine and beer in closed containers for off-premises consumption—gourmet shops, gift shops, and gourmet oyster houses—are only permitted to give free samples.

6. On-Premises Beer, On-Premises Wine and Beer, and Mixed Beverage Licenses

Subdivision A 11 of § 4.1-201 authorizes retail on-premises beer licensees, retail on-premises wine and beer licensees, mixed beverage licensees, and agents or employees of such licensees to give to a patron a sample of any alcoholic beverages such licensee is authorized to sell for on-premises consumption. Single samples are limited to a maximum of two ounces of wine, four ounces of beer, or a half-ounce of spirits. Moreover, no more than two product samples may be given to any person per visit.

7. One-Off and Tasting Licenses

Section 4.1-206 provides sampling privileges to six licenses that are granted to establishments for which the primary business function is not the sale of alcohol—day spas,⁷ annual arts venue events,⁸ art instruction studios,⁹ meal-assembly kitchens,¹⁰ coworking establishments,¹¹ and bespoke clothiers.¹² While most licensees with sampling privileges use samples to educate the consuming public about the alcoholic beverages being served, most licensees with sampling privileges under § 4.1-206 offer samples as a gratuity to their customers in an effort to enhance their experience at the licensed establishments. On the basis of this peculiarity, such licensees, except for persons granted a tasting license, are not permitted to sell or otherwise charge a fee for such samples.

Among these licenses, the quantity limitations on allowable samples vary. While day spa, annual arts venue event, and art instruction studio licensees are limited to serving two five-ounce glasses of wine or one 12-ounce glass of beer, meal-assembly kitchen, coworking establishment, and bespoke clothier licensees are allowed to serve two five-ounce glasses of wine or two 12-ounce glasses of beer.

Subdivision A 6 of § 4.1-206 establishes a tasting license, which is a different subcategory of license that authorizes the licensee to sell samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. Unlike the other licenses in this category, tasting licenses are issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being sampled. Also unlike the aforementioned licenses, a tasting licensee may not give or sell to a person more than two ounces of each product sampled, or more than four wine or beer products or two spirits products per day.¹³

Conclusion

Accordingly, while numerous licenses are available in the Commonwealth that allow the licensee to offer samples of alcoholic beverages to customers, the constraints on such sampling

⁷ Va. Code § 4.1-206(A)(9).

⁸ Va. Code § 4.1-206(A)(13).

⁹ Va. Code § 4.1-206(A)(14).

¹⁰ Va. Code § 4.1-206(A)(11).

¹¹ Va. Code § 4.1-206(A)(18).

¹² Va. Code § 4.1-206(A)(19).

¹³ Va. Code § 4.1-221.1.



privileges vary depending on the specific license. For example, while persons granted a tasting license under § 4.1-206 may sell samples, other licensees under that same Code section, such as annual arts venue events licensees, are only permitted to provide free samples. A licensed distiller who has been appointed as an agent of the Board may provide samples of wine, beer, and spirits under the provisions of § 4.1-119, while a manufacturer of distilled spirits granted sampling privileges under § 4.1-215 may only serve samples of spirits products. And under the provisions of § 4.1-206, a bespoke clothier licensee may provide customers with either two 12-ounce glasses of beer or two five-ounce glasses of wine, while day spa licensees are limited to serving one 12-ounce beer or two five-ounce glasses of wine. In fact, depending on the specific license a person is using to provide samples, (i) the single sample limit can range from two to 12 ounces of beer, one to five ounces of wine, or one half-ounce to two ounces of spirits and (ii) the daily limit can range from eight to 24 ounces of beer, four to 10 ounces of wine, or one to four ounces of spirits.

Consequently, before providing samples of alcoholic beverages to patrons, licensees must be careful to ensure not only that they are authorized to provide samples under the provisions of their specific license, but also that they abide by license-specific restrictions regarding whether they may sell such samples, the types of alcoholic beverages that may be provided, and the applicable quantity limitations.

For more information, contact the Division of Legislative Services staff:

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Appendix A. Licenses That Contain Sampling Privileges.

1. Manufacturer of Spirits

- Code Section: subdivision A 3 of § 4.1-215
- Single Sample Limit: 0.5 oz. spirits (1.5 oz. if mixed beverage)
- Daily Limit: 3 oz. spirits
- Relevant Statutory Text: "[A] manufacturer of distilled spirits, whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in subdivision A 4 of § 4.1-210 upon application to the Board, provided that such event is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than four banquet licenses for such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license shall authorize the manufacturer to give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas at the special event, provided that (a) no single sample shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits, and (b) no more than three ounces of spirits may be offered to any patron." (*emphasis added*)

2. Distiller-Agent

- Code Section: subsection G of § 4.1-119
- Single Sample Limit: 4 oz. beer, 2 oz. wine, or 0.5 oz. spirits (1.5 oz. if mixed beverage)
- Daily Limit: 16 oz. beer, 8 oz. wine, or 3 oz. spirits
- Relevant Statutory Text: "[A]n agent of the Board appointed pursuant to subsection D [of § 4.1-119] may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises . . . ; (ii) no single sample shall exceed four ounces of beer, two ounces of wine, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage." (*emphasis added*)



3. Manufacturers and Wine and Beer Wholesalers

- Code Section: subsection A of § 4.1-201.1
- Single Sample Limit: no limit listed for beer or wine, but spirits limited to 0.5 oz.
- Daily Limit: 12 oz. beer, 5 oz. wine, or 1.5 oz. spirits (maximum of 3 spirits products)
- Relevant Statutory Text: "Manufacturers of alcoholic beverages, whether or not licensed in the Commonwealth, and wine or beer wholesalers may conduct tastings of wine, beer, or spirits within hotels, restaurants, and clubs licensed for on-premises consumption provided: . . . [t]he quantity of wine, beer, or spirits provided to any person during the tasting does not exceed 12 ounces of beer, five ounces of wine, or one and one-half ounces of spirits; however, for any spirits tastings, no single sample shall exceed one-half ounce per spirits product offered and no more than three spirits products may be offered to any patron;" (*emphasis added*)

4. Residential Wine and Beer Manufacturers (§ 4.1-200)

- Code Section: subdivision 6 of § 4.1-200
- Single Sample Limit: 2 oz. beer or 1 oz. wine
- Daily Limit: none listed
- Relevant Statutory Text: "Any person who manufactures [at his residence or at a gourmet brewing shop for domestic consumption at his residence] wine or beer in accordance with this subdivision may . . . [give] to any person to whom beer may lawfully be sold a sample of such wine or beer, not to exceed (a) one ounce of wine by volume or (b) two ounces of beer by volume for on-premises consumption at events organized for judging or exhibiting such wine or beer, including events held on the premises of a retail licensee. Nothing in this paragraph shall be construed to authorize the sale of such wine or beer." (*emphasis added*)

5. Wine and Beer Licenses

A. Gourmet Shop Licenses

- Code Section: subdivision A 3 of § 4.1-209
- Single Sample Limit: 4 oz. beer or 2 oz. wine
- Daily Limit: unclear
- Relevant Statutory Text: "Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume, for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, breweries, and wholesale licensees



may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold." (*emphasis added*)

B. Gift Shop Licenses

- Code Section: subdivision A 7 of § 4.1-209
- Single Sample Limit: 4 oz. beer or 2 oz. wine
- Daily Limit: unclear
- Relevant Statutory Text: "Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior premises of the gift shop in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted." (*emphasis added*)

C. Gourmet Oyster House Licenses

- Code Section: subdivision A 12 of § 4.1-209
- Single Sample Limit: 4 oz. beer or 2 oz. wine
- Daily Limit: unclear
- Relevant Statutory Text: "Gourmet oyster house licenses, to establishments located on the premises of a commercial marina and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, where the licensee also offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products. Such license shall authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed containers for off-premises consumption. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly food sale requirement of oysters and other seafood for such license. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold." (*emphasis added*)

D. On-Premises and On-and-Off Premises Wine and Beer Licenses

- Code Section: subsection D of § 4.1-209
- Single Sample Limit: 4 oz. beer or 2 oz. wine
- Daily Limit: unclear, but see next section regarding sample limits in § 4.1-201



- Relevant Statutory Text: "Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person." (*emphasis added*)

6. On-Premises Beer, On-Premises Wine and Beer, Mixed Beverage Licenses

- Code Section: subdivision A 11 of § 4.1-201
- Single Sample Limit: 4 oz. beer, 2 oz. wine, or 0.5 oz. spirits
- Daily Limit: 8 oz. beer, 4 oz. wine, or 1 oz. spirits
- Relevant Statutory Text: "Any retail on-premises beer licensee, his agent or employee, from giving a sample of beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or retail on-premises wine or beer licensee, his agent or employee, from giving a sample of wine or beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall not exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not exceed one-half ounce. No more than two product samples shall be given to any person per visit." (*emphasis added*)

7. Alcoholic Beverage Licenses

A. Day Spa Licenses

- Code Section: subdivision A 9 of § 4.1-206
- Single Sample Limit: 12 oz. beer or 5 oz. wine
- Daily Limit: 12 oz. beer or 10 oz. wine
- Relevant Statutory Text: "Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed." (*emphasis added*)



B. Annual Arts Venue Event Licenses

- Code Section: subdivision A 13 of § 4.1-206
- Single Sample Limit: 12 oz. beer or 5 oz. wine
- Daily Limit: 12 oz. beer or 10 oz. wine
- Relevant Statutory Text: "Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year." (*emphasis added*)

C. Art Instruction Studio Licenses

- Code Section: subdivision A 14 of § 4.1-206
- Single Sample Limit: 12 oz. beer or 5 oz. wine
- Daily Limit: 12 oz. beer or 10 oz. wine
- Relevant Statutory Text: "Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed." (*emphasis added*)

D. Meal-Assembly Kitchen Licenses

- Code Section: subdivision A 11 of § 4.1-206
- Single Sample Limit: 12 oz. beer or 5 oz. wine
- Daily Limit: 24 oz. beer or 10 oz. wine
- Relevant Statutory Text: "Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed." (*emphasis added*)

E. Coworking Establishment Licenses

- Code Section: subdivision A 18 of § 4.1-206
- Single Sample Limit: 12 oz. beer or 5 oz. wine
- Daily Limit: 24 oz. beer or 10 oz. wine



- Relevant Statutory Text: "Coworking establishment license, which shall authorize the licensee to . . . serve wine and beer on the premises of the licensee between 4:00 p.m. and 8:00 p.m. to any member and up to two guests of each member, provided that such member and guests are persons to whom alcoholic beverages may be lawfully served. However, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any person, nor shall it sell or otherwise charge a fee for the wine or beer served or consumed." (*emphasis added*)

F. Bespoke Clothier Licenses

- Code Section: subdivision A 19 of § 4.1-206
- Single Sample Limit: 12 oz. beer or 5 oz. wine
- Daily Limit: 24 oz. beer or 10 oz. wine
- Relevant Statutory Text: "Bespoke clothier establishment license, which shall authorize the licensee to serve wine or beer for on-premises consumption upon the licensed premises approved by the Board to any member; however, the licensee shall not give more than (i) two five-ounce glasses of wine or (ii) two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed." (*emphasis added*)

G. Tasting Licenses

- Code Sections: subdivision A 6 of § 4.1-206 and 4.1-221.1
- Single Sample Limit: 2 oz. of each product
- Daily Limit: 8 oz. beer, 8 oz. wine, or 4 oz. spirits
- Relevant Statutory Text (§ 4.1-221.1): "Samples of alcoholic beverages given or sold by a licensee shall not exceed two ounces per person of each product tasted, provided that (i) in the case of wine or beer, no more than four products shall be offered or (ii) in the case of spirits, no more than two products shall be offered. Tasting licenses for mixed beverages shall only be issued for events to be held in localities which have approved the sale of mixed beverages pursuant to § 4.1-124. No license shall be issued to any person to whom issuance of a retail license is prohibited. No more than four tasting licenses annually shall be issued to any person. The provisions of this section shall not apply to tastings conducted pursuant to § 4.1-201.1." (*emphasis added*)



Appendix B. Licenses That Contain Sampling Privileges (in ounces).

License	Beer Sample	Beer Daily	Wine Sample	Wine Daily	Spirits Sample	Spirits Daily	Sell or Give
Manufacturer of Spirits - No License Necessary (§ 4.1-215)	-	-	-	-	0.5 (1.5 if mixed bev)	3	Sell
Distiller-Agent (§ 4.1-119)	4	16	2	8	0.5 (1.5 if mixed bev)	3	Sell
Manufacturer of Alcoholic Beverages and Wholesalers (§ 4.1-201.1)	-	12	-	5	0.5	1.5	Give
Residential Wine/Beer Manufacturer (§ 4.1-200)	2	-	1	-	-	-	Give
Gourmet Shop, Gift Shop, Gourmet Oyster House (§ 4.1-209)	4	-	2	-	-	-	Give
On-Premises Wine and Beer (§ 4.1-209)	4	-	2	-	-	-	Sell
On-Premises Beer, On-Premises Wine and Beer, Mixed-Beverage (§ 4.1-201)	4	8	2	4	0.5	1	Give
Alcoholic Beverage Licenses (§ 4.1-206)							
Day Spa	12	12	5	10	-	-	Give
Annual Arts Venue Events	12	12	5	10	-	-	Give
Art Instruction Studio	12	12	5	10	-	-	Give



Alcoholic Beverage Licenses (§ 4.1-206) (continued)	Beer Sample	Beer Daily	Wine Sample	Wine Daily	Spirits Sample	Spirits Daily	Sell or Give
Meal-Assembly Kitchen	12	24	5	10	-	-	Give
Coworking Establishment	12	24	5	10	-	-	Give
Bespoke Clothier	12	24	5	10	-	-	Give
Tastings	2	8	2	8	2	4	Sell