



October 29, 2021

The Honorable Barbara A. Favola  
Pocahontas Building  
Room No.: E610  
Senate of Virginia  
P.O. Box 396  
Richmond, Virginia 23218

The Honorable David L. Bulova  
Pocahontas Building  
Room No.: E204  
House of Delegates  
Richmond, Virginia 23219

Dear Committee Chairs:

Pursuant to Enactment Clause 3 of Chapter 281 of the 2021 Virginia Acts of Assembly, Virginia ABC is pleased to present this report on our recommendations of the permanence of offering cocktails to go in the Commonwealth. Virginia ABC was pleased to include approximately 40 stakeholders in this endeavor and we are most appreciative of the earnest and candid input from that group.

The stakeholder group spent a great deal of time on the effort and focused directly on whether cocktails to go should be made permanent, whether further safeguards, such as required containers, were now appropriate given reduced exigent circumstances of the pandemic and expectations of third party delivery entities on issues of compliance and the protection of public safety.

Our recommendations include continuing the cocktail to go privilege for an additional two years and collecting compliance and other data during that period. We further recommend statutory modifications to license third party delivery entities and greater stringency in the types of containers that may be used including "tamper evident" containers.

Virginia ABC trusts this report satisfactorily addresses the issues that the General Assembly requested and we would be pleased to present our findings and recommendations to the full Committees at a time of your choosing.

Sincerely,

A handwritten signature in black ink, appearing to read "Travis G. Hill".

Travis G. Hill  
Chief Executive Officer



**VIRGINIA ABC REPORT ON “COCKTAILS TO GO”**  
**PURSUANT TO CHAPTER 281 OF THE 2021 ACTS OF ASSEMBLY**

**INTRODUCTION**

As a result of various Executive Orders issued to address public health concerns during the pandemic, a number of businesses were forced to severely limit their operations. One segment of the industry significantly affected was the restaurant industry. Limitations on the number of patrons, the ability to “dine in”, and the closure of bar areas negatively affected the business practices of these establishments in a significant financial and personal way.

To alleviate these negative impacts, The Virginia Alcoholic Control Beverage Authority (‘Virginia ABC’), working within the parameters of the Executive Orders and limited modifications to its

regulations, began to allow these establishments to offer cocktails to go for off-premises consumption. The initiative allowed cocktails to go when coupled with a meal and under public safety guidelines regarding the containers of alcoholic beverages to avoid illegal consumption and increased drinking and driving. The number of cocktails to go per order were limited to two drinks per customer when accompanied with a meal. The safeguards and parameters of offering cocktails to go was captured in “Virginia ABC” Topic 13, a copy of which is attached to this report, as Exhibit 1.

Cocktails to go was very well received by restaurants and consumers, providing a significant economic life-line to these establishments. Importantly, the initiative was monitored closely by Virginia ABC Bureau of Law Enforcement and very few incidents of non-compliance were noted during the period of time when Topic 13 was in effect.

As the pandemic continued, the General Assembly convened in January of 2021 and among other issues, addressed cocktails to go. HB 1879, introduced by the Chairman of House General Laws, David Bulova, and Senate Bill 1299 introduced by Senator John J. Bell were considered and received overwhelming support in both the House and Senate. The legislation was signed into law by Governor Ralph Northam, becoming effective on July 1, 2021. In addition to addressing the substance and practice of cocktails to go, the circumstances under which the privilege could take place, the type of containers that should be utilized and the necessity to serve a meal with every two cocktails to go, the legislation also included two additional enactment clauses.

Enactment clause 2 provided a sunset date of July 1, 2022, for the legislation.

Enactment clause 3 requested that Virginia ABC convene a group of stakeholders to study the delivery of mixed beverages and pre-mixed wine for off-premises consumption. The further charge of Enactment 3 was to determine whether such provisions should be implemented permanently and to identify any further statutory or regulatory modifications that should be made in the event that such provisions are made permanent. Finally, Enactment 3 requested that Virginia ABC report its findings and recommendations to the Chairmen of the House General Laws and the Senate Committee on Rehabilitation and Social Services by November 1, 2021.

Pursuant to the request of the General Assembly, Virginia ABC convened stakeholders to begin deliberations on the question of the permanency of cocktails to go and recommendations for modifications, either statutory or regulatory.

The stakeholder group consisted of approximately 37-40 individuals interested in the cocktails to go issue. The size of the group varied from meeting to meeting but was very well attended at each of the six meetings held to discuss issues associated with cocktails to go. A copy of the stakeholder list is attached as Exhibit 2.

Meetings of the group were held on May 18, June 15, July 20, August 17, September 15, and October 12 of 2021. A work plan was developed that included focused meetings on various topics associated with cocktails to go. Those topics ranged from initial thoughts by members, research on other states authorizing cocktails to go, economic benefits of cocktails to go, third party delivery platforms, and public health and safety considerations potentially associated with cocktails to go. The stakeholder work plan is attached as Exhibit 3.

The stakeholder group heard presentations from the following groups:

June 15, 2021, Cocktails to Go Meeting:

- Brianna Bonat, Virginia ABC – Cocktails to Go in other states
- Terri Beirne, Wine Institute – National Sales Data during COVID-19
- Mike Berman, Virginia ABC – VA ABC Sales Data during COVID-19
- Dave Ozgo, DISCUS – Alcohol Beverage sales during COVID-19

July 20, 2021, Cocktails to Go Meeting:

- Jeff Palmore, Reed Smith – Third Party Delivery Options
- Brandy Axdahl, Responsibility.org – Cocktails to Go Best Practices
- Reid Teschner, Anheuser-Busch – Responsible Delivery Toolkit
- Brianna Bonat, Virginia ABC – National Liquor Law Enforcement Association’s Best Practice / Recommendations for Delivery of Alcohol by Common Carriers
- Jaci Flug, Drizly – International Alliance for Responsible Drinking’s Global Standards for Online Alcohol Sale and Delivery
- Mike Berman, Virginia ABC – Sales Relating to Cocktails to Go

August 17, 2021, Cocktails to Go Meeting:

- Lisa Hutchenson, Mental Health America of Indiana - Indiana's new law that allows cocktails to go and curbside delivery and how in general cocktails to go may impact underage and high-risk adult drinking
- Kurt Erickson, Susie Bruce, Regina Whitsett, Dana Schrad – Prevention Partners – Best Practices as well as Virginia’s latest DUI figures
- Mike Berman, Virginia ABC – Licensee Purchase Activity

- Chief Thomas Kirby, Virginia ABC – Experiences with cocktails to go compliance checks and third-party delivery entities

The information provided by stakeholders and presenters was significant and expansive. The information provided not only the background and status of cocktails to go in other states but also suggestions and lessons learned from other states as to what was successful or what was not; provided insights as to areas to consider for modifications per the group's charge from the General Assembly, and perspectives of group members regarding the relative importance of cocktails to go being permanent.

### **State Laws During COVID-19**

As of May 17, 2021, 13 states were open for indoor dining with a capacity restriction of 50 percent or less. Six states were open for indoor dining with capacity restrictions of more than 50 percent. 29 states were open for indoor dining with no capacity restrictions. In one state, the status for indoor dining varies by locality.

All states, except for Pennsylvania state stores, which were closed from 3/18/2020-5/7/2020, declared that retailers that sell alcohol can be open for business during the emergency. 38 states plus DC allowed carryout/takeout drinks in response to COVID-19: CA, CO, CT, DC, DE, FL, GA, HI (Honolulu), ID, IL, IA, KS, KY, LA (New Orleans), ME, MD, MA, MI, MS (numerous municipalities), MO, MT, NE, NV (Reno/Sparks/ Washoe County), NJ, NY, NC, OH, OR, PA, RI, TN, TX, VT, VA, WA, WV, & WI; & AR & OK (legislation enacted in these 2 states with undetermined effective dates later in 2021). Each state has their own regulations on what size, type, or container of drink can be carried out by a customer.

Delivery from liquor stores was already allowed in 27 states plus DC. The COVID-19 response allowed ten additional states to participate in delivery from liquor stores, three states to expand their programs, and one state to enact a pilot program. Delivery was already allowed in AK, AZ, CA, CO, CT, DC, FL, HI, IL, IN, IA, KY, LA, MD, MA, MI, MN, MO, NE, NV (Clark County/groceries and Las Vegas/primary package license), NJ, NY, ND, RI, SD, TN, TX, WA and WV; and in response to COVID-19: allowed in AR, GA, OH (pending rule proposals), OK, OR (required in-store purchase), PA; AL, MS, NM, & WY (legislation enacted in these latter four states with, respectively, 10/1, 7/1, 7/1, & 7/1 effective dates); expanded in IL, IA and NV (Clark County/liquor stores in unincorporated areas & Reno/Sparks/Washoe County, and City of Las Vegas); and pilot program in parts of VA.

Delivery from restaurants and bars was already allowed in four states. In response to COVID-19, it was allowed in an additional 26 states plus DC and was expanded in three states. Curbside pickup from liquor stores and/or other off-premises retailers already had been allowed in five states, and in response to COVID-19, it was allowed in 16 additional states and expanded in one state. Curbside pickup from restaurants and/or bars was not previously allowed in any states; however, it is now allowed in 19 states plus DC in response to COVID-19.

### **Virginia Hospitality Industry Trends**

The Virginia hospitality industry is still suffering. Leisure and hospitality employment peaked at 422,000 in February 2020, but by April 2020, employment fell to 217,000. As of June 2021, employment has rebounded to 331,000, which is still 21% below peak.

Since take out increased during COVID-19: 40 percent or more of the hospitality industry added takeout, 50 percent or more of the hospitality industry implemented new technology or upgrades, 34 percent or more of the hospitality industry revised their menu, 63 percent or more of the hospitality industry implemented new packaging, and 97 percent of the hospitality industry are keeping some or all the changes that they made. Over 70% of casual dining and fine dining restaurants say they started offering alcohol beverages for takeout or delivery since the beginning of the pandemic.

### **Virginia ABC Licensee Purchase Trends**

Licensee purchasing has rebounded since the beginning of the pandemic, during which the Commonwealth experienced a high number of restaurant closures. In April 2020, as restaurants began to close, only 1,399 licensees purchased spirits compared to the 4,847 licensees that purchased spirits in February 2020. With the approval of cocktails to-go, the number of licensees purchasing spirits grew to over 4,000. As vaccinations increased and case numbers dropped, restrictions were eliminated, causing licensee purchase volume to grow to 15.5 percent of Virginia ABC sales in May 2021, up from nearly zero percent the year previous. In May 2021, 97 percent of licensees purchased spirits from a VA ABC Store, suggesting that customer activity at restaurants is higher than pre-pandemic.

Licensee spirit purchases from Virginia ABC stores exceeded \$20 million in July 2021, 26 percent higher than July 2019. With vaccination rates growing and consumer behavior high, sales to licensees have grown throughout the 2021 calendar year. Trends continue to show that spirit sales at restaurants are higher than pre-pandemic. Although there are fewer purchasing



licensees, total licensee purchases were up 25 percent in July 2021 versus the 12-month pre-pandemic average. The price per bottle has been steady at \$22, excluding the first six months of the pandemic.

### **Consumer Trends**

Globally, e-commerce alcohol sales grew by 33% in 2020, while total alcohol sales volumes fell by 6%. The total sales of e-commerce alcohol in 2020 was \$36.8 billion. Before COVID-19, 60 percent of US consumers report they order takeout or delivery once a week. Eighty-six percent report they use a delivery service monthly. Over 25 percent of millennials aged 24-39 ordered an alcoholic beverage with their delivery order, and over 33 percent of millennials aged 24-39 ordered an alcoholic beverage with their takeout order. Seventeen percent of those ages 21–34 ordered a takeout/delivery with alcoholic drinks. Consumers across all demographics are price conscious, but they are also looking for a treat with purchases to perk up daily life under restrictions. Consumers expect to pay more for cocktails when ordering with takeout/delivery than when purchasing from a store (74%) or a restaurant/bar (70%). Cocktails to go can help sustain restaurant operations as sales increasingly move to take out or delivery.

Thirty percent of employees now work full time at home, and another 62 percent have the option to work from home some of the time. From 2010-2020, there has been a 400 percent increase in employees who work from home at least one day a week, and remote work is forecasted to increase by 77 percent by next year. Seventy-seven percent of employees report high work from home productivity. People report increased job satisfaction while working from home. They are less likely to leave a company that has remote work options, and workers take less time off.

Although working remotely has some benefits for people, there are also consequences regarding alcohol consumption and mental health. A reported 16 percent of employees are drinking more than before the pandemic and drinking on the job appears to have increased. Remote workers have trouble focusing on work they are doing at home and struggle to unplug from their day. Twenty-nine percent of adults report increased drinking, and people with anxiety were 41 percent more likely to drink during the pandemic. 40 percent of people under 40 years of age reported increased drinking. Alcohol sales rose 54 percent in March 2020, and online sales were up 500 percent. Contributing factors to these increases include the following: easy access to alcohol at home, stressors of working and having children at home, blurred lines between work and home life, and lifted regulations for delivery and carry out. Among college students, 56 percent report increased anxiety and depression, and 25 percent reported increased drinking and other drug use. Women are also showing increased rates of drinking, with 41 percent reporting an increase in heavy drinking [ABC Research and Planning].

Alcohol remains the number one substance used by young people. In 2020, 20.5 percent of 8<sup>th</sup> graders, 40.7 percent of 10<sup>th</sup> graders and 55.3 percent of 12<sup>th</sup> graders used alcohol in the past year [Monitoring the Future, NIDA]. Each of these percentages are a decrease from 2015 but an increase from last year. In 2020, there were 19,086 DUI offenses reported by the Virginia State Police. There were also 6,624 alcohol related crashes, with 272 fatalities [DMV].

### **Presentations by Third-Party Delivery Entities**

Many of the third-party delivery entities, joined together to make a presentation to the stakeholder group. The presentations included business practices and protocols for delivery of

alcoholic beverages in other states. It focused on lessons learned and practices implemented to assure that deliveries were made to only those individuals who were eligible to purchase alcoholic beverages. These entities had developed course curriculums for drivers and education materials to be provided to drivers to foster greater public safety compliance by their drivers. Many of the entities indicated they do operate in other states that have regulatory or licensing programs for third party delivery entities.

Third-party delivery entity representatives were asked to participate in a workgroup to create a licensing structure for Virginia. The group brought experiences from other states, industry best practices and constructive thought to address unsatisfactory compliance results as determined by Virginia ABC Bureau of Law Enforcement.

#### **Cocktails to Go Compliance – BLE Experience**

Virginia ABC agents conducted secure e-commerce public safety operations in southwest, central, and eastern parts of Virginia to determine compliance by third party delivery entities. Agents found several licensees that made “self” delivery, where the alcohol could be ordered online and delivered by the business instead of utilizing a third party. Agents also checked four ABC Stores that are approved for delivery of distilled spirits. All ABC store checks were found to be in compliance. Several establishments used third parties for delivery. Forty establishments used DoorDash, four used Chop Chop, four used Instacart, three used Grubhub, two used Chow Now, two used Uber Eats, one used Caviar, and one used Beyond Menu. Our agents ordered alcohol to be delivered to an approved underage buyer (UAB) in a safe location where the UAB

would retrieve the beverage. The UAB presented their Virginia issued ID showing their age to be less than twenty-one.

Of the 70 orders placed by agents, 52 were completed and 18 were incomplete. Two restaurants cancelled the order when there was no food ordered alongside the alcoholic beverage. One restaurant called after the order was placed online and stated food needed to be sold with a delivery or alcohol. The Agent was able to add food to the order and the delivery completed with alcohol. A sale was made to the UAB in 32 instances. Of those 32 cases, 23 were situations where an ID was not requested and nine where situations in which the ID was requested, but the sale was made to the UAB anyway. Sales were refused in 20 instances, demonstrating compliance. Four delivered cocktails with no food, two delivered more than four cocktails in violation of statutory limitations, two did not have secure lids, one delivered shots of liquor, which is not allowed, but provided a bowl of chili to attempt compliance with the food requirement and twenty-two were not in compliance with Topic 13 when transporting the cocktails.

### **Best Practices and Safeguards**

Opinion pieces and presenters to the stakeholder group urge extra caution in extending pandemic-driven alcohol delivery policies. When considering alcohol-related policies, new policies should be based on state data, including underage drinking rates, binge drinking rates, outlet density, compliance check fail rates, whether there are enough resources in your state to treat those in need of assistance with substance use disorder and mental health treatment services. There are several best practices and safeguards regarding the continuation of cocktails

to go. These practices include age verification, container requirements, food requirements, reporting, training and education and regulation.

### *Age Verification*

Delivery providers should be held responsible to verify identification and age when delivering an alcohol product. Retailers should have an age verification process on their website or mobile app when a customer is ordering alcohol and should consider the use of an ID scanning tool to verify identify and authenticity. The delivery provider should refuse to deliver alcohol if the customer can not verify their age or identity, they are intoxicated, or if the situation is unsafe or inappropriate. When checking an ID, delivery providers should ensure alcohol is out of reach until after the ID is verified and delivered to the customer only after the customer is deemed of age. Warning signs or “FLAG” (Feel, Look, Ask, Give back) indicators expressed in RSVP training, that a person may be underage include hiding one’s face, moving around frequently or acting in a nervous manner, stating that “carding” is not necessary, trying to distract you by talking fast or asking questions or getting upset when asked for an ID. If any of these signs are present, delivery personnel should use their best judgement about whether to deliver alcohol to this person. Checking an ID involves more than just glancing at it; delivery providers need to check the birth date, expiration date and compare the photograph to the customer in front of them.

### *Container Requirements*

Most states have container requirements regarding cocktails to go, including Virginia. Common language used in container requirement descriptions include the following:

- Sealed container, covering straw holes or other openings

- Unopened containers
- Tamper-evident seals
- Must be in the original container

Containers can be enhanced to include the purchaser's name, alcohol labeling and a safety warning, in addition to proper sealing. Additionally, limiting the size and quantity of the alcoholic beverages that can be delivered or picked up curbside and prohibiting pre-mixed, ready to consume cocktails to go is beneficial for public safety.

#### *Food Requirements*

Virginia ABC currently requires food to be purchased with cocktails to go. This requirement should remain, as it helps to ensure responsible drinking and maintains the connection of food service with the privilege of selling alcohol.

#### *Reporting and Non-delivery*

Processes should be in place for reporting and handing alcohol that is non-deliverable in order to ensure consistency of age verification procedures. Alcohol should never be left unattended; someone 21 years or older must be present to receive the alcohol. Delivery should not occur if the person receiving cocktails to go is visibly intoxicated or under the age of 21. Records of all deliveries should be kept and submitted to Virginia ABC regularly.

#### *Training & Education*

Training and educational tools should be provided to servers and delivery providers. Virginia ABC should consider issuing a public education campaign regarding cocktails to go rules, best practices

and safety measures. Additionally, adding educational pieces to all cocktails to go orders will help teach and promote safe drinking habits to customers. There is currently only one publicly available, nationally recognized training program that focuses on the carry out and delivery of alcohol: eTIPS. It is \$40 and is approximately 3 hours long.

### *Regulation*

Compliance checks should be regularly conducted on cocktails to go, as they are an evidence-based way to help ensure public safety. Regulating the hours in which cocktails to go can be delivered is another public safety precaution. Because delivery providers play an important role in promoting safety and safe consumption at home, an application process for alcohol delivery licenses should be established. A pilot program could be developed to measure the health and safety impacts of cocktails to go.

There are four global safeguard standards for online alcohol sales and delivery: (1) verifying sales to those over legal purchase age; (2) preventing delivery to those underage, intoxicated or where prohibited by law; (3) training tools, information and education of drivers; and (4) enhancing consumer information and control.

There are several ways in which companies verify sales to those over legal purchase age. HipBar is the leading platform in India and uses a sign-up process where the customer uses their phone camera to scan their ID and capture a short video. This is digitally converted and recorded when a customer purchases alcohol. Jumia is the leading platform in Africa and uses a smartphone app to verify age at the beginning of the customer's journey. Mercado Libre is the most popular e-

commerce site in Latin America, and it uses a process that requires the user to take a picture of their ID first and then use a camera to capture an image of their face.

A good example of preventing delivery to those underage, intoxicated or where prohibited by law lies with the company, Uber. The Uber Eats app guides delivery drivers through ID verification and sobriety checks. They are also able to scan the ID for verification.

Several companies have training tools, information and education for their drivers. Cornershop by Uber issues additional educational information before drivers accept orders which contain alcohol. Drizly has partnered with Anheuser-Busch and TIPS training to promote the responsible delivery of alcohol. HipBar encourages delivery agents to flag customers when they encounter problems. Customers are automatically denied services by HipBar after being flagged.

HipBar and JD.com provide two different examples of how companies are enhancing consumer information and control. HipBar's app has developed two new modes: "Diet Mode" and "Detox Mode." When the former is enabled, the customer can set restrictions on the quantity or value of products ordered, as well as the number of transactions. JD.com allows consumers to customize and control the alcohol marketing messages that they see on its e-commerce platform. Consumers can choose to not see alcohol marketing.

## **CONCLUSION AND RECOMMENDATIONS**

The stakeholder group provided valuable insight and Virginia ABC thanks them for their wisdom and guidance in responding to the General Assembly request to study cocktails to go. On the question of whether cocktails to go should be made permanent, the stakeholder group was of several varying positions. Some members felt strongly that due to the novelty of such program,



that it should be continued for a two-year period and then evaluated at the conclusion of that time to determine its true economic value and the rate of compliance with public safety initiatives that is achieved. One participant felt that cocktails to go should be scraped; that it was a bad idea, that compliance is unachievable and that the only sure way of compliance is for restaurateurs to look the customer in the eye while serving. Finally, a significant number of stakeholders feel that cocktails to go had served as a meaningful economic incentive in very trying times and should be continued on a permanent basis.

Restaurants continue to suffer from severe staffing shortages and unfortunately some among those ranks simply have not been able to recover financially and are now shuttered permanently. Notwithstanding the finding that licensee purchases from ABC seem to have rebounded to pre-pandemic levels, it is virtually impossible to decipher what percentage of that volume is attributable to cocktails to go.

The stakeholder group was the beneficiary of superb presentations from many public interest groups, both in and out of state. These organizations did not oppose cocktails to go but rather had given significant thought to “best practices” in providing cocktails to go. In short, the perspective offered was that significant progress has been made over the years in achieving improved public safety with regard to alcoholic beverages both in terms of service as well as impaired driving. Simply put, “best practices” for cocktails to go should achieve the same, if not improved, public safety safeguards that currently exist in other scenarios.

Taking that into consideration, along with the mixed perspective on making cocktails to go permanent, the stakeholder group recommends that a focus be placed on creating standards for

third party delivery entities regarding training and responsibility for delivery personnel to achieve a much improved rate of public safety compliance than was found by Virginia ABC Bureau of Law Enforcement during the course of this study.

Draft legislation to provide for licensing of third-party delivery entities is attached as Exhibit 4 for your consideration. This legislation is a consensus approach of the third-party entity licensing workgroup.

The stakeholder group final recommendation addresses containers to be used for alcoholic beverages served for off premise consumption. At the onset of the pandemic, restaurants had existing supplies of cups with straw holes and other containers. They were unable to source other types of containers at the time and consequently everyone improvised to respond in a satisfactory way to use the supply of materials on hand with some modification. Topic 13 allowed cocktails to be packaged in a glass, paper, or plastic container or similar disposable container or in a single original metal can with all container types having a secure lid or cap designed to prevent consumption without removal of the lid or cap.

Containers are now readily available that are more secure than the makeshift containers authorized earlier for cocktails to go. Heat sealed containers, as an example, are currently available for these purposes. Consequently, the third recommendation of the stakeholder group is that modifications be made to the current statute to incorporate more sophisticated containers for the off-premises delivery or carry out of alcohol drinks.

Draft legislation to provide for the type of container in which off premise alcohol may be served is attached as Exhibit 5.

## VIRGINIA ABC RECOMMENDED PATH FORWARD

1. Extend the privilege of providing cocktails to go for a period of two years. During that two-year period, Virginia ABC will collect and analyze data regarding compliance and other important events of cocktails to go. Virginia ABC will report that information to the Chairmen of the House General Laws Committee and Senate Rehabilitation and Social Services Committee.
2. Legislation to license third-party delivery entities, similar to Exhibit 4 of this report should be enacted.
3. Legislation modifying the lawful containers to be used for cocktails to go, similar to Exhibit 5 should be enacted.



# EXHIBIT 1

**Topic 13:** (04/09/20) ABC response to Executive Directive 10 for the sale and service of cocktails for off premise consumption.

**Purpose:** Pursuant to Executive Order 51 dated March 12, 2020, the Virginia Alcoholic Beverage Control Authority is offering the following opinion regarding the sale and service of cocktails for off premise consumption to include to go, curbside, and delivery.

**Background:** Currently, the sales of mixed beverages or cocktails for off premise consumption are prohibited by the Code of Virginia.

**Held:** The Authority acting under the abilities granted within Executive Order 51 and directed by Executive Directive 10 (2020), issued by the Governor of Virginia, is issuing the following regulatory guidance which can also be accessed [HERE](#).

The Virginia Alcoholic Beverage Control Authority (“Authority”) has been delegated significant discretionary authority to control the possession, sale, transportation, and delivery of alcoholic beverages [§ 4.1-103(14)].

Pursuant to § 4.1-212.1 of the Code of Virginia, delivery privileges are limited to breweries, wineries, or farm wineries authorized to sell wine and beer for off-premises consumption and retail licensees authorized to sell wine or beer for off-premises consumption who have obtained a permit to authorize such deliveries. Recently, the Authority has temporarily extended delivery privileges to on-premises licensees and to mixed beverage licensees to allow them to deliver wine and beer for off-premises consumption without a permit. Executive Directive No. 10 (effective April 09, 2020) authorized the Authority to permit the sale and service of cocktails off premises by distillery, limited distillery, mixed beverage restaurant, and limited mixed beverage restaurant licensees as further delineated. It is by virtue of its inherent authority and the expanded authority granted in Executive Directive No. 10, that the Authority takes the present action.

In recognizing the need for mixed beverage licensees in the Commonwealth to be able to continue to provide service to their customers while complying with the ongoing preventative measures necessary to mitigate the spread of COVID-19 and deal with the economic challenges presented, the Authority adopts a temporary expansion of the delivery and takeout privileges authorized in Title 4.1 of the Code of Virginia for a limited number of mixed beverage licensees. The expansion of these privileges shall be subject to the rules of Title 4.1 of the Code of Virginia and Authority regulations, as well as the restrictions stated herein.

**Definitions:** For the limited purpose of this temporary privilege, the term “cocktail” shall be defined as a single alcoholic drink consisting of one or more spirits as defined in § 4.1-100 of the Code of Virginia, wine or beer as defined in § 4.1-100 and at least one mixer, with a maximum combined volume not to exceed 16 ounces.

### **Applicable Licensees:**

The temporary delivery and takeout privileges stated herein shall only be extended to the following licensees:

1. Distillery licensees [ §§ 4.1-206(A)(1), (2), and (3)], that have entered into an agreement with the Authority as outlined in § 4.1-119
2. Limited distillery licensees [ § 4.1-206(B)], that have entered into an agreement with the Authority as outlined in § 4.1-119
3. Mixed beverage Restaurants [ § 4.1-210(A)(1)]
4. Limited mixed beverage restaurant licensees [ § 4.1-210(A)(12)]

Any eligible distillery or mixed beverage licensee exercising these temporary delivery and takeout privileges agrees to abide by the following restrictions and revocation provisions:

### **Restrictions:**

1. Distillery licensees shall be limited to a maximum of two mixed drinks per delivery or takeout order that contain 1½ ounces or less of spirits per drink. In the case of mixed beverage restaurants and limited mixed beverage restaurants there shall be a limit of four cocktails for each delivery or take out sale.
2. Included in each order for delivery or takeout of cocktails for mixed beverage restaurants and limited mixed beverage restaurants shall be at least one meal as defined in Virginia Alcoholic Beverage Control Circular Letter 16-03 dated April 16, 2016, for every two cocktails included in the order.  
[https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\999\GDoc\\_ABC\\_5991\\_v1.pdf](https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\999\GDoc_ABC_5991_v1.pdf)
3. Any such cocktail or mixed drink shall be packaged in a glass, paper or plastic container (or similar disposable container) or in a single original metal can with all container types having a secure lid or cap designed to prevent consumption without removal of the lid or cap (lids with sipping holes or openings for straws are prohibited).
4. Licensees shall not deliver or make available for takeout any combination of cocktails or mixed drinks where the entire contents of an original container or its equivalent of spirits is sold or served for off premises consumption.
5. Any licensee selling such cocktails or mixed drinks for delivery shall ensure that such cocktails or mixed drinks will only be transported in the trunk of a motor vehicle or, if there is no trunk, the cocktails or mixed drinks must be transported in an area of the vehicle that cannot be accessed by the driver; or, in the case of delivery by bicycle, in a bag or compartment behind the bicycle. Any licensee selling cocktails or mixed drinks for takeout shall inform operators of motor vehicles of the above requirements. It is unlawful for any person to consume an alcoholic beverage while driving a motor vehicle.
6. All recipients of delivery orders shall demonstrate upon delivery that he/she is at least 21 years of age by presenting bona fide evidence of legal age as outlined in 3 VAC 5-50-20.B.
7. All such deliveries pursuant to this temporary extended privilege shall be to consumers within the Commonwealth for personal consumption only. All such deliveries shall be performed by the owner or any agent, officer, director, shareholder or employee of the licensee or an independent contractor provided

that the licensee has entered into a written agreement with the independent contractor establishing that the licensee shall be vicariously liable for any administrative violations of Title 4.1 of the Code of Virginia or Title 3 of the Virginia Administrative Act committed by the independent contractor during the scope of its employment.

8. Cocktails shall not be consumed in public or in any other area where open containers are prohibited by law.
9. Service of cocktails or mixed drinks for delivery or takeout must cease no later than 11pm daily and not resume until after 6am the following day.

**Revocation:** The temporary delivery and takeout privileges stated herein may be revoked summarily by the Authority for any noncompliance with the above-referenced restrictions or for any cause set forth in § 4.1-225 and § 4.1-325 without complying with subsection A of § 4.1-227. Revocation of the temporary delivery privilege shall be effective upon personal service of the notice of revocation to the licensee or upon the expiration of three business days after the notice is mailed to the licensee either at his/her residence or the address given for the business on the license application. The determination to revoke the temporary delivery and takeout privilege shall not be subject to appeal. The Authority retains discretion regarding the enforcement of delivery requirements as dictated by statute and regulations as well as the authority to pursue administrative and/or criminal charges for any violations committed.

**Conclusion:** The Authority, pursuant to Executive Directive No. 10, waives the specific requirements of § 4.1-212.1 of the Code of Virginia and expands delivery and takeout order privileges to the mixed beverage licensees included in this memo subject to the definitions and restrictions stated herein. The information and decisions contained herein shall remain in effect so long as Executive Order 51 remains applicable or by extension granted by the Authority for good cause shown.

# EXHIBIT 2

## Cocktails To Go Stakeholder List:

1. Hill, Travis – VA ABC
2. Daniel, John – VA ABC
3. Kirby, Thomas – VA ABC
4. Hucks-Watkins, Latonya – VA ABC
5. Ross, Sarah – VA ABC
6. Maxey, Craig – VA ABC
7. Maria Everett – VA ABC
8. Berman, Michael – VA ABC
9. Rubin, Mark – VA ABC
10. Euille, William – VA ABC
11. Hungate-Noland, Beth – VA ABC
12. Holland, Gregory – VA ABC
13. Crumble, Katie – VA ABC
14. Bonat, Brianna – VA ABC
15. Lisk, Thomas – Cozen O’Connor
16. Myles, Louria – Hunton Andrews Kurth
17. Moore, Gareth – Virginia Distillery Co.
18. McNally, Kevin - Marston & McNally
19. Boykin, Philip – Virginia Beer Wholesalers Association
20. DuVall, Chuck – Lindl Corp.
21. Terry, Eric – Virginia Restaurant, Lodging & Travel Assoc.
22. Skiles, David – The Vectre Corporation – The Advocacy Group
23. Beirne, Terri Cofer – Wine Institute
24. Kerr, Anne Leigh – Kerr Government Strategies
25. Williams, MaryBeth – Williams Compliance
26. Bonnington, Carrie – Pillsbury Law
27. Palmore, Jeffrey – Reed Smith
28. LaFayette, Michael – LaFayette Ayers & Whitlock
29. Martingayle, Kevin – Bischoff Martingayle
30. Gibbons, Travis – Amazon
31. Flug, Jaci - Drizly
32. Habr, Laura – Crocs 19<sup>th</sup> Street Bistro
33. Wojnar, David – Distilled Spirits Council of the United States
34. Grogg, Ross – Kemper Consulting, LLC
35. Perrin, Tripp – Virginia Lobbyist
36. MacNamara, Caitlin – Door Dash
37. Mooney, Alex – Door Dash
38. Blackwell, Michele – Uber Eats
39. Pannos, Alexandra – Uber Eats
40. Maher, Allie – Uber Eats
41. Norton, Timmy – Great American Restaurants



42. Cable, Jerry – The Tobacco Company Restaurant
43. Bruce, Susan – UVA
44. White, Marj - UVA
45. Erickson, Kurt - WRAP
46. Whitsett, Regina – Substance Abuse Free Environment, Inc. (SAFE)
47. Whitney Whalen – Substance Abuse Free Environment, Inc. (SAFE)
48. Schrad, Dana – Virginia Association of Chiefs of Police
49. Melvin, Robert – Virginia Restaurant Lodging, Travel Association
50. May, David – Division of Legislative Services
51. Kovalcheck, Bob – Break Thru Beverage
52. Tierney, Don – Va Spirits Association
53. Ozgo, David – Distilled Spirits Council of the US
54. Link, Eric – Hunton Andrwes Kurth, LLP
55. Johnston, Sarah – Anheuser-Bush InBev
56. Teschner, Reid – Anheuser-Bush InBev
57. DiFranco, Cindy – Principle Advantage Government Relations Group, LLC
58. Bezik, Angela – Principle Advantage Government Relations Group, LLC
59. Hutcheson, Kenneth – Old Dominion Public Affairs
60. Axhahl, Brandy – Responsibility.org
61. Alamiri, Nour – Community Coalitions of Virginia
62. Hutchenson, Lisa – Mental Health America of Indiana

# EXHIBIT 3

## STUDY OUTLINE FOR CHAPTER 281 OF THE 2021 ACTS OF ASSEMBLY COCKTAILS TO GO

### **May 18, 2021** – Initial Stakeholder Meeting

- Present Work Plan
- Meeting dates
- Scope and goals of study
- Initial thoughts and/or concerns of stakeholder group

### **June 15, 2021** – ABC Presentation

- Research on activities
- Experiences of other states on cocktails to go initiatives
- Comments and/or experiences of stakeholders in other states
- Presentation of stakeholders on economic benefits of cocktails to go

### **July 20, 2021** – Focus on Third Party Delivery Systems

- Presentation from representatives of third party delivery representatives on safeguards of their delivery systems
- Avoidance of underage purchases, signature requirements, legal relationship with entities for whom they are delivering

### **August 17, 2021** – Stakeholder Discussion

- Focus on suggested modifications to Chapter 281, should cocktails to go continue beyond the current expiration date of July 1, 2022?
- Prevention Best Practices Presentation

### **September 15, 2021** – Stakeholder Discussion

- Review any suggested statutory modifications necessary
- Thoughts by stakeholders of important elements to be included in a final report to the General Assembly
- Closing issues to be discussed and/or agreed upon

### **October 12, 2021** – Group Review

- Review of Draft Final Report and any necessary legislation
- Concurrence or dissent with the report by stakeholders

### **October 30, 2021** – Final Report

- CEO submits Final Report to individuals designated in Chapter 281

Once we have concurrence on the study outline, I would envision a letter from Travis formally asking people to participate. Accompanying that correspondence would be the Study Outline and the final version of Chapter 281 of the 2021 Acts of Assembly.

# **EXHIBIT 4**

**Cocktails to Go Lawful Containers Legislative Draft**

**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

1 A BILL to amend and reenact §§ 4.1-212.1, as it is currently effective and as it shall become effective,  
2 and 18.2-323.1 of the Code of Virginia, relating to alcoholic beverage control; delivery of alcoholic  
3 beverages; container requirements.

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

5 **1. That §§ 4.1-212.1, as it is currently effective and as it shall become effective, and 18.2-323.1 of the**  
6 **Code of Virginia are amended and reenacted as follows:**

7 **§ 4.1-212.1. (Effective until July 1, 2022) Delivery of alcoholic beverages; kegs; regulations**  
8 **of Board.**

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

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

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

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

31 E. Any distiller that has been appointed as an agent of the Board pursuant to subsection D of § 4.1-  
32 119 may deliver to consumers within the Commonwealth for personal consumption any alcoholic  
33 beverages the distiller is authorized to sell through organized tasting events in accordance with subsection  
34 G of § 4.1-119 and Board regulations. Notwithstanding any provision of law to the contrary, such  
35 deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's  
36 premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii)  
37 such other locations as may be permitted by Board regulation.

38 F. All deliveries made pursuant to this section shall be to consumers within the Commonwealth  
39 for personal consumption only and not for resale. Such deliveries shall be performed by either (i) the  
40 owner or any agent, officer, director, shareholder, or employee of the licensee or permittee or (ii) an  
41 independent contractor of the licensee or permittee, provided that (a) the licensee or permittee has entered  
42 into a written agreement with the independent contractor establishing that the licensee or permittee shall  
43 be vicariously liable for any administrative violations of this section or § 4.1-304 committed by the  
44 independent contractor relating to any deliveries of alcoholic beverages made on behalf of the licensee or  
45 permittee and (b) only one individual takes possession of the alcoholic beverages during the course of the  
46 delivery. No more than four cases of wine nor more than four cases of beer may be delivered at one time  
47 to any person in Virginia to whom alcoholic beverages may be lawfully sold, except that the licensee or  
48 permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the  
49 Authority in writing at least one business day in advance of any such delivery, which notice contains the  
50 name and address of the intended recipient. Except as otherwise provided in this subtitle, alcoholic  
51 beverages sold for off-premises consumption or delivered pursuant to this section that are not in the

52 manufacturer's original sealed container shall (1) be enclosed in a container that has no straw holes or  
53 other openings and is sealed in a manner that allows a person to readily discern whether the container has  
54 been opened or tampered with subsequent to its original closure; (2) display the name of the licensee from  
55 which the alcoholic beverages were purchased; (3) be clearly marked with the phrase "contains alcoholic  
56 beverages"; (4) in the case of wine, beer, or, if purchased from a mixed beverage restaurant or limited  
57 mixed beverage restaurant licensee, mixed beverages, have a maximum volume of 16 ounces per  
58 beverage; and (5) during delivery, be stored in the trunk of the vehicle, in an area that is rear of the driver's  
59 seat, in a locked container or compartment or, in the case of delivery by bicycle, in a compartment behind  
60 the bicyclist.

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

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

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

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

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

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

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

82 The Board may summarily revoke a licensee's privileges to sell or deliver mixed beverages for off-  
83 premises consumption for noncompliance with the provisions of this section or § 4.1-225 or 4.1-325. Any  
84 summary revocation by the Board pursuant to this paragraph (i) shall not be subject to the provisions of §  
85 4.1-227, (ii) shall not be subject to appeal, and (iii) shall become effective upon personal service of the  
86 notice of summary revocation to the licensee or upon the fourth business day after such notice is mailed  
87 to the licensee's residence or the address listed for the licensed premises on the initial license application.

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

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

99 **§ 4.1-212.1. (Effective July 1, 2022) Delivery of wine and beer; kegs; regulations of Board.**

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

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

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

116 D. All such deliveries shall be to consumers within the Commonwealth for personal consumption  
117 only and not for resale. All such deliveries of beer, wine, or farm wine shall be performed by either (i) the  
118 owner or any agent, officer, director, shareholder, or employee of the licensee or permittee or (ii) an  
119 independent contractor of the licensee or permittee, provided that (a) the licensee or permittee has entered  
120 into a written agreement with the independent contractor establishing that the licensee or permittee shall  
121 be vicariously liable for any administrative violations of this section or § 4.1-304 committed by the  
122 independent contractor relating to any deliveries of beer, wine, or farm wine made on behalf of the licensee  
123 or permittee and (b) only one individual takes possession of the beer, wine, or farm wine during the course  
124 of the delivery. No more than four cases of wine nor more than four cases of beer may be delivered at one  
125 time to any person in Virginia to whom alcoholic beverages may be lawfully sold, except that the licensee  
126 or permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the  
127 Authority in writing at least one business day in advance of any such delivery, which notice contains the  
128 name and address of the intended recipient. Except as otherwise provided in this subtitle, wine or beer  
129 sold for off-premises consumption or delivered pursuant to this section that are not in the manufacturer's  
130 original sealed container shall (1) be enclosed in a container that has no straw holes or other openings and



131 is sealed in a manner that allows a person to readily discern whether the container has been opened or  
132 tampered with subsequent to its original closure; (2) display the name of the licensee from which the wine  
133 or beer was purchased; (3) be clearly marked with the phrase "contains alcoholic beverages"; (4) have a  
134 maximum volume of 16 ounces per beverage; and (5) during delivery, be stored in the trunk of the vehicle,  
135 in an area that is rear of the driver's seat, in a locked container or compartment or, in the case of delivery  
136 by bicycle, in a compartment behind the bicyclist.

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

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

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

151 **§ 18.2-323.1. Drinking while operating a motor vehicle; possession of open container while**  
152 **operating a motor vehicle and presumption; penalty.**

153 A. ~~It shall be~~ is unlawful for any person to consume an alcoholic beverage while driving a motor  
154 vehicle upon a public highway of ~~this~~ the Commonwealth.

155 B. ~~A~~ Unless the driver is delivering alcoholic beverages in accordance with the provisions of §  
156 4.1-212.1, a rebuttable presumption that the driver has consumed an alcoholic beverage in violation of  
157 this section shall be created if (i) an open container is located within the passenger area of the motor

158 vehicle, (ii) the alcoholic beverage in the open container has been at least partially removed, and (iii) the  
159 appearance, conduct, odor of alcohol, speech, or other physical characteristic of the driver of the motor  
160 vehicle may be reasonably associated with the consumption of an alcoholic beverage.

161 C. For the purposes of this section:

162 "Open container" means any vessel containing an alcoholic beverage, except the originally sealed  
163 manufacturer's container.

164 "Passenger area" means the area designed to seat the driver of any motor vehicle, any area within  
165 the reach of the driver, including an unlocked glove compartment, and the area designed to seat  
166 passengers. ~~This term shall~~ "Passenger area" does not include the trunk of any passenger vehicle, the area  
167 behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle, or any  
168 similar vehicle, the living quarters of a motor home, or the passenger area of a motor vehicle designed,  
169 maintained, or used primarily for the transportation of persons for compensation, including a bus, taxi, or  
170 limousine, while engaged in the transportation of such persons.

171 C. A violation of this section is punishable as a Class 4 misdemeanor.

172 #

# **EXHIBIT 5**

**Cocktails to Go Third-Party Legislative Draft**

**Cocktails to Go Lawful Containers Legislative Draft**

**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

1 A BILL to amend and reenact §§ 4.1-204, as it is currently effective and as it shall become effective, 4.1-  
2 206.3, as it is currently effective and as it shall become effective, 4.1-212.1, as it is currently  
3 effective and as it shall become effective, 4.1-230, and 4.1-231.1 of the Code of Virginia and to  
4 amend the Code of Virginia by adding a section numbered 4.1-212.2, relating to alcoholic beverage  
5 control; third-party delivery license.

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

7 **1. That §§ 4.1-204, as it is currently effective and as it shall become effective, 4.1-206.3, as it is**  
8 **currently effective and as it shall become effective, 4.1-212.1, as it is currently effective and as it**  
9 **shall become effective, 4.1-230, and 4.1-231.1 of the Code of Virginia are amended and reenacted**  
10 **and that the Code of Virginia is amended by adding a section numbered 4.1-212.2 as follows:**

11 **§ 4.1-204. (Effective until July 1, 2022) Records of licensees; inspection of records and places**  
12 **of business.**

13 A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler  
14 shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic  
15 beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by §  
16 4.1-234 or 4.1-236, if any.

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

25 food to determine their qualifications for such licenses, the records shall also include purchases and sales  
26 of food and nonalcoholic beverages.

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

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

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

42 E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to §  
43 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in  
44 accordance with Board regulations of all deliveries of ~~wine or beer~~ alcoholic beverages to persons in the  
45 Commonwealth. Such records shall include (i) the ~~brands~~ types of ~~wine and beer~~ alcoholic beverages sold,  
46 (ii) the total quantities of ~~wine and beer~~ alcoholic beverages sold, (iii) the total price charged for such ~~wine~~  
47 ~~and beer, and~~ alcoholic beverages, (iv) the ~~names, addresses, and signatures of the purchasers~~ name and  
48 date of birth of the person to whom the ~~wine and beer is~~ alcoholic beverages are delivered. ~~Such purchaser~~  
49 ~~signatures may be in an electronic format, and~~ the address to which the alcoholic beverages are  
50 delivered. Licensees and permittees shall remit such records on a monthly basis for any month during

51 which the licensee or permittee makes a delivery for which the licensee or permittee is required to collect  
52 and remit excise taxes due to the Authority pursuant to subsection H of § 4.1-212.1.

53 Every licensee that is authorized to make deliveries pursuant to § 4.1-212.2 shall keep complete,  
54 accurate, and separate records for a period of at least two years in accordance with Board regulations of  
55 all deliveries of alcoholic beverages to persons in the Commonwealth. Such records shall include all  
56 information prescribed by Board regulations. Licensees shall remit such records within 24 hours of a  
57 records request by the Authority; however, the licensee may obtain Board approval, for good cause shown,  
58 to permit the licensee to provide records to a special agent of the Board within three business days or less,  
59 as determined by the Board, after a request is made to inspect the records.

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

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

74 **§ 4.1-204. (Effective July 1, 2022) Records of licensees; inspection of records and places of**  
75 **business.**

76 A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler  
77 shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic

78 beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by §  
79 4.1-234 or 4.1-236, if any.

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

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

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

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

105 E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to §  
106 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in  
107 accordance with Board regulations of all deliveries of wine or beer to persons in the Commonwealth. Such  
108 records shall include (i) the ~~brands~~ types of wine and beer sold, (ii) the total quantities of wine and beer  
109 sold, (iii) the total price charged for such wine and beer, ~~and~~ (iv) the ~~names, addresses, and signatures of~~  
110 ~~the purchasers~~ name and date of birth of the person to whom the wine and beer is delivered. Such purchaser  
111 ~~signatures may be in an electronic format,~~ and (v) the address to which the wine and beer is delivered.  
112 Licensees and permittees shall remit such records on a monthly basis for any month during which the  
113 licensee or permittee makes a delivery for which the licensee or permittee is required to collect and remit  
114 excise taxes due to the Authority pursuant to subsection E of § 4.1-212.1.

115 Every licensee that is authorized to make deliveries pursuant to § 4.1-212.2 shall keep complete,  
116 accurate, and separate records for a period of at least two years in accordance with Board regulations of  
117 all deliveries of alcoholic beverages to persons in the Commonwealth. Such records shall include all  
118 information prescribed by Board regulations. Licensees shall remit such records within 24 hours of a  
119 records request by the Authority; however, the licensee may obtain Board approval, for good cause shown,  
120 to permit the licensee to provide records to a special agent of the Board within three business days or less,  
121 as determined by the Board, after a request is made to inspect the records.

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

130 For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means  
131 the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public



132 substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee  
133 is open to the public. At any other time of day, if the retail licensee's records are not available for  
134 inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a  
135 request is made to inspect the records.

136 **§ 4.1-206.3. (Effective until July 1, 2022) Retail licenses.**

137 A. The Board may grant the following mixed beverages licenses:

138 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed  
139 beverages for on-premises consumption in dining areas and other designated areas of such restaurant or  
140 off-premises consumption. Such license may be granted only to persons (i) who operate a restaurant and  
141 (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and  
142 nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent  
143 of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other  
144 designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises,  
145 which outdoor dining areas may have more than one means of ingress and egress to an adjacent public  
146 thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such  
147 noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision  
148 A 5 of § 4.1-201.

149 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent  
150 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,  
151 bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed  
152 beverages for on-premises consumption in such designated areas, bedrooms, and other private rooms or  
153 off-premises consumption and (b) sell spirits packaged in original closed containers purchased from the  
154 Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel  
155 only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex,  
156 the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within  
157 the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from  
158 keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

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

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

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

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

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

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

203           4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,  
204 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in  
205 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated  
206 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its  
207 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier  
208 licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and  
209 to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic  
210 beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air  
211 carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic  
212 beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the

213 air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be  
214 transported, stored, and delivered by its authorized representative. The granting of a license pursuant to  
215 this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and  
216 beer for on-premises consumption or in closed containers for off-premises consumption; however, the  
217 licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

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

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

240           7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee  
241 to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable  
242 containers or in single original metal cans for on-premises consumption in all seating areas, concourses,  
243 walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the  
244 Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for  
245 on-premises consumption or in closed containers for off-premises consumption; however, the licensee  
246 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such  
247 licenses may be granted to the following:

248           a. Corporations or associations operating a performing arts facility, provided the performing arts  
249 facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease,  
250 the original term of which was for more than one year's duration; and (iii) has been rehabilitated in  
251 accordance with historic preservation standards;

252           b. Persons operating food concessions at any performing arts facility located in the City of Norfolk  
253 or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-  
254 term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity  
255 in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards;  
256 and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the  
257 premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum  
258 established by Board regulations for mixed beverage restaurants;

259           c. Persons operating food concessions at any performing arts facility located in the City of  
260 Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease  
261 or concession agreement, the original term of which was more than five years; (ii) has a total capacity in  
262 excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

263           d. Persons operating food concessions at any performing arts facility located in the arts and cultural  
264 district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona  
265 fide long-term lease or concession agreement, the original term of which was more than five years; (ii)  
266 has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts

267 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages  
268 served on the premises that meet or exceed the monthly minimum established by Board regulations for  
269 mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

270 e. Persons operating food concessions at any multipurpose theater located in the historical district  
271 of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity  
272 and (ii) has a total capacity in excess of 100 patrons;

273 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or  
274 similar facility that has seating for more than 20,000 persons and is located in Prince William County or  
275 the City of Virginia Beach;

276 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or  
277 similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the  
278 City of Portsmouth; or

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

285 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any  
286 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to  
287 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and  
288 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed  
289 beverage caterer at the same business premises designated in the license, with a common alcoholic  
290 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the  
291 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision  
292 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this  
293 subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer

294 for on-premises consumption or in closed containers for off-premises consumption; however, the licensee  
295 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

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

307 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under §  
308 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption  
309 of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and  
310 guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member  
311 and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the  
312 licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied  
313 and utilized as such.

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

319 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'  
320 association governing a commercial lifestyle center, which shall authorize any retail on-premises

321 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any  
322 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of  
323 the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,  
324 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant  
325 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such  
326 tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises  
327 restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and  
328 such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the  
329 name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic  
330 beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The  
331 licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed  
332 premises; however, no physical barriers shall be required for this purpose. The licensee shall provide  
333 adequate security for the licensed premises to ensure compliance with the applicable provisions of this  
334 title and Board regulations.

335 13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve  
336 mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such  
337 license may be granted only to persons operating a business (i) that is primarily engaged in the sale of  
338 meals; (ii) that is located on property owned by the United States government or an agency thereof and  
339 used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of  
340 food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the  
341 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale  
342 of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include  
343 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may  
344 have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas  
345 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas  
346 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting  
347 of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to



348 sell and serve wine and beer for on-premises consumption or in closed containers for off-premises  
349 consumption; however, the licensee shall be required to pay the local fee required for such additional  
350 license pursuant to § 4.1-233.1.

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

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

364 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in  
365 closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without  
366 meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest  
367 rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas.  
368 However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize  
369 the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate  
370 by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic  
371 beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight  
372 lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the  
373 amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at  
374 least one meal is provided each day by the hotel to such guests. With regard to facilities registered in

375 accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are  
376 also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee,  
377 keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by  
378 the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas,  
379 whether or not contiguous to the licensed premises, which may have more than one means of ingress and  
380 egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control  
381 of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved  
382 for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

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

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

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

399           5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer  
400 during the performance of any event to patrons within all seating areas, concourses, walkways, or  
401 concession areas, or other areas approved by the Board (i) in closed containers for off-premises

402 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for  
403 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own  
404 lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.  
405 Such licenses may be granted to persons operating food concessions at any outdoor performing arts  
406 amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in  
407 Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500  
408 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or  
409 Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500  
410 persons and is located in Henrico County.

411 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to  
412 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,  
413 and such additional locations designated by the Board in such facilities (i) in closed containers for off-  
414 premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal  
415 cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume  
416 his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the  
417 license. Such licenses may be granted to persons operating food concessions at exhibition or exposition  
418 halls, convention centers, or similar facilities located in any county operating under the urban county  
419 executive form of government or any city that is completely surrounded by such county. For purposes of  
420 this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting  
421 private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet  
422 of floor space.

423 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during  
424 events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession  
425 areas, dining areas, and such additional locations designated by the Board in such facilities, for on-  
426 premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to  
427 this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such

428 licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural  
429 Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

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

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

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

442 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery  
443 store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina  
444 store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine  
445 and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-  
446 308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-  
447 premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine  
448 and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The  
449 licensee may also give samples of wine and beer in designated areas at events held by the licensee for the  
450 purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With  
451 the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or  
452 authorized representatives of such licensees may participate in such tastings, including the pouring of  
453 samples. The licensee shall comply with any food inventory and sales volume requirements established  
454 by Board regulation.

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

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

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

464           1. Per-day event licenses.

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

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

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

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

494 2. Annual licenses.

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

504 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical  
505 services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired  
506 alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests  
507 thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall  
508 not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use

509 the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency  
510 station or both, regularly occupied as such and recognized by the governing body of the county, city, or  
511 town in which it is located. Under conditions as specified by Board regulation, such premises may be other  
512 than a volunteer fire or volunteer emergency medical services agency station, provided such other  
513 premises are occupied and under the control of the volunteer fire department or volunteer emergency  
514 medical services agency while the privileges of its license are being exercised.

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

536 display the name or logo of the retail on-premises licensee from which the alcoholic beverage was  
537 purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor  
538 refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage  
539 clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be  
540 required for this purpose. The designated outdoor refreshment area licensee shall provide adequate  
541 security for the event to ensure compliance with the applicable provisions of this title and Board  
542 regulations.

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

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

558 f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the  
559 licensee participating in a community art walk that is open to the public to serve lawfully acquired wine  
560 or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic  
561 beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the  
562 licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any



563 one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue  
564 regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

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

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

582 1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in §  
583 4.1-209.1.

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

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

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

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

608 6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-  
609 212.2.

610 **§ 4.1-206.3. (Effective July 1, 2022) Retail licenses.**

611 A. The Board may grant the following mixed beverages licenses:

612 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed  
613 beverages for consumption in dining areas and other designated areas of such restaurant. Such license may  
614 be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food  
615 cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises,

616 after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed  
617 beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor  
618 dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have  
619 more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are  
620 under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall  
621 not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

622 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent  
623 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,  
624 bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed  
625 beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits  
626 packaged in original closed containers purchased from the Board for on-premises consumption to  
627 registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private  
628 rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale  
629 and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed  
630 appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own  
631 lawfully acquired spirits in bedrooms or private rooms.

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

643 of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any  
644 consideration of the qualifications of such restaurant for a license from the Board.

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

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

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

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

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

676           4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,  
677 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in  
678 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated  
679 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its  
680 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier  
681 licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and  
682 to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic  
683 beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air  
684 carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic  
685 beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the  
686 air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be  
687 transported, stored, and delivered by its authorized representative. The granting of a license pursuant to  
688 this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and  
689 beer for on-premises consumption or in closed containers for off-premises consumption; however, the  
690 licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

691           5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell  
692 mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during  
693 scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all  
694 dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-  
695 premises consumption. Such license may be granted to persons operating food concessions at an outdoor

696 motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a  
697 track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of  
698 the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the  
699 premises in all areas and locations covered by the license. The granting of a license pursuant to this  
700 subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer  
701 for on-premises consumption or in closed containers for off-premises consumption; however, the licensee  
702 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

703 6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve  
704 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs  
705 shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the  
706 restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the  
707 sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed  
708 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license  
709 pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve  
710 wine and beer for on-premises consumption or in closed containers for off-premises consumption;  
711 however, the licensee shall be required to pay the local fee required for such additional license pursuant  
712 to § 4.1-233.1.

713 7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee  
714 to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable  
715 containers or in single original metal cans for on-premises consumption in all seating areas, concourses,  
716 walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the  
717 Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for  
718 on-premises consumption or in closed containers for off-premises consumption; however, the licensee  
719 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such  
720 licenses may be granted to the following:

721 a. Corporations or associations operating a performing arts facility, provided the performing arts  
722 facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease,

723 the original term of which was for more than one year's duration; and (iii) has been rehabilitated in  
724 accordance with historic preservation standards;

725 b. Persons operating food concessions at any performing arts facility located in the City of Norfolk  
726 or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-  
727 term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity  
728 in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards;  
729 and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the  
730 premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum  
731 established by Board regulations for mixed beverage restaurants;

732 c. Persons operating food concessions at any performing arts facility located in the City of  
733 Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease  
734 or concession agreement, the original term of which was more than five years; (ii) has a total capacity in  
735 excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

736 d. Persons operating food concessions at any performing arts facility located in the arts and cultural  
737 district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona  
738 fide long-term lease or concession agreement, the original term of which was more than five years; (ii)  
739 has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts  
740 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages  
741 served on the premises that meet or exceed the monthly minimum established by Board regulations for  
742 mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

743 e. Persons operating food concessions at any multipurpose theater located in the historical district  
744 of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity  
745 and (ii) has a total capacity in excess of 100 patrons;

746 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or  
747 similar facility that has seating for more than 20,000 persons and is located in Prince William County or  
748 the City of Virginia Beach;

749 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or  
750 similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the  
751 City of Portsmouth; or

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

758 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any  
759 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to  
760 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and  
761 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed  
762 beverage caterer at the same business premises designated in the license, with a common alcoholic  
763 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the  
764 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision  
765 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this  
766 subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer  
767 for on-premises consumption or in closed containers for off-premises consumption; however, the licensee  
768 shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

769 9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages  
770 in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is  
771 being provided, with or without meals, for on-premises consumption only in such rooms and areas, and  
772 without regard to the amount of gross receipts from the sale of food prepared and consumed on the  
773 premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom  
774 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas  
775 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes



776 outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one  
777 means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas  
778 are under the control of the licensee and approved by the Board. Such noncontiguous designated areas  
779 shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

780 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under §  
781 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption  
782 of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and  
783 guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member  
784 and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the  
785 licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied  
786 and utilized as such.

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

792 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'  
793 association governing a commercial lifestyle center, which shall authorize any retail on-premises  
794 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any  
795 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of  
796 the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,  
797 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant  
798 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such  
799 tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises  
800 restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and  
801 such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the  
802 name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic

803 beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The  
804 licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed  
805 premises; however, no physical barriers shall be required for this purpose. The licensee shall provide  
806 adequate security for the licensed premises to ensure compliance with the applicable provisions of this  
807 title and Board regulations.

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

824 14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or  
825 association operating either a performing arts facility or an art education and exhibition facility; (ii) a  
826 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and  
827 objects significant in American history and culture; (iii) persons operating an agricultural event and  
828 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space  
829 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped

830 with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events  
831 conducted on the premises of a museum for historic interpretation that is owned and operated by the  
832 locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a  
833 bona fide lease, the original term of which was for more than one year's duration. Such license shall  
834 authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-  
835 premises consumption in areas upon the licensed premises approved by the Board.

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

837 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in  
838 closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without  
839 meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest  
840 rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas.  
841 However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize  
842 the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate  
843 by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic  
844 beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight  
845 lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the  
846 amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at  
847 least one meal is provided each day by the hotel to such guests. With regard to facilities registered in  
848 accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are  
849 also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee,  
850 keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by  
851 the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas,  
852 whether or not contiguous to the licensed premises, which may have more than one means of ingress and  
853 egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control  
854 of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved  
855 for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

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

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

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

872           5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer  
873 during the performance of any event to patrons within all seating areas, concourses, walkways, or  
874 concession areas, or other areas approved by the Board (i) in closed containers for off-premises  
875 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for  
876 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own  
877 lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.  
878 Such licenses may be granted to persons operating food concessions at any outdoor performing arts  
879 amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in  
880 Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500  
881 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or

882 Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500  
883 persons and is located in Henrico County.

884 6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to  
885 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,  
886 and such additional locations designated by the Board in such facilities (i) in closed containers for off-  
887 premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal  
888 cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume  
889 his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the  
890 license. Such licenses may be granted to persons operating food concessions at exhibition or exposition  
891 halls, convention centers, or similar facilities located in any county operating under the urban county  
892 executive form of government or any city that is completely surrounded by such county. For purposes of  
893 this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting  
894 private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet  
895 of floor space.

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

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

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

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

915           1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery  
916 store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina  
917 store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine  
918 and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-  
919 308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-  
920 premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine  
921 and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The  
922 licensee may also give samples of wine and beer in designated areas at events held by the licensee for the  
923 purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With  
924 the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or  
925 authorized representatives of such licensees may participate in such tastings, including the pouring of  
926 samples. The licensee shall comply with any food inventory and sales volume requirements established  
927 by Board regulation.

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

932           3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed  
933 premises for off-premises consumption confectionery that contains five percent or less alcohol by volume.

934 Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is  
935 sold.

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

937 1. Per-day event licenses.

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

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

955 c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall  
956 authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members  
957 and their guests in areas approved by the Board on the club premises. A separate license shall be required  
958 for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar  
959 year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to

960 obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall  
961 be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

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

967 2. Annual licenses.

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

977 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical  
978 services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired  
979 alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests  
980 thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall  
981 not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use  
982 the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency  
983 station or both, regularly occupied as such and recognized by the governing body of the county, city, or  
984 town in which it is located. Under conditions as specified by Board regulation, such premises may be other  
985 than a volunteer fire or volunteer emergency medical services agency station, provided such other



986 premises are occupied and under the control of the volunteer fire department or volunteer emergency  
987 medical services agency while the privileges of its license are being exercised.

988 c. Designated outdoor refreshment area licenses to a locality, business improvement district, or  
989 nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic  
990 beverages within the area designated by the Board for the designated outdoor refreshment area and (ii)  
991 any permanent retail on-premises licensee that is located within the area designated by the Board for the  
992 designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for  
993 consumption in the area designated for the designated outdoor refreshment area, including sidewalks and  
994 the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such  
995 businesses. In determining the designated area for the designated outdoor refreshment area, the Board  
996 shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events  
997 per year, and the duration of any event shall not exceed three consecutive days. However, the Board may  
998 increase the frequency and duration of events after adoption of an ordinance by a locality requesting such  
999 increase in frequency and duration. Such ordinance shall include the size and scope of the area within  
1000 which such events will be held, a public safety plan, and any other considerations deemed necessary by  
1001 the Board. Such limitations on the number of events that may be held shall not apply during the effective  
1002 dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet  
1003 a public health emergency and that effectively reduces allowable restaurant seating capacity; however,  
1004 designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this  
1005 title and Board regulations and shall provide notice to the Board regarding the days and times during  
1006 which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent  
1007 retail on-premises licensees located within the designated area may be consumed at the event, and such  
1008 alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly  
1009 display the name or logo of the retail on-premises licensee from which the alcoholic beverage was  
1010 purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor  
1011 refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage  
1012 clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be

1013 required for this purpose. The designated outdoor refreshment area licensee shall provide adequate  
1014 security for the event to ensure compliance with the applicable provisions of this title and Board  
1015 regulations.

1016 d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic,  
1017 or charitable membership organizations that are exempt from state and federal taxation and in charge of  
1018 banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve  
1019 mixed beverages for on-premises consumption in areas approved by the Board on the premises of the  
1020 place designated in the license. Such license shall authorize the licensee to conduct no more than 12  
1021 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically  
1022 authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption;  
1023 however, the licensee shall be required to pay the local fee required for such additional license pursuant  
1024 to § 4.1-233.1.

1025 e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt,  
1026 and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired  
1027 alcoholic beverages on the premises of the licensee by patrons thereof during such event. However,  
1028 alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this  
1029 license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian,  
1030 hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

1031 f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the  
1032 licensee participating in a community art walk that is open to the public to serve lawfully acquired wine  
1033 or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic  
1034 beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the  
1035 licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any  
1036 one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue  
1037 regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

1038 E. The Board may grant a marketplace license to persons operating a business enterprise of which  
1039 the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve

1040 complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations  
1041 imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or  
1042 two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such  
1043 customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace  
1044 license, the applicant's business enterprise must (i) provide a single category of goods or services in a  
1045 manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in  
1046 such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic  
1047 beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all  
1048 employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to  
1049 be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the  
1050 Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average  
1051 amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of  
1052 time that the business has been in operation; and (d) any other requirements deemed necessary by the  
1053 Board to protect the public health, safety, and welfare.

1054 F. The Board may grant the following shipper, bottler, and related licenses:

1055 1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in §  
1056 4.1-209.1.

1057 2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside  
1058 the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations,  
1059 in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for  
1060 off-premises consumption. Such licensee shall not be required to comply with the monthly food sale  
1061 requirement established by Board regulations.

1062 3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and  
1063 shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board  
1064 regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under  
1065 the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons  
1066 outside the Commonwealth for resale outside the Commonwealth.

1067 4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with  
1068 a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer  
1069 owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner;  
1070 and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board  
1071 regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or  
1072 not, or any person under common control of such licensee, shall acquire or hold any financial interest,  
1073 direct or indirect, in the business for which any fulfillment warehouse license is issued.

1074 5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized  
1075 under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of  
1076 business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders  
1077 for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer  
1078 may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order  
1079 for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment.  
1080 Marketing portal licensees may also accept payment on behalf of the shipper.

1081 6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-  
1082 212.2.

1083 **§ 4.1-212.1. (Effective until July 1, 2022) Delivery of wine and beer; kegs; regulations of**  
1084 **Board.**

1085 A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is  
1086 authorized to engage in the retail sale of wine or beer for off-premises consumption may deliver the brands  
1087 of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers  
1088 to consumers within the Commonwealth for personal off-premises consumption.

1089 B. Any person licensed to sell wine and beer at retail for off-premises consumption in the  
1090 Commonwealth, and who is not a brewery, winery, or farm winery, may deliver the brands of beer, wine,  
1091 and farm wine it is authorized to sell in closed containers to consumers within the Commonwealth for  
1092 personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries  
1093 may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises

1094 where such person has electronically ordered beer, wine, or farm wine in advance of the delivery or (ii)  
1095 such other locations as may be permitted by Board regulation.

1096 C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail  
1097 for off-premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery,  
1098 may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm  
1099 wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the  
1100 Commonwealth for personal off-premises consumption.

1101 D. Any person licensed to sell mixed beverages at retail for off-premises consumption in the  
1102 Commonwealth may deliver any mixed beverages it is authorized to sell in closed containers to consumers  
1103 within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law  
1104 to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking  
1105 area of the licensee's premises where such person has electronically ordered mixed beverages in advance  
1106 of the delivery or (ii) such other locations as may be permitted by Board regulation.

1107 E. Any distiller that has been appointed as an agent of the Board pursuant to subsection D of § 4.1-  
1108 119 may deliver to consumers within the Commonwealth for personal consumption any alcoholic  
1109 beverages the distiller is authorized to sell through organized tasting events in accordance with subsection  
1110 G of § 4.1-119 and Board regulations. Notwithstanding any provision of law to the contrary, such  
1111 deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's  
1112 premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii)  
1113 such other locations as may be permitted by Board regulation.

1114 F. All deliveries made pursuant to this section shall be to consumers within the Commonwealth  
1115 for personal consumption only and not for resale. Such deliveries shall be performed by either (i) the  
1116 owner or any ~~agent~~, officer, director, shareholder, or employee of the licensee or permittee or (ii) ~~an~~  
1117 ~~independent contractor of the licensee or permittee, provided that (a) the licensee or permittee has entered~~  
1118 ~~into a written agreement with the independent contractor establishing that the licensee or permittee shall~~  
1119 ~~be vicariously a third-party delivery licensee pursuant to § 4.1-212.2. The licensee performing the delivery~~  
1120 shall be liable for any administrative violations of this section or § 4.1-304 committed ~~by the independent~~

1121 ~~contractor relating to any deliveries of alcoholic beverages made on behalf of the licensee or permittee~~  
1122 ~~and (b) only during the delivery. Alcoholic beverages shall not be delivered after 11:00 p.m. or before~~  
1123 ~~6:00 a.m. Only one individual takes may take possession of the alcoholic beverages during the course of~~  
1124 the delivery. No more than four cases of wine nor more than four cases of beer may be delivered at one  
1125 time to any person in Virginia to whom alcoholic beverages may be lawfully sold, except that the licensee  
1126 or permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the  
1127 Authority in writing at least one business day in advance of any such delivery, which notice contains the  
1128 name and address of the intended recipient. The Board may adopt such regulations as it reasonably deems  
1129 necessary to implement the provisions of this section. Such regulations shall include provisions that  
1130 require (1) the recipient to demonstrate, upon delivery, that he is at least 21 years of age and (2) the  
1131 recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the  
1132 Board.

1133 G. In addition to other applicable requirements set forth in this section, the following provisions  
1134 shall apply to the sale of mixed beverages for off-premises consumption and the delivery of mixed  
1135 beverages pursuant to this section:

1136 ~~1. Mixed beverages shall not be sold for off-premises consumption or delivered after 11:00 p.m.~~  
1137 ~~or before 6:00 a.m.;~~

1138 ~~2.~~ No distiller shall sell for off-premises consumption or deliver more than two mixed beverages  
1139 at any one time, and no mixed beverage restaurant or limited mixed beverage restaurant licensee may sell  
1140 for off-premises consumption or deliver more than four mixed beverages at any one time;

1141 ~~3.~~ 2. All mixed beverages sold for off-premises consumption or delivered by a mixed beverage  
1142 restaurant or limited mixed beverage restaurant licensee shall contain at least one mixer and have a  
1143 maximum combined volume of 16 ounces;

1144 ~~4.~~ 3. Mixed beverage restaurant and limited mixed beverage restaurant licensees shall serve at least  
1145 one meal with every two mixed beverages sold for off-premises consumption or delivered; and

1146 ~~5.~~ 4. Mixed beverages sold for off-premises consumption or delivered shall be in single original  
1147 metal cans or in glass, paper, plastic, or similar disposable containers that include a secure lid, cap, or

1148 similar closure that prevents the mixed beverage from being consumed without removal of such lid, cap,  
1149 or similar closure.

1150 The Board may summarily revoke a licensee's privileges to sell or deliver mixed beverages for off-  
1151 premises consumption for noncompliance with the provisions of this section or § 4.1-225 or 4.1-325. Any  
1152 summary revocation by the Board pursuant to this paragraph (i) shall not be subject to the provisions of §  
1153 4.1-227, (ii) shall not be subject to appeal, and (iii) shall become effective upon personal service of the  
1154 notice of summary revocation to the licensee or upon the fourth business day after such notice is mailed  
1155 to the licensee's residence or the address listed for the licensed premises on the initial license application.

1156 H. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each  
1157 delivery of wine, beer, or mixed beverages by a licensee or permittee shall constitute a sale in Virginia.  
1158 The licensee or permittee shall collect the taxes due to the Commonwealth and remit any excise taxes  
1159 monthly to the Authority and any sales taxes to the Department of Taxation, if such taxes have not already  
1160 been paid.

1161 I. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises  
1162 consumption may sell such wine or beer in kegs, subject to any limitations imposed by Board regulation.  
1163 The Board may impose a fee for keg registration seals. For purposes of this subsection, "keg registration  
1164 seal" means any document, stamp, declaration, seal, decal, sticker, or device that is approved by the Board,  
1165 designed to be affixed to kegs, and displays a registration number and such other information as may be  
1166 prescribed by the Board.

1167 **§ 4.1-212.1. (Effective July 1, 2022) Delivery of wine and beer; kegs; regulations of Board.**

1168 A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is  
1169 authorized to engage in the retail sale of wine or beer for off-premises consumption may deliver the brands  
1170 of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers  
1171 to consumers within the Commonwealth for personal off-premises consumption.

1172 B. Any person licensed to sell wine and beer at retail for off-premises consumption in the  
1173 Commonwealth, and who is not a brewery, winery, or farm winery, may deliver the brands of beer, wine,  
1174 and farm wine it is authorized to sell in closed containers to consumers within the Commonwealth for

1175 personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries  
1176 may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises  
1177 where such person has electronically ordered beer, wine, or farm wine in advance of the delivery or (ii)  
1178 such other locations as may be permitted by Board regulation.

1179 C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail  
1180 for off-premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery,  
1181 may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm  
1182 wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the  
1183 Commonwealth for personal off-premises consumption.

1184 D. All such deliveries shall be to consumers within the Commonwealth for personal consumption  
1185 only and not for resale. All such deliveries of beer, wine, or farm wine shall be performed by either (i) the  
1186 owner or any ~~agent~~, officer, director, shareholder, or employee of the licensee or permittee or (ii) ~~an~~  
1187 ~~independent contractor of the licensee or permittee, provided that (a) the licensee or permittee has entered~~  
1188 ~~into a written agreement with the independent contractor establishing that the licensee or permittee shall~~  
1189 ~~be vicariously a third-party delivery licensee pursuant to § 4.1-212.2. The licensee performing the delivery~~  
1190 shall be liable for any administrative violations of this section or § 4.1-304 committed by the independent  
1191 contractor relating to any deliveries of beer, wine, or farm wine made on behalf of the licensee or permittee  
1192 and (b) only during the delivery. Alcoholic beverages shall not be delivered after 11:00 p.m. or before  
1193 6:00 a.m. Only one individual takes may take possession of the beer, wine, or farm wine during the course  
1194 of the delivery. No more than four cases of wine nor more than four cases of beer may be delivered at one  
1195 time to any person in Virginia to whom alcoholic beverages may be lawfully sold, except that the licensee  
1196 or permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the  
1197 Authority in writing at least one business day in advance of any such delivery, which notice contains the  
1198 name and address of the intended recipient. The Board may adopt such regulations as it reasonably deems  
1199 necessary to implement the provisions of this section. Such regulations shall include provisions that  
1200 require (1) the recipient to demonstrate, upon delivery, that he is at least 21 years of age and (2) the



1201 recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the  
1202 Board.

1203 E. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each  
1204 delivery of wine or beer by a licensee or permittee shall constitute a sale in Virginia. The licensee or  
1205 permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the  
1206 Authority and any sales taxes to the Department of Taxation, if such taxes have not already been paid.

1207 F. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises  
1208 consumption may sell such wine or beer in kegs, subject to any limitations imposed by Board regulation.  
1209 The Board may impose a fee for keg registration seals. For purposes of this subsection, "keg registration  
1210 seal" means any document, stamp, declaration, seal, decal, sticker, or device that is approved by the Board,  
1211 designed to be affixed to kegs, and displays a registration number and such other information as may be  
1212 prescribed by the Board.

1213 **§ 4.1-212.2. Third-party deliveries; limitations; penalties.**

1214 A. For the purposes of this section, "delivery personnel" means any employee, agent, or  
1215 independent contractor of the third-party delivery licensee that engages in direct-to-consumer alcoholic  
1216 beverage delivery on behalf of the third-party delivery licensee.

1217 B. A third-party delivery license shall authorize the licensee to deliver alcoholic beverages to a  
1218 consumer pursuant to an order for such alcoholic beverages placed with a licensee vested with delivery  
1219 privileges. Except as otherwise permitted under § 4.1-212.1, no person shall provide alcoholic beverage  
1220 delivery services in the Commonwealth unless such person holds a third-party delivery license and is  
1221 registered with the State Corporation Commission. All deliveries of alcoholic beverages by a third-party  
1222 delivery licensee shall comply with the following: (i) alcoholic beverages shall be delivered only to  
1223 persons who are 21 years of age or older and have provided valid identification that provides bona fide  
1224 evidence of legal age, as prescribed in § 4.1-304; (ii) the third-party delivery licensee shall verify at the  
1225 time of delivery that the recipient is 21 years of age or older, ensure that the recipient's identification bears  
1226 a photograph that reasonably appears to match the appearance of the recipient, and record the recipient's  
1227 name and date of birth and the address to which the alcoholic beverages were delivered; (iii) alcoholic

1228 beverages shall not be delivered to any person whom the third-party delivery licensee knows or has reason  
1229 to believe is intoxicated; (iv) except for deliveries made on behalf of the Authority, alcoholic beverages  
1230 shall be delivered only for personal use and not for resale; (v) alcoholic beverages shall not be delivered  
1231 to a correctional facility, a reformatory, a locker mailbox, a package shipping or storage facility, a retail  
1232 licensee, or undergraduate housing at an institution of higher education; (vi) any alcoholic beverage that  
1233 cannot be lawfully delivered shall be promptly returned to the licensed establishment at which the  
1234 alcoholic beverage was purchased; (vii) only alcoholic beverages obtained directly from the licensed  
1235 establishment with which the order was placed may be delivered; and (viii) the provisions of § 4.1-212.1  
1236 and any other requirements imposed on the delivery of alcoholic beverages by this subtitle or Board  
1237 regulation.

1238 C. In addition to the application requirements set forth in § 4.1-230 and any regulations or  
1239 requirements adopted pursuant thereto, third-party delivery licensees shall provide to the Board, at the  
1240 time of application and annually thereafter or as otherwise required by the Board, written certification that  
1241 the third-party delivery licensee is in compliance with all applicable requirements set forth in Article 2 (§  
1242 46.2-2141 et seq.) of Chapter 21 of Title 46.2. Third-party delivery licensees shall also provide to the  
1243 Board, upon request, a copy of any contracts entered into by the licensee with any person offering  
1244 alcoholic beverages for delivery.

1245 D. Third-party delivery licensees shall provide to the Board, at the time of application and annually  
1246 thereafter or as otherwise required by the Board, written certification that all delivery personnel (i) prior  
1247 to delivering alcoholic beverages and annually thereafter, have completed and passed with a score of no  
1248 less than 80 percent a Board-approved public safety course; (ii) are 21 years of age or older; (iii) have a  
1249 valid driver's license, vehicle inspection, and vehicle registration; (iv) within the last seven years, have  
1250 not been convicted of driving under the influence in violation of § 18.2-266 or 46.2-341.24 or a  
1251 substantially similar ordinance or law in any other jurisdiction, using a motor vehicle to commit a felony,  
1252 or any crime involving moral turpitude; (v) within the last three years, have not been convicted of more  
1253 than three vehicle moving violations; and (vi) are not required to register with the Sex Offender and

1254 Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 or listed on the U.S.  
1255 Department of Justice's National Sex Offender Public Website.

1256 E. Any person who violates the provisions of this section shall be required to pay (i) \$2,500 for a  
1257 first violation and (ii) \$5,000 for any second or subsequent violation. The penalties provided under this  
1258 subsection may be imposed in addition to or without imposing any other penalties or actions provided by  
1259 law.

1260 F. Notwithstanding subsection B, a third-party delivery licensee may deliver alcoholic beverages  
1261 to a retail licensee if such alcoholic beverages are being delivered on behalf of the Authority.

1262 **§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.**

1263 A. Every person intending to apply for any license authorized by this chapter shall file with the  
1264 Board an application on forms provided by the Board and a statement in writing by the applicant swearing  
1265 and affirming that all of the information contained therein is true.

1266 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain  
1267 a food establishment permit from the Department of Health or an inspection by the Department of  
1268 Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a  
1269 pending application for such permit, or proof of a pending request for such inspection. If the applicant  
1270 provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof  
1271 of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on  
1272 the basis of a pending application or inspection, such license shall authorize the licensee to purchase  
1273 alcoholic beverages in accordance with the provisions of this title; however, the licensee shall not sell or  
1274 serve alcoholic beverages until a permit is issued or an inspection is completed.

1275 B. In addition, each applicant for a license under the provisions of this chapter, except applicants  
1276 for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine  
1277 and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of  
1278 Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with  
1279 the Board on the front door of the building, place, or room where he proposes to engage in such business  
1280 for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such

1281 information as required by the Board, including a statement that any objections shall be submitted to the  
1282 Board not more than 30 days following initial publication of the notice required pursuant to this  
1283 subsection.

1284 The applicant shall also cause notice to be published at least once a week for two consecutive  
1285 weeks in a newspaper published in or having a general circulation in the county, city, or town wherein  
1286 such applicant proposes to engage in such business. Such notice shall contain such information as required  
1287 by the Board, including a statement that any objections to the issuance of the license be submitted to the  
1288 Board not later than 30 days from the date of the initial newspaper publication. In the case of wine and  
1289 beer shipper's licensees, third-party delivery licensees, delivery permittees, or operators of boats, dining  
1290 cars, buffet cars, club cars, buses, and airplanes, the posting and publishing of notice shall not be required.

1291 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club  
1292 events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts  
1293 venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal  
1294 history records search, which may include a fingerprint-based national criminal history records search, on  
1295 each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a  
1296 criminal history records search and completed personal data form for officers, directors, nonmanaging  
1297 members, or limited partners of any applicant corporation, limited liability company, or limited  
1298 partnership.

1299 Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall  
1300 notify the local governing body of each license application through the county or city attorney or the chief  
1301 law-enforcement or administrative officer of the locality. Local governing bodies shall submit objections  
1302 to the granting of a license within 30 days of the filing of the application.

1303 C. Each applicant shall pay the required application fee at the time the application is filed. Each  
1304 license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus  
1305 the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the  
1306 Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of  
1307 Investigation or the Central Criminal Records Exchange for each criminal history records search required

1308 by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the  
1309 application fee shall be \$15. The application fee for banquet special event and mixed beverage special  
1310 event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant  
1311 to § 4.1-231.1 and shall not be refunded.

1312 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however,  
1313 all licensees shall file and maintain with the Board a current, accurate record of the information required  
1314 by the Board pursuant to subsection A and notify the Board of any changes to such information in  
1315 accordance with Board regulations.

1316 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the  
1317 Board. Such permits shall confer upon their holders no authority to make solicitations in the  
1318 Commonwealth as otherwise provided by law.

1319 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section  
1320 for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied  
1321 by the number of months for which the permit is granted.

1322 F. The Board shall have the authority to increase state license fees from the amounts set forth in §  
1323 4.1-231.1 as it was in effect on January 1, 2022. The Board shall set the amount of such increases on the  
1324 basis of the consumer price index and shall not increase fees more than once every three years. Prior to  
1325 implementing any state license fee increase, the Board shall provide notice to all licensees and the general  
1326 public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any  
1327 license affected by the Board's proposed fee increases. Such notice shall be provided on or before  
1328 November 1 in any year in which the Board has decided to increase state license fees, and such increases  
1329 shall become effective July 1 of the following year.

1330 **§ 4.1-231.1. Fees on state licenses.**

1331 A. (Contingent expiration date) The annual fees on state licenses shall be as follows:

1332 1. Manufacturer licenses. For each:

1333 a. Distiller's license and limited distiller's license, if not more than 5,000 gallons of alcohol or  
1334 spirits, or both, manufactured during the year in which the license is granted, \$490; if more than 5,000

1335 gallons but not more than 36,000 gallons manufactured during such year, \$2,725; and if more than 36,000  
1336 gallons manufactured during such year, \$4,060;

1337 b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured  
1338 during the year in which the license is granted, \$380; if not more than 10,000 barrels of beer manufactured  
1339 during the year in which the license is granted, \$2,350; and if more than 10,000 barrels manufactured  
1340 during such year, \$4,690;

1341 c. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which  
1342 the license is granted, \$215, and if more than 5,000 gallons manufactured during such year, \$4,210;

1343 d. Farm winery license, \$245 for any Class A license and \$4,730 for any Class B license;

1344 e. Wine importer's license, \$460; and

1345 f. Beer importer's license, \$460.

1346 2. Wholesale licenses. For each:

1347 a. (1) Wholesale beer license, \$1,005 for any wholesaler who sells 300,000 cases of beer a year or  
1348 less, \$1,545 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a  
1349 year, and \$2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and

1350 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall  
1351 be the amount set forth in subdivision a (1), multiplied by the number of separate locations covered by the  
1352 license;

1353 b. (1) Wholesale wine license, \$240 for any wholesaler who sells 30,000 gallons of wine or less  
1354 per year, \$1,200 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000  
1355 gallons of wine per year, \$1,845 for any wholesaler who sells more than 150,000 but not more than  
1356 300,000 gallons of wine per year, and \$2,400 for any wholesaler who sells more than 300,000 gallons of  
1357 wine per year; and

1358 (2) Wholesale wine license, including that granted pursuant to subdivision 3 of § 4.1-206.2,  
1359 applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision  
1360 b (1), multiplied by the number of separate locations covered by the license.

1361 3. Retail licenses — mixed beverage. For each:

- 1362** a. Mixed beverage restaurant license, granted to persons operating restaurants, including  
**1363** restaurants located on premises of and operated by hotels or motels, or other persons:
- 1364** (1) With a seating capacity at tables for up to 100 persons, \$1,050;  
**1365** (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,495;  
**1366** (3) With a seating capacity at tables for more than 150 persons but not more than 500 persons,  
**1367** \$1,980;  
**1368** (4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons,  
**1369** \$2,500; and  
**1370** (5) With a seating capacity at tables for more than 1,000 persons, \$3,100;
- 1371** b. Mixed beverage restaurant license for restaurants located on the premises of and operated by  
**1372** private, nonprofit clubs:
- 1373** (1) With an average yearly membership of not more than 200 resident members, \$1,250;  
**1374** (2) With an average yearly membership of more than 200 but not more than 500 resident members,  
**1375** \$2,440; and  
**1376** (3) With an average yearly membership of more than 500 resident members, \$3,410;
- 1377** c. Mixed beverage restaurant license for restaurants located on the premises of and operated by a  
**1378** casino gaming establishment, \$3,100 plus an additional \$5 for each gaming station located on the premises  
**1379** of the casino gaming establishment;
- 1380** d. Mixed beverage caterer's license, \$1,990;
- 1381** e. Mixed beverage limited caterer's license, \$550;
- 1382** f. Mixed beverage carrier license:
- 1383** (1) \$520 for each of the average number of dining cars, buffet cars, or club cars operated daily in  
**1384** the Commonwealth by a common carrier of passengers by train;  
**1385** (2) \$910 for each common carrier of passengers by boat;  
**1386** (3) \$520 for each common carrier of passengers by bus; and  
**1387** (4) \$2,360 for each license granted to a common carrier of passengers by airplane;
- 1388** g. Annual mixed beverage motor sports facility license, \$630;

- 1389** h. Limited mixed beverage restaurant license:
- 1390** (1) With a seating capacity at tables for up to 100 persons, \$945;
- 1391** (2) With a seating capacity at tables for more than 100 but not more than 150 persons, \$1,385; and
- 1392** (3) With a seating capacity at tables for more than 150 persons, \$1,875;
- 1393** i. Annual mixed beverage performing arts facility license, \$630;
- 1394** j. Bed and breakfast license, \$100;
- 1395** k. Museum license, \$260;
- 1396** l. Motor car sporting event facility license, \$300;
- 1397** m. Commercial lifestyle center license, \$300;
- 1398** n. Mixed beverage port restaurant license, \$1,050; and
- 1399** o. Annual mixed beverage special events license, \$630.
- 1400** 4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and
- 1401** beer license, \$450.
- 1402** 5. Retail licenses — off-premises wine and beer. For each:
- 1403** a. Retail off-premises wine and beer license, \$300;
- 1404** b. Gourmet brewing shop license, \$320; and
- 1405** c. Confectionery license, \$170.
- 1406** 6. Retail licenses — banquet, special event, and tasting licenses.
- 1407** a. Per-day event licenses. For each:
- 1408** (1) Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by
- 1409** the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;
- 1410** (2) Mixed beverage special events license, \$45 for each day of each event;
- 1411** (3) Mixed beverage club events license, \$35 for each day of each event; and
- 1412** (4) Tasting license, \$40.
- 1413** b. Annual licenses. For each:
- 1414** (1) Annual banquet license, \$300;
- 1415** (2) Banquet facility license, \$260;



- 1416 (3) Designated outdoor refreshment area license, \$300. However, for any designated outdoor  
1417 refreshment area license issued pursuant to a local ordinance, the annual fee shall be \$3,000;
- 1418 (4) Annual mixed beverage banquet license, \$630;
- 1419 (5) Equine sporting event license, \$300; and
- 1420 (6) Annual arts venue event license, \$300.
- 1421 7. Retail licenses — marketplace. For each marketplace license, \$1,000.
- 1422 8. Retail licenses — shipper, bottler, and related licenses. For each:
- 1423 a. Wine and beer shipper's license, \$230;
- 1424 b. Internet wine and beer retailer license, \$240;
- 1425 c. Bottler license, \$1,500;
- 1426 d. Fulfillment warehouse license, \$210; ~~and~~
- 1427 e. Marketing portal license, \$285; and
- 1428 f. Third-party delivery license, \$7,500, unless the licensee provides written certification to the  
1429 Board that the licensee has no more than 25 delivery personnel, including employees, agents, and  
1430 independent contractors that engage in direct-to-consumer alcoholic beverage delivery, in which case the  
1431 license fee shall be \$2,500.
- 1432 9. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax  
1433 imposed by this section on the license for which the applicant applied.
- 1434 B. The tax on each license granted or reissued for a period other than 12, 24, or 36 months shall  
1435 be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by  
1436 the number of months in the license period, and then increased by five percent. Such tax shall not be  
1437 refundable, except as provided in § 4.1-232.
- 1438 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state  
1439 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,  
1440 shall be liable to state merchants' license taxation and state restaurant license taxation and other state  
1441 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer  
1442 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license

1443 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the  
1444 liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale  
1445 merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be  
1446 disregarded.

1447 D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license  
1448 purchased in person from the Board if such license is available for purchase online.

1449 **2. That the Virginia Alcoholic Beverage Control Authority (the Authority) shall collect data**  
1450 **regarding the compliance of third-party delivery licensees with the provisions of this act and report**  
1451 **such data to the Chairmen of the House Committee on General Laws and the Senate Committee on**  
1452 **Rehabilitation and Social Services by November 1, 2023.**

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