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SENATE BILL NO. 496

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact §§ 4.1-100 and 4.1-210 of the Code of Virginia, relating to alcoholic beverage control; agritourism resort.

Patron—Edwards

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100 and 4.1-210 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. Definitions.

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

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

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

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

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

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

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

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

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this title, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

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

"Bespoke clothier establishment" means a permanent retail establishment that offers, by appointment only, custom made apparel and that offers a membership program to customers. Such establishment shall be a permanent structure where measurements and fittings are performed on-site but apparel is produced

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59 offsite and delivered directly to the customer. Such establishment shall have facilities to properly secure  
60 any stock of alcoholic beverages.

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

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

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

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

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

79 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum of  
80 25 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain  
81 stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a  
82 physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial  
83 owners' association that is responsible for the management, maintenance, and operation of the common  
84 areas thereof.

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

87 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains  
88 grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes,  
89 processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with  
90 the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility  
91 for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied  
92 the grapes, fruits, or other agricultural products used in the production of the wine. The contract  
93 winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have  
94 not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm  
95 winery for its services.

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

100 "Coworking establishment" means a facility that has at least 100 members, a majority of whom are  
101 21 years of age or older, to whom it offers shared office space and related amenities, including desks,  
102 conference rooms, Internet access, printers, copiers, telephones, and fax machines.

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

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

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

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

110 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned  
111 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for  
112 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
113 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned  
114 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing  
115 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for  
116 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
117 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher  
118 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine  
119 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine  
120 manufactured by the institution shall be stored on the premises of such farm winery that shall be

121 separate and apart from all other facilities of the institution, and (d) such farm winery is operated in  
 122 strict conformance with the requirements of this clause (ii) and Board regulations. As used in this  
 123 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of  
 124 individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a  
 125 farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the  
 126 individual members of the cooperative as long as such land is located in the Commonwealth. For  
 127 purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or  
 128 classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this  
 129 definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for  
 130 the limitation on land zoned "residential conservation," nothing in the definition of "land zoned  
 131 agricultural" shall otherwise limit or affect local zoning authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

170 (Effective until July 1, 2020) "Low alcohol beverage cooler" means a drink containing one-half of  
 171 one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by  
 172 volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials;  
 173 it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar  
 174 products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated  
 175 as wine for all purposes of this title, except that low alcohol beverage coolers (i) may be manufactured  
 176 by a licensed distiller or a distiller located outside the Commonwealth and (ii) shall not be sold in  
 177 localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low  
 178 alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage  
 179 licensees.

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 181 percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume,

182 and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may  
183 also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar  
184 products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated  
185 as wine for all purposes of this title, except that low alcohol beverage coolers (i) may be manufactured  
186 by a licensed distiller or a distiller located outside the Commonwealth and (ii) shall not be sold in  
187 localities that prohibit the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol  
188 beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

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

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

195 "Member of a bespoke clothier establishment" means a person who maintains a membership in the  
196 bespoke clothier establishment for a period of not less than one month by the payment of monthly,  
197 quarterly, or annual dues in the manner established by the rules of the bespoke clothier establishment.  
198 The minimum membership fee shall be not less than \$25 for any term of membership.

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

207 "Member of a coworking establishment" means a person who maintains a membership in the  
208 coworking establishment for a period of not less than one month by the payment of monthly, quarterly,  
209 or annual dues in the manner established by the rules of the coworking establishment. "Member of a  
210 coworking establishment" does not include an employee or any person with an ownership interest in the  
211 coworking establishment.

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

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

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

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

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

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

236 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for  
237 private meetings or private parties limited in attendance to members and guests of a particular group,  
238 association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or  
239 similar facilities while such restaurant is closed to the public and in use for private meetings or parties  
240 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such  
241 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in  
242 use for private meetings or parties limited in attendance to employees and nonpaying guests of the  
243 owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats

244 which are not licensed by the Board and on which alcoholic beverages are not sold.

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

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

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

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

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

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

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

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

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

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

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

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

294 **§ 4.1-210. Mixed beverages licenses.**

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

297 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed  
298 beverages for consumption in dining areas and other designated areas of such restaurant. Such license  
299 may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale  
300 of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the  
301 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale  
302 of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include  
303 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas  
304 may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such

305 areas are under the control of the licensee and approved by the Board. Such noncontiguous designated  
306 areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

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

317 If the restaurant is located on the premises of and operated by a private, nonprofit or profit club  
318 exclusively for its members and their guests, or members of another private, nonprofit or profit club in  
319 another city with which it has an agreement for reciprocal dining privileges, such license shall also  
320 authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club  
321 prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the  
322 Board and located on another portion of the premises of the same hotel or motel building, this fact shall  
323 not prohibit the granting of a license by the Board to such club qualifying in all other respects. The  
324 club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold  
325 to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross  
326 receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club  
327 shall be excluded in any consideration of the qualifications of such restaurant for a license from the  
328 Board.

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

336 *If the restaurant is located on the premises of and operated by an agritourism resort, such license*  
337 *shall authorize the licensee to (1) sell alcoholic beverages for on-premises consumption, without regard*  
338 *to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas*  
339 *upon the licensed premises approved by the Board and other designated areas of the resort, including*  
340 *outdoor areas under the control of the licensee; and (2) permit the possession and consumption of*  
341 *lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in*  
342 *bedrooms and private guest rooms.*

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

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

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

360 5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or  
361 association operating either a performing arts facility or an art education and exhibition facility; (ii) a  
362 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and  
363 objects significant in American history and culture; (iii) persons operating an agricultural event and  
364 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space  
365 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped  
366 with roofs, exterior walls, and open or closed-door access; or (iv) a locality for special events conducted

367 on the premises of a museum for historic interpretation that is owned and operated by the locality. The  
368 operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide  
369 lease the original term of which was for more than one year's duration. Such license shall authorize the  
370 licensee to sell alcoholic beverages during scheduled events and performances for on-premises  
371 consumption in areas upon the licensed premises approved by the Board.

372 6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat  
373 or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the  
374 Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms  
375 of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its  
376 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air  
377 carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes  
378 and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits  
379 will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier  
380 licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits  
381 may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and  
382 any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported,  
383 stored, and delivered by its authorized representative.

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

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

395 9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any  
396 outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000  
397 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize  
398 the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar  
399 disposable containers or in single original metal cans, to patrons within all seating areas, concourses,  
400 walkways, concession areas, or similar facilities, for on-premises consumption.

401 10. Annual mixed beverage motor sports facility license to persons operating food concessions at any  
402 outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on  
403 1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed  
404 beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during  
405 scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all  
406 dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for  
407 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his  
408 own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the  
409 license.

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

416 12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve  
417 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs  
418 shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the  
419 restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall  
420 the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages,  
421 exceed 10 percent of the total annual gross sales of all food and alcoholic beverages.

422 13. Annual mixed beverage motor sports facility licenses to persons operating concessions at an  
423 outdoor motor sports facility that hosts a NASCAR national touring race, which shall authorize the  
424 licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original  
425 metal cans, during scheduled events, as well as events or performances immediately subsequent thereto,  
426 to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar  
427 facilities, for on-premises consumption.

428 14. Annual mixed beverage performing arts facility license to corporations or associations operating a  
429 performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii)  
430 is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than  
431 one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards.  
432 Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for  
433 on-premises consumption in areas upon the licensed premises approved by the Board.

434 15. Annual mixed beverage performing arts facility license to persons operating food concessions at  
435 any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the  
436 performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the  
437 original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has  
438 been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts  
439 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages  
440 served on the premises that meet or exceed the monthly minimum established by Board regulations for  
441 mixed beverage restaurants. Such license shall authorize the sale, on the dates of performances or  
442 events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises  
443 approved by the Board.

444 16. Annual mixed beverage performing arts facility license to persons operating food concessions at  
445 any performing arts facility located in the City of Waynesboro, provided that the performing arts facility  
446 (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which  
447 was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been  
448 rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on  
449 the dates of performances or private or special events, of alcoholic beverages for on-premises  
450 consumption in areas upon the licensed premises approved by the Board.

451 17. Annual mixed beverage performing arts facility license to persons operating food concessions at  
452 any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided  
453 that the performing arts facility (i) is occupied under a bona fide long-term lease or concession  
454 agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance  
455 with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or  
456 prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet  
457 or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and  
458 (iv) has a total capacity in excess of 900 patrons. Such license shall authorize the sale, on the dates of  
459 performances or private or special events, of alcoholic beverages for on-premises consumption in areas  
460 upon the licensed premises approved by the Board.

461 18. A combined mixed beverage restaurant and caterer's license, which may be granted to any  
462 restaurant, *agritourism resort*, or hotel that meets the qualifications for both a mixed beverage restaurant  
463 pursuant to subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same  
464 business location, and which license shall authorize the licensee to operate as both a mixed beverage  
465 restaurant and mixed beverage caterer at the same business premises designated in the license, with a  
466 common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such  
467 licensee shall meet the separate food qualifications established for the mixed beverage restaurant license  
468 pursuant to subdivision A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

469 19. Annual mixed beverage performing arts facility license to persons operating food concessions at  
470 any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the  
471 theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100  
472 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic  
473 beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

474 B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18,  
475 or 19 shall automatically include a license to sell and serve wine and beer for on-premises consumption.  
476 The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.