

LICENSEE BULLETIN

Vol 56 No 4

VIRGINIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Rules for Operating A Licensed Club

The following are some of the more important rules which must be complied with while operating under a retail alcoholic beverage control license for a club.

It is suggested that all club officers, members, and employees acquaint themselves with these rules.

In case of doubt as to the interpretation or application of any rules governing the operation of a club, inquiries may be addressed to the Special Agent assigned to the area in which the club is located or directly to this Department, P.O. Box 27491, Richmond, VA 23261.

- 1. In order to retain your license, you must continue to be a private, nonprofit corporation or association which is the owner, lessee or occupant of an establishment operated solely for a national, social, patriotic, political or athletic nature, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. Persons who are resident members of other clubs located at least one hundred miles from the club licensed by the Board (the "host club") and who are accorded privileges in the host club by reason of bona fide, prearranged reciprocal arrangements between the host club and such clubs shall be considered guests of the host club and deemed to have members' privileges with respect to the use of its facilities. The reciprocal arrangements shall be set out in a written agreement and approved by the Board prior to the exercise of the privileges there under.**

The mileage limitations of the above section notwithstanding, members of private, nonprofit clubs or private clubs operated for profit which are licensed by the Board to operate mixed beverage restaurants on their respective premises and which have written agreements approved by the Board for reciprocal dining privileges may be considered guests of the host club and deemed to have members' privileges with respect to its dining facilities.

Any changes **in the officers and directors** of a club must be reported to the Board within thirty (30) days, and a certified copy of any change in the charter, articles of association or by-laws shall be furnished to the Board within thirty (30) days thereafter.

An organization which has been declared **exempt from federal and state income taxes** as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association the advantages of which belong to all members as long as such exemptions remain in effect.

2. Guest privileges must be sufficiently restrictive to render a club a private place. The Board shall restrict nonmember use of club premises to maintain the **private character of a licensed club**.

A licensed club may allow **nonmembers to use club premises** and exercise the privileges of the club license for public events held upon the licensed premises where nonmembers are allowed to attend and participate in the event. Such events are limited to twelve (12) **per calendar year** and the Board must be notified at least two (2) days in advance of each event.

A member of a licensed club may sponsor private functions on club premises for an organization or group of which he is a member, such attendees being guests of the sponsoring member. A licensed club may allow its premises to be used no more than a total of twelve (12) times **per calendar year by organizations or groups who obtain banquet or banquet special events licenses**. There is no limitation on the numbers of times a licensed club may allow its premises to be used by organizations or groups if alcoholic beverages are not served.

A licensed club may not obtain a banquet special events license or a mixed beverage special events license for use on its premises. However, a club may obtain a banquet special events license or a mixed beverage special events license not more than 12 **times per calendar year** upon the unlicensed portion of its premises.

A licensed club may obtain a mixed beverage club events license for on-premises consumption by members and their guests in approved areas, by the Board, on the club premises. No more than 12 such licenses **shall be granted in any calendar year**.

3. All members must pay reasonable dues to the club on a monthly, quarterly or annual basis in a manner established by the rules and regulations of the club.

A club may have **“lifetime members”** provided the financial contributions of each member is no less than ten times the annual dues of a resident member and the full amount of such contribution is paid in advance in a lump sum.

A “member of a club” includes a person who is a **member of a bona fide auxiliary, local chapter, or squadron** composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality.

4. A club must maintain **complete and accurate records** covering its income and disbursements.

Records should be kept concerning income from initiation fees and dues, purchases and sales of alcoholic beverages, purchases and sales of food and other merchandise, the holding of functions, and income from amusement devices.

Records must be kept at your place of business for a period of **two** years, and must be available during business hours for examination by Special Agents of the Board. Each licensed club must prepare a **financial statement** for the latest calendar year or fiscal year. The statement must be available for inspection and each statement must be maintained for a period of three consecutive years.

5. A club **may not keep on its premises** alcoholic beverages owned by it other than those alcoholic beverages which it is licensed to sell or those alcoholic beverages it is authorized by permit of the Board to keep for culinary purposes.
6. Alcoholic beverages other than those which a club is licensed to sell **may not be sold** on the club premises.
7. A club **may keep for its members** any alcoholic beverages lawfully acquired by such members, and the members and their guests may consume such alcoholic beverages on the club premises.
8. Alcoholic beverages owned by a member of a club and left on the club premises **must be distinguished** in an appropriate manner from alcoholic beverages owned by other members.
9. **A club may not be left in the charge of** any person whose name is not posted in your establishment in letters not less than one inch in size during the time he is in charge. A person less **than 21 years of age** may not be left in charge.
10. Sell wine for **on premises consumption** only from the original container or a cooler-dispenser designed so that the original container becomes a part of the equipment, from a frozen drink dispenser or container used in automatic dispensing approved by the Board or from a carafe or decanter not exceeding 52 fluid ounces. **Do not open containers** of wine or beer sold for off-premises consumption and **do not allow** patrons to carry such merchandise out of your establishment in opened containers. However, wines sold for on-premises consumption may be removed from the premises if not consumed, but only in the original package with closure.
11. Persons under eighteen (**18**) **years of age** may not be permitted to sell, serve or dispense alcoholic beverages for on-premises consumption. Persons under the age of twenty-one (21) may not be permitted to prepare, mix or serve alcoholic beverages in the capacity of a bartender; however, a person who is 18 years of age or older may sell or serve beer for on-premises consumption at a counter in an establishment that sells beer only.
12. Persons under twenty-one (**21**) **years of age** may not purchase, possess or consume any alcoholic beverages nor may such alcoholic beverages be purchased for them.

13. **Intoxicated persons** may neither purchase, possess nor consume alcoholic beverages ,nor may such persons be allowed to loiter in your establishment.
14. Do not purchase wine or beer to be dispensed under your license from anyone who is not licensed to sell wine or beer at wholesale.
15. Do not obtain or accept from manufacturers, bottlers or wholesalers of alcoholic beverages any money, equipment, furniture, fixtures or other property except as authorized by law. The following equipment **may be furnished** to you for use in your licensed business by manufacturers, bottlers or wholesalers of alcoholic beverages.
 - a. **Wine and beer bottle openers or can openers-** The wholesale value may not exceed **\$5.00 per opener**. Openers in excess of \$5.00 in value may be sold to you at the reasonable open market price.
 - b. **Novelty and Specialty Items** .Items not in excess of \$5.00 in wholesale value, limited to one (1) item per retailer and one (1) **item per** employee, per visit, which may not be displayed on licensed premises. Such items may not be given to patrons on the premises of club licensees.
 - c. **Draft beer knobs** .Such knobs containing advertising matter, which must include the brand name and may further include only trademarks, housemarks and slogans, shall not include any illuminating devices or be otherwise adorned with mechanical devices which are not essential to the dispensing of draft beer.
 - d. **Draft beer tapping equipment** for use in your retail establishment- Such equipment is defined as all the parts **of** the mechanical system required for dispensing draft beer in a normal manner from the carbon dioxide tank through the beer faucet, **excluding the following:**
 1. **The carbonic** acid gas in containers, except that such gas may be sold only at the reasonable open market price in the locality where sold.
 2. Gas pressure gauges (may be sold at cost)
 3. Draft arms or standards
 4. Draft boxes
 5. Refrigeration equipment or components thereof
 - e. **Draft beer tapping equipment for use by a purchaser from you of draft beer** .A manufacturer, bottler or wholesaler of alcoholic beverages may **sell, rent or lend to** you for use by such a purchaser whatever tapping equipment may be necessary for the purchaser to extract draft beer from its container.

f. **Clip-ons and table tents**, relating to wine and beer, may be furnished by wine and beer manufacturers, bottlers or wholesalers. The clip-ons and table tents may contain a listing of not more than four(4) wines and four(4) beers.

g. **Wine tapping equipment** .Any manufacturer, bottler or wholesaler may sell to any retailer and install in the retailer's establishment tapping accessories such as standards, faucets, rods, vents, taps, tap standards, hoses, cold plates, washers, couplings, gas gauges, vent tongues, shanks, and check valves, if the tapping accessories are sold at a price not less than the cost to the industry member who initially purchased them, and if the price is collected within 30 days of the date of sale.

Wine tapping equipment shall not include the following:

1. **Draft wine knobs**, which may be given to a retailer;
2. **Carbonic acid** gas, nitrogen gas, or compressed air in containers, except that such gases may be sold in accordance with the reasonable open market prices in the locality where sold and if the price is collected within 30 days of the date of sale.
3. **Mechanical refrigeration** equipment.

h. Any beer tapping equipment may be **converted for wine tapping** by the beer wholesaler who originally placed the equipment on the premises of the retail licensee provided that such beer wholesaler is also a wine wholesale licensee. Moreover, at the time such equipment is converted for wine tapping, it must be sold, or have previously been sold, to the retail licensee at a price not less than the initial purchase price paid by such wholesaler.

16. Do not employ in your business any person who also is engaged in the manufacturing, bottling or wholesaling of alcoholic beverages, or any employee of any such person.

17. Manufacturers or wholesale licensees may provide the following business **entertainment** to you:

- a. Meals and beverages.
- b. Concerts, theatre and arts entertainment.
- c. Sports participation and entertainment.
- d. Entertainment at charitable events.
- e. Private parties.

Entertainment which involves **overnight stay is prohibited; no more than \$200 per 24-hour period** may be spent on any retail licensee or employee of any retail licensee, and no one person may be entertained more than **six(6) times by a wholesaler and six(6) times by a manufacturer** per calendar year. Such restrictions, however, do not apply to spouses of such individuals. Contact your local Special Agent for further details.

18. Do not purchase alcoholic beverages except for **cash paid at the time of or prior to delivery**. **“Cash” means currency (including coin), a money order or a valid check draft upon a bank account in the name of the organization** or an electronic transfer initiated by a wholesaler pursuant to Board Regulations. A money order or check may not be in an amount larger than the purchase price of the alcoholic beverages. Each invoice must be signed by the purchasing licensee or his duly authorized agent. However, if nonalcoholic merchandise is also sold to you by a wholesaler of wine or beer, you may use one check to pay for both the alcoholic and nonalcoholic merchandise as long as the check is in an amount no larger than the combined purchase price. A separate invoice shall be used for all nonalcoholic merchandise and a copy of that invoice shall be attached to your copy of the alcoholic merchandise invoice.
19. A club must allow agents of the **Board free access to its premises** at all times during business hours for the purpose of examining and inspecting such place and all records, invoices and accounts therein. If a club desires to keep locked certain closets, lockers and the like, the keys to such areas should be readily available to the person in charge.
20. A club may not have on its premises any **illegal gambling apparatus, machine or device** the possession of which is prohibited by law. It is no longer legal to possess a machine or device which operates on the coin-in-the slot principle unless it entitles one to receive only an additional chance or right to use the machine. Certain video card games are considered illegal gambling devices.
21. Do not participate in or be a party to any form of **illegal gambling in the licensed establishment**, such as by operating a “house game,” overseeing or supervising games of chance, discounting or redeeming chips or receiving a percentage of the proceeds of such games, charging for seats in such games, and the like. State law provides that the Board may suspend or revoke an alcoholic beverage license if the holder allows any form of illegal gambling to take place in his establishment.

Bingo games and raffles conducted under such premises are subject to special rules and it is suggested they be ascertained from the local Special Agent.
22. In determining whether an organization is entitled to hold a license, the Board will consider, but is not limited to, the following factors:
 - a. The club’s objectives and its compliance with the objectives.
 - b. The club’s qualification for tax exempt status from federal and state income taxes.
 - c. The club’s permitted use of club premises by nonmembers, including reciprocal arrangements.
23. **Do not discriminate** against any member of the Armed Forces of the United States by prices charged or otherwise.

24. **Members of clubs** may be only natural persons.
25. A wholesaler may not sell or offer to sell alcoholic beverages to a retailer with the privilege of **return**, except for ordinary and usual commercial reasons as set forth below:
 - a. **Products defective at the time of delivery** may be replaced.
 - b. **Products erroneously delivered** may be replaced or money refunded.
 - c. **Resalable draft beer** may be returned and money refunded.
 - d. **Products in the possession of a retail licensee whose license is terminated** by operation of law, voluntary surrender or order of the Board may be returned and money refunded upon permit issued by the Board.
 - e. **Products which have been condemned** and are not permitted to be sold in this state may be replaced or money refunded upon permit issued by the Board.
 - f. **Wine and beer may be exchanged on an identical quantity, brand or package basis for quality control purposes.** Any exchange shall be documented by the word “exchange” on a proper invoice.

Special Occupational Tax:

There is a **Special Occupational Tax** administered by the **Bureau of Alcohol, Tobacco and Firearms (BATF)**, United States Department of Treasury.

Retail Wine, Beer and Mixed Beverages Licensees ...	\$250.00
Wholesale Wine and Beer Distributors	\$500.00
Breweries	\$1 000.00/ \$500.00 *
Distilled Spirits Plants	\$1 000.00/ \$500.00 *
Farm Wineries and Wineries	\$1 000.00/ \$500.00 *

· The \$500.00 rate is for businesses with gross sales less than \$500,000.00.

This is an annual federal tax for which the **Virginia Alcoholic Beverage Control Board** has **no responsibility**. If you have any questions, contact the BATF office nearest you:

Norfolk	Richmond
Roanoke	Falls Church

Licensee Bulletin Update:

This Licensee Bulletin supersedes Licensee Bulletin 54-4 dated December 30, 1988, addressed to the same persons on the same subject.

The last document of this nature was Licensee Bulletin 56-3, dated December 31, 1990, addressed To All Concerned, subject: Types of Retail Wine, Beer, Mixed Beverage and Beverage Licenses Issued By the Board.

VIRGINIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

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