

§ 4.1-200. Exemptions from licensure.

The licensure requirements of this chapter shall not apply to:

1. A person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, who administers or causes to be administered alcoholic beverages to any bona fide patient or inmate of the institution who is in need of the same, either by way of external application or otherwise for emergency medicinal purposes. Such person may charge for the alcoholic beverages so administered, and carry such stock as may be necessary for this purpose. No charge shall be made of any patient for the alcoholic beverages so administered to him where the same have been supplied to the institution by the Board free of charge.
2. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicine containing sufficient medication to prevent it from being used as a beverage.
3. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicinal preparations manufactured in accordance with formulas prescribed by the United States pharmacopoeia; national formulary, patent and proprietary preparations; and other bona fide medicinal and technical preparations; which contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in such preparations, and no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, and which are manufactured and sold to be used exclusively as medicine and not as beverages.
4. The manufacture, sale and delivery or shipment of toilet, medicinal and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages.
5. The manufacture and sale of food products known as flavoring extracts which are manufactured and sold for cooking and culinary purposes only and not sold as beverages.
6. Any person who manufactures at his residence or at a gourmet brewing shop for domestic consumption at his residence, but not to be sold, dispensed or given away, except as hereinafter provided, wine or beer or both, in an amount not to exceed the limits permitted by federal law.

Any person who manufactures wine or beer in accordance with this subdivision may remove from his residence an amount not to exceed fifty liters of such wine or fifteen gallons of such beer on any one occasion for (i) personal or family use, provided such use does not violate the provisions of this title or Board regulations; (ii) giving to any person to whom wine or beer may be lawfully sold an amount not to exceed (a) one liter of wine per person per year or (b) seventy-two ounces of beer per person per year, provided such gift is for noncommercial purposes; or (iii) giving to any person to whom beer may lawfully be sold a sample of such wine or beer, not to exceed (a) one ounce of wine by volume or (b) two ounces of beer by volume for on-premises consumption at events organized for judging or exhibiting such wine or beer, including events held on the premises of a retail licensee. Nothing in this paragraph shall be construed to authorize the sale of such wine or beer.

The provision of this subdivision shall not apply to any person who resides on property on which a winery, farm winery, or brewery is located.

7. Any person who keeps and possesses lawfully acquired alcoholic beverages in his residence for his personal use or that of his family. However, such alcoholic beverages may be served or given to guests in such residence by such person, his family or servants when (i) such guests are 21 years of age or older or are accompanied by a parent, guardian, or spouse who is 21 years of age or older and (ii) such service or gift is in no way a shift or device to evade the provisions of this title.
8. Any person who manufactures and sells cider to distillery licensees, or any person who manufactures wine from grapes grown by such person and sells it to winery licensees.

9. The sale of wine and beer in or through canteens or post exchanges on United States reservations when permitted by the proper authority of the United States.

10. The keeping and consumption of any lawfully acquired alcoholic beverages at a private meeting or private party limited in attendance to members and guests of a particular group, association or organization at a banquet or similar affair, or at a special event, if a banquet license has been granted.

(Code 1950, §§ 4-50, 4-89, 4-90; 1954, c. 147; 1970, cc. 113, 541; 1972, cc. 75, 76, 741; 1973, c. 413; 1975, c. 408; 1976, c. 37; 1981, c. 410; 1984, c. 200; 1992, c. 349; 1993, c. 866; 1995, cc. 497, 518; 2001, c. 117; 2006, cc. 274, 740.)

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§ 4.1-304. Persons to whom alcoholic beverages may not be sold; penalties.

No person shall, except pursuant to subdivisions 1 through 5 of § [4.1-200](#), sell any alcoholic beverages to any person when at the time of such sale he knows or has reason to believe that the person to whom the sale is made is (i) less than twenty-one years of age, (ii) interdicted, or (iii) intoxicated.

Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

(Code 1950, § 4-62; 1970, c. 686; 1974, c. 460; 1979, c. 537; 1981, c. 24; 1982, c. 66; 1983, c. 608; 1985, c. 559; 1990, c. 771; 1993, c. 866.)

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§ 4.1-305. Purchasing or possessing alcoholic beverages unlawful in certain cases; venue; exceptions; penalty; forfeiture; deferred proceedings; treatment and education programs and services.

A. No person to whom an alcoholic beverage may not lawfully be sold under § [4.1-304](#) shall consume, purchase or possess, or attempt to consume, purchase or possess, any alcoholic beverage, except (i) pursuant to subdivisions 1 through 7 of § [4.1-200](#); (ii) where possession of the alcoholic beverages by a person less than 21 years of age is due to such person's making a delivery of alcoholic beverages in pursuance of his employment or an order of his parent; or (iii) by any state, federal, or local law-enforcement officer when possession of an alcoholic beverage is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the alcohol was possessed or consumed, or in the county or city in which the person exhibits evidence of physical indicia of consumption of alcohol. It shall be an affirmative defense to a charge of a violation of this subsection if the defendant shows that such consumption or possession was pursuant to subdivision 7 of § [4.1-200](#).

B. No person under the age of 21 years shall use or attempt to use any (i) altered, fictitious, facsimile or simulated license to operate a motor vehicle, (ii) altered, fictitious, facsimile or simulated document, including, but not limited to a birth certificate or student identification card, or (iii) motor vehicle operator's license, birth certificate or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase or attempt to consume or purchase an alcoholic beverage.

C. Any person found guilty of a violation of this section shall be guilty of a Class 1 misdemeanor; and upon conviction, (i) such person shall be ordered to pay a mandatory minimum fine of \$500 or ordered to perform a mandatory minimum of 50 hours of community service as a condition of probation supervision and (ii) the license to operate a motor vehicle in the Commonwealth of any such person age 18 or older shall be suspended for a period of not less than six months and not more than one year; the license to operate a motor vehicle in the Commonwealth of any juvenile shall be handled in accordance with the provisions of § [16.1-278.9](#). The court, in its discretion and upon a demonstration of hardship, may authorize an adult convicted of a violation of this section the use of a restricted permit to operate a motor vehicle in accordance with the provisions of subsection E of § [18.2-271.1](#) or when referred to a local community-based probation services agency established pursuant to Article 9 (§ [9.1-173](#) et seq.) of Chapter 1 of Title 9.1. During the period of license suspension, the court may require an adult who is issued a restricted permit under the provisions of this subsection to be (a) monitored by an alcohol safety action program, or (b) supervised by a local community-based probation services agency established pursuant to Article 9 (§ [9.1-173](#) et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. The alcohol safety action program or local community-based probation services agency shall report to the court any violation of the terms of the restricted permit, the required alcohol safety action program monitoring or local community-based probation services and any condition related thereto or any failure to remain alcohol-free during the suspension period.

D. Any alcoholic beverage purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § [4.1-338](#).

E. Any retail licensee who in good faith promptly notifies the Board or any state or local law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from an administrative penalty for a violation of § [4.1-304](#).

F. When any adult who has not previously been convicted of underaged consumption, purchase or possession of alcoholic beverages in Virginia or any other state or the United States is before the court, the court may, upon entry of a plea of guilty or not guilty, if the facts found by the court would justify a finding of guilt of a violation of subsection A, without entering a judgment of guilt and with the consent of the accused, defer further proceedings and place him on probation subject to appropriate conditions. Such conditions may include the imposition of the license suspension and restricted license provisions in subsection C. However, in all such deferred proceedings, the court shall require the accused to enter a treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. If the accused is placed on local community-based probation, the program or services shall be located in any of the judicial districts served by the local community-based probation

services agency or in any judicial district ordered by the court when the placement is with an alcohol safety action program. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, (ii) certified by the Commission on VASAP, or (iii) by a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ [9.1-173](#) et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services rather than the alcohol safety action program, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

Upon violation of a condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the conditions, the court shall discharge the person and dismiss the proceedings against him without an adjudication of guilt. A discharge and dismissal hereunder shall be treated as a conviction for the purpose of applying this section in any subsequent proceedings.

When any juvenile is found to have committed a violation of subsection A, the disposition of the case shall be handled according to the provisions of Article 9 (§ [16.1-278](#) et seq.) of Chapter 11 of Title 16.1.

(Code 1950, § 4-62; 1970, c. 686; 1974, c. 460; 1979, c. 537; 1981, c. 24; 1982, c. 66; 1983, c. 608; 1985, c. 559; 1990, c. 771; 1993, c. 866; 1995, c. 374; 1996, cc. 626, 730; 2000, c. 325; 2002, c. 338; 2003, cc. 845, 849; 2004, cc. 322, 461; 2005, c. 895; 2006, c. 207; 2007, c. 133; 2009, cc. 248, 726, 813, 840.)

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