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## SENATE BILL NO. 824

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services  
on January 31, 2020)

(Patron Prior to Substitute—Senator Ruff)

A *BILL to amend and reenact § 4.1-119, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to alcoholic beverage control; distiller licenses; Internet orders and shipments.*

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

**1. That § 4.1-119, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-119. (Effective until July 1, 2020) Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. *The Authority may include provisions in such agency agreements that allow the licensed distiller to sell spirits and low alcohol beverage coolers through Internet orders and ship such orders directly to consumers and licensees within the Commonwealth; however, no such distiller shall be permitted to sell more than six bottles of spirits or two cases of low alcohol beverage coolers to any one consumer or licensee per month. For the purposes of this paragraph, bottles of spirits shall have a maximum capacity of not more than 1.75 liters. The direct shipment of spirits or low alcohol beverage coolers pursuant to this subsection shall be by approved common carriers only and in accordance with Board regulations. Such regulations shall (a) include a process through which common carriers may apply for approval to provide common carriage of spirits or low alcohol beverage coolers shipped by distillers pursuant to this subsection; (b) require the recipient to demonstrate, upon delivery, that he is at least 21 years of age; (c) require the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board; and (d) require the common carrier to submit to the Board such information as the Board may prescribe. Such common carriers shall refuse delivery when the proposed recipient appears to be under 21 years of age and fails to present valid identification. All licensees shipping spirits or low alcohol beverage coolers pursuant to this subsection shall affix a conspicuous notice in 16-point type or larger to the outside of each package stating, "CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGE 21 YEARS OR OLDER*

60 *REQUIRED FOR DELIVERY.*" Any delivery of alcoholic beverages to a minor by a common carrier  
61 shall constitute a violation by the common carrier. The common carrier and the distiller licensee shall  
62 be liable only for their independent acts.

63 The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this  
64 subsection a commission of not less than 20 percent of the retail price of the goods sold.

65 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries  
66 and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of  
67 § 4.1-201 to be ~~(a)~~ (1) (a) additionally aged by the receiving distillery in order to increase the quality  
68 and flavor of such alcoholic beverages or ~~(2)~~ (b) used in a low alcohol beverage cooler and ~~(b)~~ (2)  
69 bottled by the receiving distillery.

70 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without  
71 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151  
72 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

73 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to  
74 subsection G sold in government stores established by the Board on a distiller's licensed premises, shall  
75 be in closed containers, sealed and affixed with labels prescribed by the Board.

76 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part  
77 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm  
78 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a  
79 permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic  
80 beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision  
81 A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may  
82 not lawfully be sold pursuant to § 4.1-304.

83 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed  
84 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic  
85 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or  
86 cider samples are manufactured within the same licensed premises or on contiguous premises of such  
87 agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer,  
88 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which  
89 case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than  
90 four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three  
91 ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a  
92 method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such  
93 agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may  
94 contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the  
95 licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured  
96 on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board  
97 appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of  
98 spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed  
99 distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed  
100 premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

101 The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

102 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in  
103 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or  
104 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii)  
105 provide notice to licensees on Board policies relating to the assignment of government stores from  
106 which licensees may purchase products and any procedure for the licensee to elect to make purchases  
107 from an alternative government store.

108 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in  
109 payment for any purchase or series of purchases. The Board may adopt regulations which provide for  
110 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where  
111 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by  
112 any consumer.

113 J. Before the Authority implements any increase in the markup on distilled spirits or any change to  
114 the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the  
115 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public  
116 notice before such a price increase takes effect; (ii) provide the opportunity for submission of written  
117 comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of  
118 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal  
119 comments before implementing such a price increase.

120 **§ 4.1-119. (Effective July 1, 2020, until July 1, 2022) Operation of government stores.**

121 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and

operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. *The Authority may include provisions in such agency agreements that allow the licensed distiller to sell spirits and low alcohol beverage coolers through Internet orders and ship such orders directly to consumers and licensees within the Commonwealth; however, no such distiller shall be permitted to sell more than six bottles of spirits or two cases of low alcohol beverage coolers to any one consumer or licensee per month. For the purposes of this paragraph, bottles of spirits shall have a maximum capacity of not more than 1.75 liters. The direct shipment of spirits or low alcohol beverage coolers pursuant to this subsection shall be by approved common carriers only and in accordance with Board regulations. Such regulations shall (a) include a process through which common carriers may apply for approval to provide common carriage of spirits or low alcohol beverage coolers shipped by distillers pursuant to this subsection; (b) require the recipient to demonstrate, upon delivery, that he is at least 21 years of age; (c) require the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board; and (d) require the common carrier to submit to the Board such information as the Board may prescribe. Such common carriers shall refuse delivery when the proposed recipient appears to be under 21 years of age and fails to present valid identification. All licensees shipping spirits or low alcohol beverage coolers pursuant to this subsection shall affix a conspicuous notice in 16-point type or larger to the outside of each package stating, "CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY." Any delivery of alcoholic beverages to a minor by a common carrier shall constitute a violation by the common carrier. The common carrier and the distiller licensee shall be liable only for their independent acts.*

The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. Monthly revenue transfers from the licensed distiller to the Board ~~(a)~~ (1) may be submitted electronically and through other methods approved by the Board and ~~(b)~~ (2) notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, shall be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be ~~(a)~~ ~~(1)~~ (A) (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or ~~(2)~~ (ii) used in a low alcohol beverage cooler and ~~(b)~~ (B) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151

except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

**§ 4.1-119. (Effective July 1, 2022) Operation of government stores.**

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

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brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. *The Authority may include provisions in such agency agreements that allow the licensed distiller to sell spirits and low alcohol beverage coolers through Internet orders and ship such orders directly to consumers and licensees within the Commonwealth; however, no such distiller shall be permitted to sell more than six bottles of spirits or two cases of low alcohol beverage coolers to any one consumer or licensee per month. For the purposes of this paragraph, bottles of spirits shall have a maximum capacity of not more than 1.75 liters. The direct shipment of spirits or low alcohol beverage coolers pursuant to this subsection shall be by approved common carriers only and in accordance with Board regulations. Such regulations shall (a) include a process through which common carriers may apply for approval to provide common carriage of spirits or low alcohol beverage coolers shipped by distillers pursuant to this subsection; (b) require the recipient to demonstrate, upon delivery, that he is at least 21 years of age; (c) require the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board; and (d) require the common carrier to submit to the Board such information as the Board may prescribe. Such common carriers shall refuse delivery when the proposed recipient appears to be under 21 years of age and fails to present valid identification. All licensees shipping spirits or low alcohol beverage coolers pursuant to this subsection shall affix a conspicuous notice in 16-point type or larger to the outside of each package stating, "CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY." Any delivery of alcoholic beverages to a minor by a common carrier shall constitute a violation by the common carrier. The common carrier and the distiller licensee shall be liable only for their independent acts.*

The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. Monthly revenue transfers from the licensed distiller to the Board ~~(a)~~ (1) may be submitted electronically and through other methods approved by the Board and ~~(b)~~ (2) notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, shall be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be ~~(a)~~ ~~(+)~~ (A) (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or ~~(2)~~ (ii) used in a low alcohol beverage cooler and ~~(b)~~ (B) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision

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310 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or  
311 cider samples are manufactured within the same licensed premises or on contiguous premises of such  
312 agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer,  
313 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which  
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328 bailment area to the tasting area of a government store established by the Board on the distiller's  
329 licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

330 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in  
331 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or  
332 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii)  
333 provide notice to licensees on Board policies relating to the assignment of government stores from  
334 which licensees may purchase products and any procedure for the licensee to elect to make purchases  
335 from an alternative government store.

336 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in  
337 payment for any purchase or series of purchases. The Board may adopt regulations which provide for  
338 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where  
339 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by  
340 any consumer.

341 J. Before the Authority implements any increase in the markup on distilled spirits or any change to  
342 the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the  
343 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public  
344 notice before such a price increase takes effect; (ii) provide the opportunity for submission of written  
345 comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of  
346 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal  
347 comments before implementing such a price increase.