2021 SPECIAL SESSION I

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VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend and reenact § 4.1-119, as it is currently effective and as it shall become effective, of
 3 the Code of Virginia, relating to alcoholic beverage control; operation of government stores; sale of
 4 low alcohol beverage coolers.

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Approved

Be it enacted by the General Assembly of Virginia:

8 1. That § 4.1-119, as it is currently effective and as it shall become effective, of the Code of 9 Virginia is amended and reenacted as follows:

§ 4.1-119. (Effective until July 1, 2021) 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 spirits, wine not produced by farm wineries, low alcohol beverage coolers produced by licensed distillers, 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.

18 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give 19 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 20 21 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 22 23 the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages 24 to federal instrumentalities (i) authorized and operating under the laws of the United States and 25 regulations of the United States Department of Defense and (ii) located within the boundaries of federal 26 enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be 27 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 28 29 government stores, which retail price may include promotional, volume, or other discounts deemed 30 appropriate by the Board.

31 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall 32 carry out the provisions of this title and Board regulations governing the operation of government stores 33 and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license 34 or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage 35 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 36 37 licensed by the Board and conducted for the purpose of featuring and educating the consuming public 38 about spirits products.

39 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions 40 of this title, Board regulations, and the terms of the agency agreement between the Authority and the 41 licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement 42 authorized by this subsection a commission of not less than 20 percent of the retail price of the goods 43 sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be 44 45 submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups. 46

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) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (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.

55 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to 56 subsection G sold in government stores established by the Board on a distiller's licensed premises, shall

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be in closed containers, sealed and affixed with labels prescribed by the Board. 57

58 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part 59 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm 60 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a 61 permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic 62 beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision 63 A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may 64 not lawfully be sold pursuant to \S 4.1-304.

65 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed 66 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic 67 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or 68 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, 69 70 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which 71 case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 72 four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three 73 ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a 74 method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such 75 agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may 76 contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the 77 licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured 78 on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board 79 appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of 80 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 81 premises or on contiguous premises of the licensed distillery shall be purchased from the Board. 82

83 The Board shall establish guidelines governing tasting events conducted pursuant to this subsection. 84 Any case fee charged to a licensed distiller by the Board for moving spirits from the production and 85 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. 86

87 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in 88 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or 89 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) 90 provide notice to licensees on Board policies relating to the assignment of government stores from 91 which licensees may purchase products and any procedure for the licensee to elect to make purchases 92 from an alternative government store.

93 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in 94 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 95 96 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by 97 any consumer.

98 J. Before the Authority implements any increase in the markup on distilled spirits or any change to 99 the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the 100 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public 101 notice before such a price increase takes effect; (ii) provide the opportunity for submission of written 102 comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of 103 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal 104 comments before implementing such a price increase.

§ 4.1-119. (Effective July 1, 2021, until July 1, 2022) Operation of government stores.

105 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and 106 107 operate government stores for the sale of alcoholic beverages, other than beer and spirits, wine not 108 produced by farm wineries, low alcohol beverage coolers produced by licensed distillers, vermouth, 109 mixers, products used in connection with distilled spirits, including any garnish or garnishment applied 110 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, 111 112 and towns considered advisable by the Board. The Board may discontinue any such store.

113 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give 114 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 115 brands of alcoholic beverages and other Board-approved products that are sold in government stores. 116 Differences in the cost of operating stores, and market competition and conditions may be reflected in 117

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118 the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages 119 to federal instrumentalities (i) authorized and operating under the laws of the United States and 120 regulations of the United States Department of Defense and (ii) located within the boundaries of federal 121 enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be 122 greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection 123 shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at 124 government stores, which retail price may include promotional, volume, or other discounts deemed 125 appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall 126 127 carry out the provisions of this title and Board regulations governing the operation of government stores 128 and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license 129 or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage 130 coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government 131 stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event 132 licensed by the Board and conducted for the purpose of featuring and educating the consuming public 133 about spirits products.

134 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions 135 of this title, Board regulations, and the terms of the agency agreement between the Authority and the 136 licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement 137 authorized by this subsection a commission of not less than 20 percent of the retail price of the goods 138 sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be 139 submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to 140 141 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 444 § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and 445 flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the 446 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 14 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.

160 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed 161 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic 162 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 163 164 agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, 165 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which 166 case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 167 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person 168 per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each 169 consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of 170 a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on 171 the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 172 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous 173 premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep 174 on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the 175 licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in 176 such samples that are not manufactured on the licensed premises or on contiguous premises of the 177 licensed distillery shall be purchased from the Board.

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

179 Any case fee charged to a licensed distiller by the Board for moving spirits from the production and 180 bailment area to the tasting area of a government store established by the Board on the distiller's 181 licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

182 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 183 184 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) 185 provide notice to licensees on Board policies relating to the assignment of government stores from 186 which licensees may purchase products and any procedure for the licensee to elect to make purchases 187 from an alternative government store.

188 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in 189 payment for any purchase or series of purchases. The Board may adopt regulations which provide for 190 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where 191 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by 192 any consumer.

193 J. Before the Authority implements any increase in the markup on distilled spirits or any change to 194 the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the 195 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public 196 notice before such a price increase takes effect; (ii) provide the opportunity for submission of written 197 comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of 198 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal 199 comments before implementing such a price increase. 200

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

201 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and 202 operate government stores for the sale of alcoholic beverages, other than beer and spirits, wine not produced by farm wineries, low alcohol beverage coolers produced by licensed distillers, vermouth, 203 mixers, products used in connection with distilled spirits, including any garnish or garnishment applied 204 to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and 205 206 products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, 207 and towns considered advisable by the Board. The Board may discontinue any such store.

208 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give 209 preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

210 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. 211 212 Differences in the cost of operating stores, and market competition and conditions may be reflected in 213 the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages 214 to federal instrumentalities (i) authorized and operating under the laws of the United States and 215 regulations of the United States Department of Defense and (ii) located within the boundaries of federal 216 enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be 217 greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection 218 shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at 219 government stores, which retail price may include promotional, volume, or other discounts deemed 220 appropriate by the Board.

221 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall 222 carry out the provisions of this title and Board regulations governing the operation of government stores 223 and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license 224 or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage 225 coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government 226 stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event 227 licensed by the Board and conducted for the purpose of featuring and educating the consuming public 228 about spirits products.

229 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions 230 of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement 231 232 authorized by this subsection a commission of not less than 20 percent of the retail price of the goods 233 sold. If the licensed distiller makes application and meets certain requirements established by the Board, 234 such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be 235 submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to 236 the amount due to the Board in applicable taxes and markups.

237 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries 238 and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and 239

flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by thereceiving 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 14 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 255 256 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic 257 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or 258 cider samples are manufactured within the same licensed premises or on contiguous premises of such 259 agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, 260 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which 261 case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 262 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person 263 per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each 264 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 265 266 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 267 268 premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep 269 on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the 270 licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in 271 such samples that are not manufactured on the licensed premises or on contiguous premises of the 272 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.

295 2. That the provisions of this act shall become effective on January 1, 2022.

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