2021 SESSION

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1	SENATE BILL NO. 1428
2 3	Senate Amendments in [] - February 4, 2021
3	A BILL to amend and reenact § 4.1-119, as it is currently effective and as it shall become effective, of
4	the Code of Virginia, relating to alcoholic beverage control; operation of government stores; sale of
5	low alcohol beverage coolers.
6	
	Patron Prior to Engrossment—Senator Locke
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8	Referred to Committee on Rehabilitation and Social Services
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10	Be it enacted by the General Assembly of Virginia:
11	1. That § 4.1-119, as it is currently effective and as it shall become effective, of the Code of
12	Virginia is amended and reenacted as follows:
13	§ 4.1-119. (Effective until July 1, 2021) Operation of government stores.
14	A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and
15	operate government stores for the sale of [alcoholic beverages, other than beer and spirits,] wine [not
16] produced by farm wineries [, and ,] low alcohol beverage coolers [not] produced by licensed
17	distillers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or
18	garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from
19	time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in
20	such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such
21	store.
22	B. With respect to the sale of wine or cider produced by farm wineries, the Board may give
23	preference to farm wineries that produce 2,500 cases or less of wine or cider per year.
24	C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and
25	brands of alcoholic beverages and other Board-approved products that are sold in government stores.
26	Differences in the cost of operating stores, and market competition and conditions may be reflected in
27	the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages
28	to federal instrumentalities (i) authorized and operating under the laws of the United States and
29	regulations of the United States Department of Defense and (ii) located within the boundaries of federal
30	enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be
31	greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection
32	shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at
33	government stores, which retail price may include promotional, volume, or other discounts deemed
34	appropriate by the Board.
35	D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall
36	carry out the provisions of this title and Board regulations governing the operation of government stores
37	and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license
38	or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage
39	coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government
40	stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event
41 42	licensed by the Board and conducted for the purpose of featuring and educating the consuming public
42 43	about spirits products. Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions
43 44	of this title, Board regulations, and the terms of the agency agreement between the Authority and the
45	licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement
4 6	authorized by this subsection a commission of not less than 20 percent of the retail price of the goods
47	sold. If the licensed distiller makes application and meets certain requirements established by the Board,
48	such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be
49	submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to
50	the amount due to the Board in applicable taxes and markups.
51	For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries
52	and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of
53	§ 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and
54	flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the
55	receiving distillery.
56	E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without
57	distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151
58	except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

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59 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to 60 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. 61

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part 62 63 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm 64 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a 65 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 66 A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may 67 68 not lawfully be sold pursuant to \S 4.1-304.

69 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed 70 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic 71 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 72 73 agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, 74 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which 75 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 76 77 ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a 78 method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such 79 agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may 80 contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the 81 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 82 83 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 84 85 distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed 86 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. 87 88 Any case fee charged to a licensed distiller by the Board for moving spirits from the production and 89 bailment area to the tasting area of a government store established by the Board on the distiller's 90 licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

91 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in 92 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or 93 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) 94 provide notice to licensees on Board policies relating to the assignment of government stores from 95 which licensees may purchase products and any procedure for the licensee to elect to make purchases 96 from an alternative government store.

97 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in 98 payment for any purchase or series of purchases. The Board may adopt regulations which provide for 99 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where 100 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by 101 any consumer.

102 J. Before the Authority implements any increase in the markup on distilled spirits or any change to 103 the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the 104 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public 105 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 106 107 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal 108 comments before implementing such a price increase. 109

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

110 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and 111 operate government stores for the sale of [alcoholic beverages, other than beer and spirits,] wine [not 112] produced by farm wineries [, and ,] low alcohol beverage coolers [not] produced by licensed 113 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 114 time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in 115 such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such 116 117 store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give 118 119 preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

120 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and

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121 brands of alcoholic beverages and other Board-approved products that are sold in government stores. 122 Differences in the cost of operating stores, and market competition and conditions may be reflected in 123 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 124 125 regulations of the United States Department of Defense and (ii) located within the boundaries of federal 126 enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be 127 greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection 128 shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at 129 government stores, which retail price may include promotional, volume, or other discounts deemed 130 appropriate by the Board.

131 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall 132 carry out the provisions of this title and Board regulations governing the operation of government stores 133 and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license 134 or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage 135 coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government 136 stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event 137 licensed by the Board and conducted for the purpose of featuring and educating the consuming public 138 about spirits products.

139 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions 140 of this title, Board regulations, and the terms of the agency agreement between the Authority and the 141 licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement 142 authorized by this subsection a commission of not less than 20 percent of the retail price of the goods 143 sold. If the licensed distiller makes application and meets certain requirements established by the Board, 144 such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to 145 146 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) 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.

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

158 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part 159 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm 160 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a 161 permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic 162 beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision 163 A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may 164 not lawfully be sold pursuant to § 4.1-304.

165 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 166 167 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or 168 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, 169 170 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which 171 case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 172 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person 173 per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each 174 consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of 175 a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on 176 the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 177 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous 178 premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep 179 on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the 180 licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in 181 such samples that are not manufactured on the licensed premises or on contiguous premises of the

182 licensed distillery shall be purchased from the Board.

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

184 Any case fee charged to a licensed distiller by the Board for moving spirits from the production and 185 bailment area to the tasting area of a government store established by the Board on the distiller's 186 licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

187 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in 188 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or 189 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) 190 provide notice to licensees on Board policies relating to the assignment of government stores from 191 which licensees may purchase products and any procedure for the licensee to elect to make purchases 192 from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in 193 payment for any purchase or series of purchases. The Board may adopt regulations which provide for 194 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where 195 196 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by 197 any consumer.

198 J. Before the Authority implements any increase in the markup on distilled spirits or any change to 199 the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the 200 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public 201 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 202 203 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal 204 comments before implementing such a price increase. 205

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214 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give 215 preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

216 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and 217 brands of alcoholic beverages and other Board-approved products that are sold in government stores. 218 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 219 220 to federal instrumentalities (i) authorized and operating under the laws of the United States and 221 regulations of the United States Department of Defense and (ii) located within the boundaries of federal 222 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 223 224 shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at 225 government stores, which retail price may include promotional, volume, or other discounts deemed 226 appropriate by the Board.

227 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall 228 carry out the provisions of this title and Board regulations governing the operation of government stores 229 and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license 230 or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage 231 coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government 232 stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event 233 licensed by the Board and conducted for the purpose of featuring and educating the consuming public 234 about spirits products.

235 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions 236 of this title, Board regulations, and the terms of the agency agreement between the Authority and the 237 licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement 238 authorized by this subsection a commission of not less than 20 percent of the retail price of the goods 239 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 240 submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to 241 242 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 243

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§ 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 101
except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

251 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to
252 subsection G sold in government stores established by the Board on a distiller's licensed premises, shall
253 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.

261 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed 262 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic 263 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or 264 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, 265 266 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which 267 case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 268 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person 269 per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each 270 consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of 271 a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on 272 the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 273 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous 274 premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep 275 on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the 276 licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in 277 such samples that are not manufactured on the licensed premises or on contiguous premises of the 278 licensed distillery shall be purchased from the Board.

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

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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 and 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.

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