

20102485D

SENATE BILL NO. 824

Offered January 8, 2020

Prefiled January 8, 2020

A *BILL to amend and reenact §§ 4.1-103 and 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.*

Patron—Ruff

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-103 and 4.1-119, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 4.1-103. General powers of Board.

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
2. Adopt, use, and alter at will a common seal;
3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;
4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this title, including agreements with any person or federal agency;
5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;
6. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;
7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;
8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;
9. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;
10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;
11. Buy, import and, sell, and ship alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale. *Sales of alcoholic beverages may be made in government stores or through Internet orders and the Board may ship such orders directly to consumers or licensees within the Commonwealth;*
12. Buy and sell any mixers;

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59 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international
60 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass),
61 and 25 (clothing);

62 14. Control the possession, sale, transportation and delivery of alcoholic beverages;

63 15. Determine, subject to § 4.1-121, the localities within which government stores shall be
64 established or operated and the location of such stores;

65 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
66 beverages to and from such warehouses;

67 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
68 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
69 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest
70 therein, at such annual rental and on such terms and conditions as may be determined by the Board;
71 lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest
72 therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual
73 rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey
74 any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired
75 or held by the Authority on such terms and conditions as may be determined by the Board; and occupy
76 and improve any land or building required for the purposes of this title;

77 18. Purchase or otherwise acquire title to any land or building required for the purposes of this title
78 and sell and convey the same by proper deed, with the consent of the Governor;

79 19. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be
80 considered necessary or useful in carrying into effect the purposes of this title, including rectifying,
81 blending and processing plants. The Board may purchase, build, lease, and operate distilleries and
82 manufacture alcoholic beverages;

83 20. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to
84 be kept or sold under this title, and prescribe the form and content of all labels and seals to be placed
85 thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or
86 crystalline alcohol;

87 21. Appoint every agent and employee required for its operations; require any or all of them to give
88 bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the
89 services of experts and professionals;

90 22. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the
91 production of records, memoranda, papers and other documents before the Board or any agent of the
92 Board; and administer oaths and take testimony thereunder. The Board may authorize any Board
93 member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take
94 testimony thereunder, and decide cases, subject to final decision by the Board, on application of any
95 party aggrieved. The Board may enter into consent agreements and may request and accept from any
96 applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a
97 license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may
98 include an admission or a finding of a violation. A consent agreement shall not be considered a case
99 decision of the Board and shall not be subject to judicial review under the provisions of the
100 Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future
101 disciplinary proceedings;

102 23. Make a reasonable charge for preparing and furnishing statistical information and compilations to
103 persons other than (i) officials, including court and police officials, of the Commonwealth and of its
104 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
105 interest in obtaining the information requested if such information is not to be used for commercial or
106 trade purposes;

107 24. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
108 and § 4.1-111;

109 25. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and
110 sale of alcoholic beverages;

111 26. Assess and collect civil penalties and civil charges for violations of this title and Board
112 regulations;

113 27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

114 28. Establish minimum food sale requirements for all retail licensees;

115 29. Review and approve any proposed legislative or regulatory changes suggested by the Chief
116 Executive Officer as the Board deems appropriate;

117 30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement
118 activities undertaken to enforce the provisions of this title; and

119 31. Do all acts necessary or advisable to carry out the purposes of this title.

120 **§ 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 within the Commonwealth for personal consumption.* 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.

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.

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

182 ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a
183 method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such
184 agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may
185 contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the
186 licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured
187 on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board
188 appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of
189 spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed
190 distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed
191 premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

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

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

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

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

211 **§ 4.1-119. (Effective July 1, 2020, until July 1, 2022) Operation of government stores.**

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

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

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

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

240 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions
241 of this title, Board regulations, and the terms of the agency agreement between the Authority and the
242 licensed distiller. *The Authority may include provisions in such agency agreements that allow the*
243 *licensed distiller to sell spirits and low alcohol beverage coolers through Internet orders and ship such*

orders directly to consumers within the Commonwealth for personal consumption. 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) may be submitted electronically and through other methods approved by the Board and (b) 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) 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.

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.

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 within the Commonwealth for personal consumption.* 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) may be submitted electronically and through other methods approved by the Board and (b) 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) 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.

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.