

22103888D

**HOUSE BILL NO. 950**

Offered January 12, 2022

Prefiled January 12, 2022

A *BILL to amend and reenact §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 3.2-1010, 3.2-3906, 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4116, 4.1-100, 4.1-101.02, 4.1-101.07, 4.1-101.09, 4.1-101.010, 4.1-101.1, 4.1-103, 4.1-104, 4.1-105, 4.1-106, 4.1-107, 4.1-111, 4.1-112.2, 4.1-113.1, 4.1-115, 4.1-116, 4.1-118, 4.1-119, as it is currently effective and as it shall become effective, 4.1-122, 4.1-124, 4.1-128, 4.1-200, 4.1-201, 4.1-202, 4.1-205, 4.1-206.1, as it is currently effective and as it shall become effective, 4.1-206.2, 4.1-206.3, as it is currently effective and as it shall become effective, 4.1-212, 4.1-213, 4.1-215, 4.1-216, 4.1-216.1, 4.1-222, 4.1-224, 4.1-225, 4.1-227, 4.1-230, 4.1-240, 4.1-300, 4.1-302, 4.1-303, 4.1-310, 4.1-310.1, 4.1-320, 4.1-323, 4.1-324, 4.1-325, 4.1-325.2, 4.1-329, 4.1-336, 4.1-337, 4.1-338, 4.1-348, 4.1-349, 4.1-350, 4.1-351, 4.1-352, 4.1-353, 4.1-354, 4.1-606, 4.1-614, 4.1-1100, 4.1-1101, 4.1-1101.1, 5.1-13, 9.1-101, as it is currently effective and as it shall become effective, 9.1-400, 9.1-500, 9.1-801, 9.1-1101, 15.2-2820, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 17.1-276, 18.2-46.1, 18.2-57, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.03, 18.2-308.012, 18.2-308.016, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1, 51.1-212, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, 54.1-3442.8, 58.1-3, 59.1-148.3, 65.2-107, 65.2-402, and 65.2-402.1 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 3.2-4117.1 and 3.2-4117.2, by adding in Chapter 41.1 of Title 3.2 a section numbered 3.2-4122, by adding in Chapter 51 of Title 3.2 an article numbered 6, consisting of sections numbered 3.2-5145.6 through 3.2-5145.9, by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1009, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1111, and 4.1-1113 through 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1207, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1312, by adding in Title 4.1 a chapter numbered 14, consisting of sections numbered 4.1-1400 through 4.1-1405, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding in Article 3 of Chapter 9 of Title 22.1 a section numbered 22.1-141.3; and to repeal Article 30 (§§ 2.2-2499.5 through 2.2-2499.8) of Chapter 24 of Title 2.2, Chapter 15 (§§ 4.1-1500 through 4.1-1503) of Title 4.1, and §§ 18.2-248.1 and 18.2-251.1 of the Code of Virginia, relating to cannabis control; retail market; penalties.*

Patron—Webert

Committee Referral Pending

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

1. That §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 3.2-1010, 3.2-3906, 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4116, 4.1-100, 4.1-101.02, 4.1-101.07, 4.1-101.09, 4.1-101.010, 4.1-101.1, 4.1-103, 4.1-104, 4.1-105, 4.1-106, 4.1-107, 4.1-111, 4.1-112.2, 4.1-113.1, 4.1-115, 4.1-116, 4.1-118, 4.1-119, as it is currently effective and as it shall become effective, 4.1-122, 4.1-124, 4.1-128, 4.1-200, 4.1-201, 4.1-202, 4.1-205, 4.1-206.1, as it is currently effective and as it shall become effective, 4.1-206.2, 4.1-206.3, as it is currently effective and as it shall become effective, 4.1-212, 4.1-213, 4.1-215, 4.1-216, 4.1-216.1, 4.1-222, 4.1-224, 4.1-225, 4.1-227, 4.1-230, 4.1-240, 4.1-300, 4.1-302, 4.1-303, 4.1-310, 4.1-310.1, 4.1-320, 4.1-323, 4.1-324, 4.1-325, 4.1-325.2, 4.1-329, 4.1-336, 4.1-337, 4.1-338, 4.1-348, 4.1-349, 4.1-350, 4.1-351, 4.1-352, 4.1-353, 4.1-354, 4.1-606, 4.1-614, 4.1-1100, 4.1-1101, 4.1-1101.1, 5.1-13, 9.1-101, as it is currently effective and as it shall become effective, 9.1-400, 9.1-500, 9.1-801, 9.1-1101, 15.2-2820, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 17.1-276, 18.2-46.1, 18.2-57, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.03, 18.2-308.012, 18.2-308.016, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303, 19.2-303.01, 19.2-386.22 through

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59 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently effective and as it shall become effective,  
60 19.2-392.02, 19.2-392.6, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 33.2-613, 46.2-105.2, 46.2-347,  
61 48-17.1, 51.1-212, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, 54.1-3442.8, 58.1-3, 59.1-148.3,  
62 65.2-107, 65.2-402, and 65.2-402.1 of the Code of Virginia are amended and reenacted and that the  
63 Code of Virginia is amended by adding sections numbered 3.2-4117.1 and 3.2-4117.2, by adding in  
64 Chapter 41.1 of Title 3.2 a section numbered 3.2-4122, by adding in Chapter 51 of Title 3.2 an  
65 article numbered 6, consisting of sections numbered 3.2-5145.6 through 3.2-5145.9, by adding in  
66 Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1  
67 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1009, by  
68 adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1111, and 4.1-1113 through  
69 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200  
70 through 4.1-1207, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and  
71 4.1-1303 through 4.1-1312, by adding in Title 4.1 a chapter numbered 14, consisting of sections  
72 numbered 4.1-1400 through 4.1-1405, by adding in Article 2 of Chapter 1 of Title 6.2 a section  
73 numbered 6.2-108, and by adding in Article 3 of Chapter 9 of Title 22.1 a section numbered  
74 22.1-141.3 as follows:

75 **§ 2.2-221. Position established; agencies for which responsible; additional powers and duties.**

76 A. The position of Secretary of Public Safety and Homeland Security (the Secretary) is created. The  
77 Secretary shall be responsible to the Governor for the following agencies: the Virginia Alcoholic  
78 Beverage Control Authority, *Virginia Cannabis Control Authority*, Department of Corrections,  
79 Department of Juvenile Justice, Department of Criminal Justice Services, Department of Forensic  
80 Science, Virginia Parole Board, Department of Emergency Management, Department of State Police,  
81 Department of Fire Programs, and Commonwealth's Attorneys' Services Council. The Governor may, by  
82 executive order, assign any other state executive agency to the Secretary, or reassign any agency listed  
83 above to another Secretary.

84 B. The Secretary shall by reason of professional background have knowledge of law enforcement,  
85 public safety, or emergency management and preparedness issues, in addition to familiarity with the  
86 structure and operations of the federal government and of the Commonwealth.

87 Unless the Governor expressly reserves such power to himself, the Secretary shall:

88 1. Work with and through others, including federal, state, and local officials as well as the private  
89 sector, to develop a seamless, coordinated security and preparedness strategy and implementation plan.

90 2. Serve as the point of contact with the federal Department of Homeland Security.

91 3. Provide oversight, coordination, and review of all disaster, emergency management, and terrorism  
92 management plans for the state and its agencies in coordination with the Virginia Department of  
93 Emergency Management and other applicable state agencies.

94 4. Work with federal officials to obtain additional federal resources and coordinate policy  
95 development and information exchange.

96 5. Work with and through appropriate members of the Governor's Cabinet to coordinate working  
97 relationships between state agencies and take all actions necessary to ensure that available federal and  
98 state resources are directed toward safeguarding Virginia and its citizens.

99 6. Designate a Commonwealth Interoperability Coordinator to ensure that all communications-related  
100 preparedness federal grant requests from state agencies and localities are used to enhance  
101 interoperability. The Secretary shall ensure that the annual review and update of the statewide  
102 interoperability strategic plan is conducted as required in § 2.2-222.2. The Commonwealth  
103 Interoperability Coordinator shall establish an advisory group consisting of representatives of state and  
104 local government and constitutional offices, broadly distributed across the Commonwealth, who are  
105 actively engaged in activities and functions related to communications interoperability.

106 7. Serve as one of the Governor's representatives on regional efforts to develop a coordinated  
107 security and preparedness strategy, including the National Capital Region Senior Policy Group organized  
108 as part of the federal Urban Areas Security Initiative.

109 8. Serve as a direct liaison between the Governor and local governments and first responders on  
110 issues of emergency prevention, preparedness, response, and recovery.

111 9. Educate the public on homeland security and overall preparedness issues in coordination with  
112 applicable state agencies.

113 10. Serve as chairman of the Secure and Resilient Commonwealth Panel.

114 11. Encourage homeland security volunteer efforts throughout the state.

115 12. Coordinate the development of an allocation formula for State Homeland Security Grant Program  
116 funds to localities and state agencies in compliance with federal grant guidance and constraints. The  
117 formula shall be, to the extent permissible under federal constraints, based on actual risk, threat, and  
118 need.

119 13. Work with the appropriate state agencies to ensure that regional working groups are meeting  
120 regularly and focusing on regional initiatives in training, equipment, and strategy to ensure ready access

to response teams in times of emergency and facilitate testing and training exercises for emergencies and mass casualty preparedness.

14. Provide oversight and review of the Virginia Department of Emergency Management's annual statewide assessment of local and regional capabilities, including equipment, training, personnel, response times, and other factors.

15. Employ, as needed, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary, and fix their compensation to be payable from funds made available for that purpose.

16. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, real property, or personal property for the benefit of the Commonwealth, and receive and accept from the Commonwealth or any state, any municipality, county, or other political subdivision thereof, or any other source, aid or contributions of money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made.

17. Receive and accept from any source aid, grants, and contributions of money, property, labor, or other things of value to be held, used, and applied to carry out these requirements subject to the conditions upon which the aid, grants, or contributions are made.

18. Make grants to local governments, state and federal agencies, and private entities with any funds of the Secretary available for such purpose.

19. Provide oversight and review of the law-enforcement operations of the Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority*.

20. Take any actions necessary or convenient to the exercise of the powers granted or reasonably implied to this Secretary and not otherwise inconsistent with the law of the Commonwealth.

**§ 2.2-507. Legal service in civil matters.**

A. All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney General, except as provided in this chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, or official. The Attorney General may represent personally or through one or more of his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus, agencies, entities, officials, courts, or judges that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, institution, division, commission, board, bureau, agency, or entity. The soil and water conservation district directors or districts may request legal advice from local, public, or private sources; however, upon request of the soil and water conservation district directors or districts, the Attorney General shall provide legal service in civil matters for such district directors or districts.

B. The Attorney General may represent personally or through one of his assistants any of the following persons who are made defendant in any civil action for damages arising out of any matter connected with their official duties:

1. Members, agents, or employees of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;

2. Agents inspecting or investigators appointed by the State Corporation Commission;

3. Agents, investigators, or auditors employed by the Department of Taxation;

4. Members, agents, or employees of the State Board of Behavioral Health and Developmental Services, the Department of Behavioral Health and Developmental Services, the State Board of Health, the State Department of Health, the Department of General Services, the State Board of Social Services, the Department of Social Services, the State Board of Local and Regional Jails, the Department of Corrections, the State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the Department of Agriculture and Consumer Services;

5. Persons employed by the Commonwealth Transportation Board, the Department of Transportation, or the Department of Rail and Public Transportation;

6. Persons employed by the Commissioner of Motor Vehicles;

7. Persons appointed by the Commissioner of Marine Resources;

8. Police officers appointed by the Superintendent of State Police;

9. Conservation police officers appointed by the Department of Wildlife Resources;

10. Hearing officers appointed to hear a teacher's grievance pursuant to § 22.1-311;

11. Staff members or volunteers participating in a court-appointed special advocate program pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;

12. Any emergency medical services agency that is a licensee of the Department of Health in any

civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged errors or omissions in the discharge of his court-appointed duties;

13. Conservation officers of the Department of Conservation and Recreation; or

14. A person appointed by written order of a circuit court judge to run an existing corporation or company as the judge's representative, when that person is acting in execution of a lawful order of the court and the order specifically refers to this section and appoints such person to serve as an agent of the Commonwealth.

Upon request of the affected individual, the Attorney General may represent personally or through one of his assistants (i) any basic or advanced emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health in any civil matter in which a defense of immunity from liability is raised pursuant to § 8.01-225 or (ii) any member of the General Assembly in any civil matter alleging that such member in his official capacity violated the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to § 2.2-3713 or 2.2-3714.

C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal service to be rendered by him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the Attorney General. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the board, commission, division, or department being represented or whose members, officers, inspectors, investigators, or other employees are being represented pursuant to this section. Notwithstanding any provision of this section to the contrary, the Supreme Court may employ its own counsel in any matter arising out of its official duties in which it, or any justice, is a party.

D. Nothing herein shall limit the powers granted in § 16.1-88.03.

#### **§ 2.2-511. Criminal cases.**

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of ~~the Alcoholic Beverage Control Act~~ *Title 4.1* (§ 4.1-100 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (x) of this subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state correctional facility, and (xvi) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall not attach unless and until a notice of appeal has been filed with the clerk of the circuit court noting an appeal to the Court of Appeals or the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth, unless, and with the consent of the Attorney General, the attorney for the Commonwealth who prosecuted the underlying criminal case files a notice of appearance to represent the Commonwealth in any such appeal.

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of

the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.

**§ 2.2-1119. Cases in which purchasing through Division not mandatory.**

A. Unless otherwise ordered by the Governor, the purchasing of materials, equipment, supplies, and nonprofessional services through the Division shall not be mandatory in the following cases:

1. Materials, equipment and supplies incident to the performance of a contract for labor or for labor and materials;

2. Manuscripts, maps, audiovisual materials, books, pamphlets and periodicals purchased for the use of The Library of Virginia or any other library in the Commonwealth supported in whole or in part by state funds;

3. Perishable articles, provided that no article except fresh vegetables, fish, eggs or milk shall be considered perishable within the meaning of this subdivision, unless so classified by the Division;

4. Materials, equipment and supplies needed by the Commonwealth Transportation Board; however, this exception may include, office stationery and supplies, office equipment, janitorial equipment and supplies, and coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;

5. Materials, equipment, and supplies needed by the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority, including office stationery and supplies, office equipment, and janitorial equipment and supplies; however, coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;

6. Binding and rebinding of the books and other literary materials of libraries operated by the Commonwealth or under its authority;

7. Printing of the records of the Supreme Court; and

8. Financial services, including without limitation, underwriters, financial advisors, investment advisors and banking services.

B. Telecommunications and information technology goods and services of every description shall be procured as provided by § 2.2-2012.

**§ 2.2-2818. Health and related insurance for state employees.**

A. The Department of Human Resource Management shall establish a plan, subject to the approval of the Governor, for providing health insurance coverage, including chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The same plan shall be offered to all part-time state employees, but the total cost shall be paid by such part-time employees. The Department of Human Resource Management shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. Except for part-time employees, the Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee, including a part-time employee, may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

Such contribution shall be financed through appropriations provided by law.

B. The plan shall:

1. Include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over and may be limited to a benefit of \$50 per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally.

The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

In order to be considered a screening mammogram for which coverage shall be made available under this section:

a. The mammogram shall be (i) ordered by a health care practitioner acting within the scope of his licensure and, in the case of an enrollee of a health maintenance organization, by the health maintenance organization provider; (ii) performed by a registered technologist; (iii) interpreted by a qualified

radiologist; and (iv) performed under the direction of a person licensed to practice medicine and surgery and certified by the American Board of Radiology or an equivalent examining body. A copy of the mammogram report shall be sent or delivered to the health care practitioner who ordered it;

b. The equipment used to perform the mammogram shall meet the standards set forth by the Virginia Department of Health in its radiation protection regulations; and

c. The mammography film shall be retained by the radiologic facility performing the examination in accordance with the American College of Radiology guidelines or state law.

2. Include coverage for postpartum services providing inpatient care and a home visit or visits that shall be in accordance with the medical criteria, outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be provided incorporating any changes in such Guidelines or Standards within six months of the publication of such Guidelines or Standards or any official amendment thereto.

3. Include an appeals process for resolution of complaints that shall provide reasonable procedures for the resolution of such complaints and shall be published and disseminated to all covered state employees. The appeals process shall be compliant with federal rules and regulations governing nonfederal, self-insured governmental health plans. The appeals process shall include a separate expedited emergency appeals procedure that shall provide resolution within time frames established by federal law. For appeals involving adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or more independent review organizations to review such decisions. Independent review organizations are entities that conduct independent external review of adverse benefit determinations. The Department shall adopt regulations to assure that the independent review organization conducting the reviews has adequate standards, credentials and experience for such review. The independent review organization shall examine the final denial of claims to determine whether the decision is objective, clinically valid, and compatible with established principles of health care. The decision of the independent review organization shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.

Prior to assigning an appeal to an independent review organization, the Department shall verify that the independent review organization conducting the review of a denial of claims has no relationship or association with ~~(i)~~ (a) the covered person or the covered person's authorized representative; ~~(ii)~~ (b) the treating health care provider, or any of its employees or affiliates; ~~(iii)~~ (c) the medical care facility at which the covered service would be provided, or any of its employees or affiliates; or ~~(iv)~~ (d) the development or manufacture of the drug, device, procedure or other therapy that is the subject of the final denial of a claim. The independent review organization shall not be a subsidiary of, nor owned or controlled by, a health plan, a trade association of health plans, or a professional association of health care providers. There shall be no liability on the part of and no cause of action shall arise against any officer or employee of an independent review organization for any actions taken or not taken or statements made by such officer or employee in good faith in the performance of his powers and duties.

4. Include coverage for early intervention services. For purposes of this section, "early intervention services" means medically necessary speech and language therapy, occupational therapy, physical therapy and assistive technology services and devices for dependents from birth to age three who are certified by the Department of Behavioral Health and Developmental Services as eligible for services under Part H of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). Medically necessary early intervention services for the population certified by the Department of Behavioral Health and Developmental Services shall mean those services designed to help an individual attain or retain the capability to function age-appropriately within his environment, and shall include services that enhance functional ability without effecting a cure.

For persons previously covered under the plan, there shall be no denial of coverage due to the existence of a preexisting condition. The cost of early intervention services shall not be applied to any contractual provision limiting the total amount of coverage paid by the insurer to or on behalf of the insured during the insured's lifetime.

5. Include coverage for prescription drugs and devices approved by the United States Food and Drug Administration for use as contraceptives.

6. Not deny coverage for any drug approved by the United States Food and Drug Administration for use in the treatment of cancer on the basis that the drug has not been approved by the United States Food and Drug Administration for the treatment of the specific type of cancer for which the drug has been prescribed, if the drug has been recognized as safe and effective for treatment of that specific type of cancer in one of the standard reference compendia.

7. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has been approved by the United States Food and Drug Administration for at least one indication and the

drug is recognized for treatment of the covered indication in one of the standard reference compendia or in substantially accepted peer-reviewed medical literature.

8. Include coverage for equipment, supplies and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and noninsulin-using diabetes if prescribed by a health care professional legally authorized to prescribe such items under law. To qualify for coverage under this subdivision, diabetes outpatient self-management training and education shall be provided by a certified, registered or licensed health care professional.

9. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive breast surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish symmetry between the two breasts. For persons previously covered under the plan, there shall be no denial of coverage due to preexisting conditions.

10. Include coverage for annual pap smears, including coverage, on and after July 1, 1999, for annual testing performed by any FDA-approved gynecologic cytology screening technologies.

11. Include coverage providing a minimum stay in the hospital of not less than 48 hours for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of breast cancer. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate.

12. Include coverage (i) to persons age 50 and over and (ii) to persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen.

13. Permit any individual covered under the plan direct access to the health care services of a participating specialist (i) authorized to provide services under the plan and (ii) selected by the covered individual. The plan shall have a procedure by which an individual who has an ongoing special condition may, after consultation with the primary care physician, receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care related to the initial specialty care referral. If such an individual's care would most appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist. For the purposes of this subdivision, "special condition" means a condition or disease that is (a) life-threatening, degenerative, or disabling and (b) requires specialized medical care over a prolonged period of time. Within the treatment period authorized by the referral, such specialist shall be permitted to treat the individual without a further referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services related to the initial referral as the individual's primary care provider would otherwise be permitted to provide or authorize. The plan shall have a procedure by which an individual who has an ongoing special condition that requires ongoing care from a specialist may receive a standing referral to such specialist for the treatment of the special condition. If the primary care provider, in consultation with the plan and the specialist, if any, determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to a specialist. Nothing contained herein shall prohibit the plan from requiring a participating specialist to provide written notification to the covered individual's primary care physician of any visit to such specialist. Such notification may include a description of the health care services rendered at the time of the visit.

14. Include provisions allowing employees to continue receiving health care services for a period of up to 90 days from the date of the primary care physician's notice of termination from any of the plan's provider panels. The plan shall notify any provider at least 90 days prior to the date of termination of the provider, except when the provider is terminated for cause.

For a period of at least 90 days from the date of the notice of a provider's termination from any of the plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to render health care services to any of the covered employees who (i) were in an active course of treatment from the provider prior to the notice of termination and (ii) request to continue receiving health care services from the provider.

Notwithstanding the provisions of this subdivision, any provider shall be permitted by the plan to continue rendering health services to any covered employee who has entered the second trimester of pregnancy at the time of the provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue through the provision of postpartum care directly related to the delivery.

428 Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue  
429 rendering health services to any covered employee who is determined to be terminally ill (as defined  
430 under § 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of  
431 participation, except when a provider is terminated for cause. Such treatment shall, at the covered  
432 employee's option, continue for the remainder of the employee's life for care directly related to the  
433 treatment of the terminal illness.

434 A provider who continues to render health care services pursuant to this subdivision shall be  
435 reimbursed in accordance with the carrier's agreement with such provider existing immediately before  
436 the provider's termination of participation.

437 15. Include coverage for patient costs incurred during participation in clinical trials for treatment  
438 studies on cancer, including ovarian cancer trials.

439 The reimbursement for patient costs incurred during participation in clinical trials for treatment  
440 studies on cancer shall be determined in the same manner as reimbursement is determined for other  
441 medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles,  
442 copayments and coinsurance factors that are no less favorable than for physical illness generally.

443 For purposes of this subdivision:

444 "Cooperative group" means a formal network of facilities that collaborate on research projects and  
445 have an established NIH-approved peer review program operating within the group. "Cooperative group"  
446 includes (i) the National Cancer Institute Clinical Cooperative Group and (ii) the National Cancer  
447 Institute Community Clinical Oncology Program.

448 "FDA" means the Federal Food and Drug Administration.

449 "Multiple project assurance contract" means a contract between an institution and the federal  
450 Department of Health and Human Services that defines the relationship of the institution to the federal  
451 Department of Health and Human Services and sets out the responsibilities of the institution and the  
452 procedures that will be used by the institution to protect human subjects.

453 "NCI" means the National Cancer Institute.

454 "NIH" means the National Institutes of Health.

455 "Patient" means a person covered under the plan established pursuant to this section.

456 "Patient cost" means the cost of a medically necessary health care service that is incurred as a result  
457 of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not  
458 include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the  
459 treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research  
460 associated with the clinical trial, or (iii) the cost of the investigational drug or device.

461 Coverage for patient costs incurred during clinical trials for treatment studies on cancer shall be  
462 provided if the treatment is being conducted in a Phase II, Phase III, or Phase IV clinical trial. Such  
463 treatment may, however, be provided on a case-by-case basis if the treatment is being provided in a  
464 Phase I clinical trial.

465 The treatment described in the previous paragraph shall be provided by a clinical trial approved by:

- 466 a. The National Cancer Institute;  
467 b. An NCI cooperative group or an NCI center;  
468 c. The FDA in the form of an investigational new drug application;  
469 d. The federal Department of Veterans Affairs; or  
470 e. An institutional review board of an institution in the Commonwealth that has a multiple project  
471 assurance contract approved by the Office of Protection from Research Risks of the NCI.

472 The facility and personnel providing the treatment shall be capable of doing so by virtue of their  
473 experience, training, and expertise.

474 Coverage under this subdivision shall apply only if:

- 475 (1) There is no clearly superior, noninvestigational treatment alternative;  
476 (2) The available clinical or preclinical data provide a reasonable expectation that the treatment will  
477 be at least as effective as the noninvestigational alternative; and  
478 (3) The patient and the physician or health care provider who provides services to the patient under  
479 the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to  
480 procedures established by the plan.

481 16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a  
482 covered employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered  
483 employee following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized  
484 guidelines. Nothing in this subdivision shall be construed as requiring the provision of the total hours  
485 referenced when the attending physician, in consultation with the covered employee, determines that a  
486 shorter hospital stay is appropriate.

487 17. Include coverage for biologically based mental illness.

488 For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous  
489 condition caused by a biological disorder of the brain that results in a clinically significant syndrome



that substantially limits the person's functioning; specifically, the following diagnoses are defined as biologically based mental illness as they apply to adults and children: schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention deficit hyperactivity disorder, autism, and drug and alcoholism addiction.

Coverage for biologically based mental illnesses shall neither be different nor separate from coverage for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

Nothing shall preclude the undertaking of usual and customary procedures to determine the appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this option, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations made for the treatment of any other illness, condition or disorder covered by such policy or contract.

18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass surgery or such other methods as may be recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally. Access to surgery for morbid obesity shall not be restricted based upon dietary or any other criteria not approved by the National Institutes of Health. For purposes of this subdivision, "morbid obesity" means (i) a weight that is at least 100 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used herein, "BMI" equals weight in kilograms divided by height in meters squared.

19. Include coverage for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations. The coverage for colorectal cancer screening shall not be more restrictive than or separate from coverage provided for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayments and coinsurance factors.

20. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each employee provided coverage pursuant to this section, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide employees covered under the plan such corrective information as may be required to electronically process a prescription claim.

21. Include coverage for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such coverage shall include follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss.

22. Notwithstanding any provision of this section to the contrary, every plan established in accordance with this section shall comply with the provisions of § 2.2-2818.2.

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The funds of the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the employees and their beneficiaries. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the health insurance fund.

D. For the purposes of this section:

551 "Peer-reviewed medical literature" means a scientific study published only after having been critically  
552 reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal  
553 that has been determined by the International Committee of Medical Journal Editors to have met the  
554 Uniform Requirements for Manuscripts submitted to biomedical journals. Peer-reviewed medical  
555 literature does not include publications or supplements to publications that are sponsored to a significant  
556 extent by a pharmaceutical manufacturing company or health carrier.

557 "Standard reference compendia" means:

- 558 1. American Hospital Formulary Service — Drug Information;
- 559 2. National Comprehensive Cancer Network's Drugs & Biologics Compendium; or
- 560 3. Elsevier Gold Standard's Clinical Pharmacology.

561 "State employee" means state employee as defined in § 51.1-124.3; employee as defined in  
562 § 51.1-201; the Governor, Lieutenant Governor and Attorney General; judge as defined in § 51.1-301  
563 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and  
564 domestic relations, and district courts of the Commonwealth; interns and residents employed by the  
565 School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of  
566 the Virginia Commonwealth University Health System Authority as provided in § 23.1-2415; and  
567 employees of the Virginia Alcoholic Beverage Control Authority as provided in § 4.1-101.05 and the  
568 *Virginia Cannabis Control Authority as provided in § 4.1-623.*

569 E. Provisions shall be made for retired employees to obtain coverage under the above plan,  
570 including, as an option, coverage for vision and dental care. The Commonwealth may, but shall not be  
571 obligated to, pay all or any portion of the cost thereof.

572 F. Any self-insured group health insurance plan established by the Department of Human Resource  
573 Management that utilizes a network of preferred providers shall not exclude any physician solely on the  
574 basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets  
575 the plan criteria established by the Department.

576 G. The plan shall include, in each planning district, at least two health coverage options, each  
577 sponsored by unrelated entities. No later than July 1, 2006, one of the health coverage options to be  
578 available in each planning district shall be a high deductible health plan that would qualify for a health  
579 savings account pursuant to § 223 of the Internal Revenue Code of 1986, as amended.

580 In each planning district that does not have an available health coverage alternative, the Department  
581 shall voluntarily enter into negotiations at any time with any health coverage provider who seeks to  
582 provide coverage under the plan.

583 This subsection shall not apply to any state agency authorized by the Department to establish and  
584 administer its own health insurance coverage plan separate from the plan established by the Department.

585 H. Any self-insured group health insurance plan established by the Department of Human Resource  
586 Management that includes coverage for prescription drugs on an outpatient basis may apply a formulary  
587 to the prescription drug benefits provided by the plan if the formulary is developed, reviewed at least  
588 annually, and updated as necessary in consultation with and with the approval of a pharmacy and  
589 therapeutics committee, a majority of whose members are actively practicing licensed (i) pharmacists,  
590 (ii) physicians, and (iii) other health care providers.

591 If the plan maintains one or more drug formularies, the plan shall establish a process to allow a  
592 person to obtain, without additional cost-sharing beyond that provided for formulary prescription drugs  
593 in the plan, a specific, medically necessary nonformulary prescription drug if, after reasonable  
594 investigation and consultation with the prescriber, the formulary drug is determined to be an  
595 inappropriate therapy for the medical condition of the person. The plan shall act on such requests within  
596 one business day of receipt of the request.

597 Any plan established in accordance with this section shall be authorized to provide for the selection  
598 of a single mail order pharmacy provider as the exclusive provider of pharmacy services that are  
599 delivered to the covered person's address by mail, common carrier, or delivery service. As used in this  
600 subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct business in the  
601 Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive  
602 drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery  
603 service.

604 I. Any plan established in accordance with this section requiring preauthorization prior to rendering  
605 medical treatment shall have personnel available to provide authorization at all times when such  
606 preauthorization is required.

607 J. Any plan established in accordance with this section shall provide to all covered employees written  
608 notice of any benefit reductions during the contract period at least 30 days before such reductions  
609 become effective.

610 K. No contract between a provider and any plan established in accordance with this section shall  
611 include provisions that require a health care provider or health care provider group to deny covered  
612 services that such provider or group knows to be medically necessary and appropriate that are provided

with respect to a covered employee with similar medical conditions.

L. The Department of Human Resource Management shall appoint an Ombudsman to promote and protect the interests of covered employees under any state employee's health plan.

The Ombudsman shall:

1. Assist covered employees in understanding their rights and the processes available to them according to their state health plan.

2. Answer inquiries from covered employees by telephone and electronic mail.

3. Provide to covered employees information concerning the state health plans.

4. Develop information on the types of health plans available, including benefits and complaint procedures and appeals.

5. Make available, either separately or through an existing Internet web site utilized by the Department of Human Resource Management, information as set forth in subdivision 4 and such additional information as he deems appropriate.

6. Maintain data on inquiries received, the types of assistance requested, any actions taken and the disposition of each such matter.

7. Upon request, assist covered employees in using the procedures and processes available to them from their health plan, including all appeal procedures. Such assistance may require the review of health care records of a covered employee, which shall be done only in accordance with the federal Health Insurance Portability and Accountability Act privacy rules. The confidentiality of any such medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

8. Ensure that covered employees have access to the services provided by the Ombudsman and that the covered employees receive timely responses from the Ombudsman or his representatives to the inquiries.

9. Report annually on his activities to the standing committees of the General Assembly having jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of each year.

M. The plan established in accordance with this section shall not refuse to accept or make reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered employee.

For purposes of this subsection, "assignment of benefits" means the transfer of dental care coverage reimbursement benefits or other rights under the plan. The assignment of benefits shall not be effective until the covered employee notifies the plan in writing of the assignment.

N. Beginning July 1, 2006, any plan established pursuant to this section shall provide for an identification number, which shall be assigned to the covered employee and shall not be the same as the employee's social security number.

O. Any group health insurance plan established by the Department of Human Resource Management that contains a coordination of benefits provision shall provide written notification to any eligible employee as a prominent part of its enrollment materials that if such eligible employee is covered under another group accident and sickness insurance policy, group accident and sickness subscription contract, or group health care plan for health care services, that insurance policy, subscription contract or health care plan may have primary responsibility for the covered expenses of other family members enrolled with the eligible employee. Such written notification shall describe generally the conditions upon which the other coverage would be primary for dependent children enrolled under the eligible employee's coverage and the method by which the eligible enrollee may verify from the plan that coverage would have primary responsibility for the covered expenses of each family member.

P. Any plan established by the Department of Human Resource Management pursuant to this section shall provide that coverage under such plan for family members enrolled under a participating state employee's coverage shall continue for a period of at least 30 days following the death of such state employee.

Q. The plan established in accordance with this section that follows a policy of sending its payment to the covered employee or covered family member for a claim for services received from a nonparticipating physician or osteopath shall (i) include language in the member handbook that notifies the covered employee of the responsibility to apply the plan payment to the claim from such nonparticipating provider, (ii) include this language with any such payment sent to the covered employee or covered family member, and (iii) include the name and any last known address of the nonparticipating provider on the explanation of benefits statement.

R. The Department of Human Resource Management shall report annually, by November 30 of each year, on cost and utilization information for each of the mandated benefits set forth in subsection B, including any mandated benefit made applicable, pursuant to subdivision B 22, to any plan established pursuant to this section. The report shall be in the same detail and form as required of reports submitted

674 pursuant to § 38.2-3419.1, with such additional information as is required to determine the financial  
675 impact, including the costs and benefits, of the particular mandated benefit.

676 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

677 The provisions of this chapter shall not apply to:

- 678 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
- 679 2. Officers and employees of the Supreme Court and the Court of Appeals;
- 680 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either  
681 house thereof is required or not;
- 682 4. Officers elected by popular vote or by the General Assembly or either house thereof;
- 683 5. Members of boards and commissions however selected;
- 684 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of  
685 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and  
686 notaries public;
- 687 7. Officers and employees of the General Assembly and persons employed to conduct temporary or  
688 special inquiries, investigations, or examinations on its behalf;
- 689 8. The presidents and teaching and research staffs of state educational institutions;
- 690 9. Commissioned officers and enlisted personnel of the National Guard;
- 691 10. Student employees at institutions of higher education and patient or inmate help in other state  
692 institutions;
- 693 11. Upon general or special authorization of the Governor, laborers, temporary employees, and  
694 employees compensated on an hourly or daily basis;
- 695 12. County, city, town, and district officers, deputies, assistants, and employees;
- 696 13. The employees of the Virginia Workers' Compensation Commission;
- 697 14. The officers and employees of the Virginia Retirement System;
- 698 15. Employees whose positions are identified by the State Council of Higher Education and the  
699 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the  
700 Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of  
701 Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The  
702 Library of Virginia, and approved by the Director of the Department of Human Resource Management  
703 as requiring specialized and professional training;
- 704 16. Employees of the Virginia Lottery;
- 705 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing  
706 and service industries who have a human resources classification of industry worker;
- 707 18. Employees of the Virginia Commonwealth University Health System Authority;
- 708 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for  
709 such employees shall be subject to the review and approval of the Board of Visitors of the University of  
710 Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia  
711 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the  
712 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
- 713 20. In executive branch agencies the employee who has accepted serving in the capacity of chief  
714 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential  
715 assistant for policy or administration. An employee serving in either one of these two positions shall be  
716 deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve  
717 in this exempt capacity;
- 718 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the  
719 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
- 720 22. Officers and employees of the Virginia Port Authority;
- 721 23. Employees of the Virginia College Savings Plan;
- 722 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental  
723 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to  
724 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure  
725 (§ 2.2-3000 et seq.);
- 726 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as  
727 state employees for purposes of participation in the Virginia Retirement System, health insurance, and  
728 all other employee benefits offered by the Commonwealth to its classified employees;
- 729 26. Employees of the Virginia Indigent Defense Commission;
- 730 27. Any chief of a campus police department that has been designated by the governing body of a  
731 public institution of higher education as exempt, pursuant to § 23.1-809;
- 732 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage  
733 Control Authority; and
- 734 29. *The Chief Executive Officer, agents, officers, and employees of the Virginia Cannabis Control*  
735 *Authority; and*

30. Officers and employees of the Fort Monroe Authority.

**§ 2.2-3114. Disclosure by state officers and employees.**

A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, *members of the Board of Directors of the Virginia Cannabis Control Authority*, members of the Board of the Virginia College Savings Plan, and members of the Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of the Virginia College Savings Plan, and the Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or

797 receipt. If reasonable time is not available to comply with the provisions of this subsection prior to  
798 participation in the transaction, the officer or employee shall prepare and file the required declaration by  
799 the end of the next business day.

800 H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher  
801 education in the Commonwealth shall not be required to file the disclosure form prescribed by the  
802 Council pursuant to § 2.2-3117 or 2.2-3118.

803 **§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative**  
804 **investigations.**

805 The following information contained in a public record is excluded from the mandatory disclosure  
806 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such  
807 disclosure is prohibited by law. Redaction of information excluded under this section from a public  
808 record shall be conducted in accordance with § 2.2-3704.01.

809 1. Information relating to investigations of applicants for licenses and permits, and of all licensees  
810 and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, *the Virginia*  
811 *Cannabis Control Authority*, the Virginia Lottery, the Virginia Racing Commission, the Department of  
812 Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1  
813 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the  
814 Department of Criminal Justice Services.

815 2. Records of active investigations being conducted by the Department of Health Professions or by  
816 any health regulatory board in the Commonwealth pursuant to § 54.1-108.

817 3. Investigator notes, and other correspondence and information, furnished in confidence with respect  
818 to an active investigation of individual employment discrimination complaints made to the Department  
819 of Human Resource Management, to such personnel of any local public body, including local school  
820 boards, as are responsible for conducting such investigations in confidence, or to any public institution  
821 of higher education. However, nothing in this subdivision shall prevent the disclosure of information  
822 taken from inactive reports in a form that does not reveal the identity of charging parties, persons  
823 supplying the information, or other individuals involved in the investigation.

824 4. Records of active investigations being conducted by the Department of Medical Assistance  
825 Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

826 5. Investigative notes and other correspondence and information furnished in confidence with respect  
827 to an investigation or conciliation process involving an alleged unlawful discriminatory practice under  
828 the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance  
829 with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1,  
830 1987, in accordance with applicable law, relating to local human rights or human relations commissions.  
831 However, nothing in this subdivision shall prevent the distribution of information taken from inactive  
832 reports in a form that does not reveal the identity of the parties involved or other persons supplying  
833 information.

834 6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii)  
835 lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or  
836 regulations that cause abuses in the administration and operation of the lottery and any evasions of such  
837 provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where  
838 such information has not been publicly released, published or copyrighted. All studies and investigations  
839 referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of  
840 the study or investigation.

841 7. Investigative notes, correspondence and information furnished in confidence, and records otherwise  
842 exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of  
843 Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority  
844 as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and  
845 Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General  
846 with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation  
847 initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a  
848 state agency or by any public institution of higher education; (vi) the committee or the auditor with  
849 respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed by  
850 the local governing body of any county, city, or town or a school board, who by charter, ordinance, or  
851 statute have responsibility for conducting an investigation of any officer, department, or program of such  
852 body. Information contained in completed investigations shall be disclosed in a form that does not reveal  
853 the identity of the complainants or persons supplying information to investigators. Unless disclosure is  
854 excluded by this subdivision, the information disclosed shall include the agency involved, the identity of  
855 the person who is the subject of the complaint, the nature of the complaint, and the actions taken to  
856 resolve the complaint. If an investigation does not lead to corrective action, the identity of the person  
857 who is the subject of the complaint may be released only with the consent of the subject person. Local  
858 governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. The names, addresses, and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body.

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

**§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the

920 presiding officer of the appropriate board.

921 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the  
922 disposition of publicly held real property, where discussion in an open meeting would adversely affect  
923 the bargaining position or negotiating strategy of the public body.

924 4. The protection of the privacy of individuals in personal matters not related to public business.

925 5. Discussion concerning a prospective business or industry or the expansion of an existing business  
926 or industry where no previous announcement has been made of the ~~business'~~ *business's* or industry's  
927 interest in locating or expanding its facilities in the community.

928 6. Discussion or consideration of the investment of public funds where competition or bargaining is  
929 involved, where, if made public initially, the financial interest of the governmental unit would be  
930 adversely affected.

931 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual  
932 or probable litigation, where such consultation or briefing in open meeting would adversely affect the  
933 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable  
934 litigation" means litigation that has been specifically threatened or on which the public body or its legal  
935 counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in  
936 this subdivision shall be construed to permit the closure of a meeting merely because an attorney  
937 representing the public body is in attendance or is consulted on a matter.

938 8. Consultation with legal counsel employed or retained by a public body regarding specific legal  
939 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be  
940 construed to permit the closure of a meeting merely because an attorney representing the public body is  
941 in attendance or is consulted on a matter.

942 9. Discussion or consideration by governing boards of public institutions of higher education of  
943 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or  
944 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,  
945 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and  
946 accepted by a public institution of higher education in the Commonwealth shall be subject to public  
947 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,  
948 (i) "foreign government" means any government other than the United States government or the  
949 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity  
950 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of  
951 the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the  
952 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created  
953 under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a  
954 citizen or national of the United States or a trust territory or protectorate thereof.

955 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the  
956 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority,  
957 and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from  
958 private sources.

959 11. Discussion or consideration of honorary degrees or special awards.

960 12. Discussion or consideration of tests, examinations, or other information used, administered, or  
961 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

962 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible  
963 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement  
964 filed by the member, provided the member may request in writing that the committee meeting not be  
965 conducted in a closed meeting.

966 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to  
967 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing  
968 body in open meeting finds that an open meeting will have an adverse effect upon the negotiating  
969 position of the governing body or the establishment of the terms, conditions and provisions of the siting  
970 agreement, or both. All discussions with the applicant or its representatives may be conducted in a  
971 closed meeting.

972 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic  
973 activity and estimating general and nongeneral fund revenues.

974 16. Discussion or consideration of medical and mental health records subject to the exclusion in  
975 subdivision 1 of § 2.2-3705.5.

976 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to  
977 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and  
978 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game  
979 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3  
980 and subdivision 11 of § 2.2-3705.7.

981 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or



discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or

operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority *or the Board of Directors of the Virginia Cannabis Control Authority* of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to § 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open

meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

**§ 2.2-3802. Systems to which chapter inapplicable.**

The provisions of this chapter shall not apply to personal information systems:

1. Maintained by any court of the Commonwealth;

2. Which may exist in publications of general circulation;

3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913;

4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;

5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;

6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, the Virginia Racing Commission, the Virginia Criminal Sentencing Commission, and the Virginia Alcoholic Beverage Control Authority, and the Virginia Cannabis Control Authority;

7. Maintained by any of the following and that deal with investigations and intelligence gathering related to criminal activity:

a. The Department of State Police;

b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;

c. Police departments of cities, counties, and towns;

d. Sheriff's departments of counties and cities;

e. Campus police departments of public institutions of higher education as established by Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

f. The Division of Capitol Police.

8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;

9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured that the use of the information will be so limited;

11. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services and the Department of Forensic Science, which deal with scientific investigations relating to criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2 (§ 2.2-307 et seq.);

13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town

or a school board that deals with local investigations required by § 15.2-2511.2;

14. Maintained by the Department of Social Services or any local department of social services relating to public assistance fraud investigations;

15. Maintained by the Department of Social Services related to child welfare or public assistance programs when requests for personal information are made to the Department of Social Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record. Notwithstanding the language in this section, an individual shall not be prohibited from obtaining information from the central registry in accordance with the provisions of § 63.2-1515; and

16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult protective services, or auxiliary grants when requests for personal information are made to the Department for Aging and Rehabilitative Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record.

**§ 2.2-4024. Hearing officers.**

A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and maintained in the Office of the Executive Secretary of the Supreme Court. Parties to informal fact-finding proceedings conducted pursuant to § 2.2-4019 may agree at the outset of the proceeding to have a hearing officer preside at the proceeding, such agreement to be revoked only by mutual consent. The Executive Secretary may promulgate rules necessary for the administration of the hearing officer system and shall have the authority to establish the number of hearing officers necessary to preside over administrative hearings in the Commonwealth.

Prior to being included on the list, all hearing officers shall meet the following minimum standards:

1. Active membership in good standing in the Virginia State Bar;
2. Active practice of law for at least five years; and
3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order to comply with the demonstrated requirements of the agency requesting a hearing officer, the Executive Secretary may require additional training before a hearing officer shall be assigned to a proceeding before that agency.

B. On request from the head of an agency, the Executive Secretary shall name a hearing officer from the list, selected on a rotation system administered by the Executive Secretary. Lists reflecting geographic preference and specialized training or knowledge shall be maintained by the Executive Secretary if an agency demonstrates the need.

C. A hearing officer appointed in accordance with this section shall be subject to disqualification as provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-4024.1, the petitioning party may request reconsideration of the denial by filing a written request with the Executive Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule of practice requiring disqualification.

The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.

D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case decision matter shall render that recommendation or conclusion as follows:

1. If the agency's written regulations or procedures require the hearing officer to render a recommendation or conclusion within a specified time period, the hearing officer shall render the recommendation or conclusion on or before the expiration of the specified period; and

2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90 days from the date of the case decision proceeding or from a later date agreed to by the named party and the agency.

If the hearing officer does not render a decision within the time required by this subsection, then the agency or the named party to the case decision may provide written notice to the hearing officer and the Executive Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days from receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall remove the hearing officer from the hearing officer list and report the hearing officer to the Virginia State Bar for possible disciplinary action, unless good cause is shown for the delay.

E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after written notice and an opportunity for a hearing. When there is a failure by a hearing officer to render a decision as required by subsection D, the burden shall be on the hearing officer to show good cause for the delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary for reconsideration, followed by judicial review in accordance with this chapter.

F. This section shall not apply to hearings conducted by (i) any commission or board where all of the members, or a quorum, are present; (ii) the Virginia Alcoholic Beverage Control Authority, *the*

1289 *Virginia Cannabis Control Authority*, the Virginia Workers' Compensation Commission, the State  
1290 Corporation Commission, the Virginia Employment Commission, the Department of Motor Vehicles  
1291 under Title 46.2 (§ 46.2-100 et seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, or  
1292 the Motor Vehicle Dealer Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel  
1293 of a health regulatory board convened pursuant to § 54.1-2400, including any panel having members of  
1294 a relevant advisory board to the Board of Medicine. All employees hired after July 1, 1986, pursuant to  
1295 §§ 65.2-201 and 65.2-203 by the Virginia Workers' Compensation Commission to conduct hearings  
1296 pursuant to its basic laws shall meet the minimum qualifications set forth in subsection A. Agency  
1297 employees who are not licensed to practice law in the Commonwealth, and are presiding as hearing  
1298 officers in proceedings pursuant to clause (ii) shall participate in periodic training courses.

1299 G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to hearing  
1300 officers conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife  
1301 Resources, the Virginia Housing Development Authority, the Milk Commission, and the Virginia  
1302 Resources Authority pursuant to their basic laws.

1303 **§ 3.2-1010. Enforcement of chapter; summons.**

1304 Any conservation police officer or law-enforcement officer as defined in § 9.1-101, excluding certain  
1305 members of the Virginia Alcoholic Beverage Control Authority *and the Virginia Cannabis Control*  
1306 *Authority*, may enforce the provisions of this chapter and the regulations adopted hereunder as well as  
1307 those who are so designated by the Commissioner. Those designated by the Commissioner may issue a  
1308 summons to any person who violates any provision of this chapter to appear at a time and place to be  
1309 specified in such summons.

1310 **§ 3.2-3906. Board to adopt regulations.**

1311 The Board may adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.),  
1312 including:

- 1313 1. Licensing of businesses that manufacture, sell, store, recommend for use, mix, or apply pesticides;
- 1314 2. Registration of pesticides for manufacture, distribution, sale, storage, or use;
- 1315 3. Requiring reporting and record keeping related to licensing and registration;
- 1316 4. Establishing training, testing and standards for certification of commercial applicators, registered  
1317 technicians, and private applicators;
- 1318 5. Revoking, suspending or denying licenses (business), registration (products), and certification or  
1319 certificate (applicators or technicians);
- 1320 6. Requiring licensees and certificate holders to inform the public when using pesticides in and  
1321 around structures;
- 1322 7. Establishing a fee structure for licensure, registration and certification to defray the costs of  
1323 implementing this chapter;
- 1324 8. Classifying or subclassifying certification or certificates to be issued under this chapter. Such  
1325 classifications may include agricultural, forest, ornamental, aquatic, right-of-way or industrial,  
1326 institutional, structural or health-related pest control;
- 1327 9. Restricting or prohibiting the sale or use and disposal of any pesticide or pesticide container or  
1328 residuals that: (i) undesirably persists in the environment or increases due to biological amplification or  
1329 unreasonable adverse effects on the environment; or (ii) because of toxicity or inordinate hazard to man,  
1330 animal, bird or plant may be contrary to the public interest; ~~and~~
- 1331 10. *Establishing criteria for or a list of pesticides that may be used on cannabis cultivated in*  
1332 *compliance with Chapter 41.1 (§ 3.2-4112 et seq.) of this title or the Cannabis Control Act (§ 4.1-600 et*  
1333 *seq.); and*
- 1334 11. Other regulations necessary or convenient to carry out the purposes of this chapter.

1335 **§ 3.2-4112. Definitions.**

1336 As used in this chapter, unless the context requires a different meaning:

1337 "Cannabis sativa product" means a product made from any part of the plant *Cannabis sativa* with a  
1338 concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

1339 "Deal" means to temporarily possess industrial hemp grown in compliance with state or federal law  
1340 that (i) has not been processed and (ii) was not grown and will not be processed by the person  
1341 temporarily possessing it.

1342 "Dealer" means any person who is registered pursuant to subsection A of § 3.2-4115 to deal in  
1343 industrial hemp. "Dealer" does not include a retail establishment that sells or offers for sale a hemp  
1344 product.

1345 "Dealership" means the location at which a dealer stores or intends to store the industrial hemp in  
1346 which he deals.

1347 "Federally licensed hemp producer" means a person who holds a hemp producer license issued by  
1348 the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990.

1349 "Grow" means to plant, cultivate, or harvest a plant or crop.

1350 "Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial

hemp.

"Hemp product" means a product, including any raw materials from industrial hemp that are used for or added to a food or beverage product, that contains industrial hemp and has completed all stages of processing needed for the product.

*"Hemp product intended for smoking" means any hemp product intended to be consumed by inhalation.*

*"Hemp testing laboratory" means a laboratory licensed pursuant to subsection A of § 3.2-4117.1 to test hemp products or a marijuana testing facility as defined in § 4.1-600.*

"Industrial hemp" means any part of the plant *Cannabis sativa*, including seeds thereof, whether growing or not, with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law. "Industrial hemp" includes an industrial hemp extract that has not completed all stages of processing needed to convert the extract into a hemp product.

"Process" means to convert industrial hemp into a hemp product.

"Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial hemp.

"Process site" means the location at which a processor processes or intends to process industrial hemp.

"Production field" means the land or area on which a grower or a federally licensed hemp producer is growing or intends to grow industrial hemp.

### **§ 3.2-4113. Production of industrial hemp lawful.**

A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a dealer or his agent to deal in, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the possession or growing of industrial hemp or any *Cannabis sativa* with a tetrahydrocannabinol concentration that does not exceed the total delta-9 tetrahydrocannabinol concentration percentage established in federal regulations applicable to negligent violations located at 7 C.F.R. 990.6(b)(3). No dealer or his agent or processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 or issued a summons or judgment for the possession, dealing, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation.

C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the involuntary growth of industrial hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, dealership, or process site.

### **§ 3.2-4114. Regulations.**

A. The Board may adopt regulations pursuant to this chapter as necessary to register persons to grow, deal in, or process industrial hemp or implement the provisions of this chapter.

B. Upon publication by the U.S. Department of Agriculture in the Federal Register of any final rule regarding industrial hemp that materially expands opportunities for growing, producing, or dealing in industrial hemp in the Commonwealth, the Board shall immediately adopt amendments conforming Department regulations to such federal final rule. Such adoption of regulations by the Board shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

*C. The Board shall adopt regulations (i) establishing acceptable testing practices for hemp products intended for smoking, (ii) identifying the contaminants for which hemp products intended for smoking shall be tested, and (iii) establishing the maximum level of allowable contamination for each contaminant.*

*D. The Board shall adopt regulations establishing labeling and packaging requirements and advertising requirements for a hemp product intended for smoking and a hemp product that is an industrial hemp extract intended for human consumption.*

*E. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the regulations adopted pursuant to subsection C or D. Prior to adopting any regulation pursuant to subsection C or D, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to*

comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations adopted pursuant to subsection C or D. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to subsection C or D.

**§ 3.2-4114.2. Authority of Commissioner; notice to law enforcement; report.**

A. The Commissioner may charge a nonrefundable fee not to exceed \$250 for any application for registration or a license or renewal of registration or a license allowed under this chapter. The Commissioner may charge a nonrefundable fee for the tetrahydrocannabinol testing allowed under this chapter. All fees collected by the Commissioner shall be deposited in the state treasury.

B. The Commissioner shall adopt regulations establishing a fee structure for registration and licensure. With the exception of § 2.2-4031, no provision of the Administrative Process Act (§ 2.2-4000 et seq.) or public participation guideline adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this subsection. However, prior to adopting any regulation pursuant to this subsection, the Commissioner shall review the recommendation of an advisory panel that shall consider the economic impact of any proposed fee amount on the Commonwealth's industrial hemp industry. The advisory panel shall, at a minimum, include (i) an agribusiness representative or organization, (ii) a farming representative or organization, and (iii) a hemp industry representative or organization. Prior to adopting any regulation pursuant to this subsection, the Commissioner shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice shall contain (a) a summary of the proposed regulation; (b) the text of the proposed regulation; and (c) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice of submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process of regulations pursuant to this subsection. The Commissioner shall consider and keep on file all public comments received for any regulation adopted pursuant to this subsection.

C. The Commissioner may establish an application period for a registration or license or renewal of a registration or license allowed under this chapter.

D. The Commissioner shall notify the Superintendent of State Police of each registration or license issued by the Commissioner under this chapter and each license submitted to the Commissioner by a federally licensed hemp producer.

E. The Commissioner shall forward a copy or appropriate electronic record of each registration or license issued by the Commissioner under this chapter and each license submitted to the Commissioner by a federally licensed hemp producer to the chief law-enforcement officer of the county or city where industrial hemp will be grown, dealt, or processed or where a hemp testing laboratory will be located.

F. The Commissioner may monitor the industrial hemp grown, dealt, or processed by a person registered pursuant to subsection A of § 3.2-4115 and provide for random sampling and testing of the industrial hemp in accordance with any criteria established by the Commissioner and at the cost of the grower, dealer, or processor, for compliance with tetrahydrocannabinol limits and for other appropriate purposes established pursuant to § 3.2-4114. In addition to any routine inspection and sampling, the Commissioner may inspect and sample the industrial hemp at any production field, dealership, or process site during normal business hours without advance notice if he has reason to believe a violation of this chapter is occurring or has occurred.

G. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

H. Notwithstanding the provisions of subsection G, if the provisions of subdivisions 1 and 2 are included in a plan that (i) is submitted by the Department pursuant to § 10113 of the federal Agriculture Improvement Act of 2018, P.L. 115-334, (ii) requires the Department to monitor and regulate the production of industrial hemp in the Commonwealth, and (iii) is approved by the U.S. Secretary of Agriculture:

1. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than 0.6 percent.

2. If such a test of Cannabis sativa indicates a concentration of tetrahydrocannabinol that is greater than 0.6 percent but less than one percent, the Commissioner shall allow the grower, dealer, or processor



to request that the Cannabis sativa be sampled and tested again before he requires its destruction.

I. The Commissioner shall advise the Superintendent of State Police or the chief law-enforcement officer of the appropriate county or city when, with a culpable mental state greater than negligence, a grower grows, a dealer deals in, or a processor processes any Cannabis sativa with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law or a processor produces a Cannabis sativa product.

J. The Commissioner may pursue any permits or waivers from the U.S. Drug Enforcement Administration or appropriate federal agency that he determines to be necessary for the advancement of the industrial hemp industry.

K. The Commissioner may establish a corrective action plan to address a negligent violation of any provision of this chapter.

**§ 3.2-4116. Registration conditions.**

A. A person who is not a federally licensed hemp producer shall obtain a registration pursuant to subsection A of § 3.2-4115 prior to growing, dealing in, or processing any industrial hemp in the Commonwealth.

B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1. Maintain records that reflect compliance with this chapter;
2. Retain all industrial hemp growing, dealing, or processing records for at least three years;
3. Allow his production field, dealership, or process site to be inspected by and at the discretion of the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer of the locality in which the production field or dealership or process site exists;

4. Allow the Commissioner or his designee to monitor and test the grower's, dealer's, or processor's industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes established pursuant to § 3.2-4114, at the cost of the grower, dealer, or processor; and

5. If required by the Commissioner, destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, the dealer deals in, or the processor processes that has been tested and, following any re-sampling and retesting as authorized pursuant to the provisions of § 3.2-4114.2, is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

C. A processor that processes a hemp product intended for smoking or a hemp product that is an industrial hemp extract intended for human consumption shall make available the results of the testing conducted in accordance with § 3.2-4122 to each retail establishment that offers for sale the processor's hemp products.

**§ 3.2-4117.1. Hemp testing laboratory license; exemption.**

A. The Commissioner shall establish a licensure program to allow a laboratory to test industrial hemp or hemp products in the Commonwealth.

B. Any laboratory seeking to test industrial hemp or hemp products in the Commonwealth shall apply to the Commissioner for a license on a form provided by the Commissioner. At a minimum, the application shall include:

1. The name and address of the laboratory.
2. The address of each location at which the laboratory intends to test industrial hemp or hemp products.

3. The name of the person who will oversee and be responsible for the testing and documentation that such person has earned from an institution of higher education accredited by a national or regional certifying authority at least (i) a master's degree in chemical or biological sciences and a minimum of two years of post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-degree laboratory experience.

4. A signed statement that the applicant has no direct or indirect financial interest in a grower, processor, or dealer or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of industrial hemp or a hemp product. Additionally, no person with a direct or indirect financial interest in the laboratory shall have a direct or indirect financial interest in a grower, processor, or dealer or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of industrial hemp or a hemp product.

5. Documentation that the laboratory is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body.

6. Any other information required by the Commissioner.

7. The payment of a nonrefundable application fee.

C. Each license issued pursuant to this section shall be valid for a period of one year from the date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of a license renewal fee.

1535 D. Notwithstanding subsection B, a marijuana testing facility, as defined in § 4.1-600, shall not be  
1536 required to apply to the Commissioner for a license to test industrial hemp or hemp products in the  
1537 Commonwealth.

1538 **§ 3.2-4117.2. Hemp testing laboratory license; conditions; penalties.**

1539 A. A laboratory shall obtain a license issued pursuant to subsection A of § 3.2-4117.1 prior to  
1540 testing any industrial hemp or hemp product in the Commonwealth. However, a marijuana testing  
1541 facility, as defined in § 4.1-600, shall not be required to obtain a license issued pursuant to subsection  
1542 A of § 3.2-4117.1 prior to testing industrial hemp or hemp products in the Commonwealth.

1543 B. A laboratory issued a license pursuant to subsection A of § 3.2-4117.1 shall:

1544 1. Maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for  
1545 Standardization by a third-party accrediting body.

1546 2. Employ a person who will oversee and be responsible for testing hemp products and who has  
1547 earned from an institution of higher education accredited by a national or regional certifying authority  
1548 at least (i) a master's degree in chemical or biological sciences and a minimum of two years of  
1549 post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a  
1550 minimum of four years of post-degree laboratory experience.

1551 3. Allow the Commissioner or his designee to inspect each location at which the laboratory tests  
1552 hemp products.

1553 C. If the results of a test required by (i) § 3.2-4122, (ii) regulations adopted pursuant to subsection  
1554 C of § 3.2-4114, or (iii) regulations adopted pursuant to § 3.2-5145.4 or 3.2-5145.5 indicate that the  
1555 tested hemp product exceeds the maximum level of allowable tetrahydrocannabinol (THC) or  
1556 contamination for any contaminant for which testing is required, a hemp testing laboratory shall, within  
1557 seven days of completing the test, notify the Commissioner of the test results.

1558 D. For each day any violation of this section occurs, the Commissioner may assess a penalty not to  
1559 exceed (i) \$1,000 for a first violation; (ii) \$5,000 for a second violation; and (iii) a six-month license  
1560 suspension for a third or subsequent violation within a five-year period. All penalties collected by the  
1561 Commissioner pursuant to this subsection shall be deposited in the state treasury.

1562 **§ 3.2-4122. Hemp products; penalties.**

1563 A. Any hemp product intended for smoking that is distributed, offered for sale, or sold in the  
1564 Commonwealth shall be:

1565 1. Tested in accordance with regulations adopted pursuant to subsection C of § 3.2-4114.

1566 2. Labeled and packaged in accordance with regulations adopted pursuant to subsection D of  
1567 § 3.2-4114.

1568 3. Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.

1569 B. Any hemp product that is or includes an industrial hemp extract intended for human consumption  
1570 that is distributed, offered for sale, or sold in the Commonwealth shall be:

1571 1. Labeled and packaged in accordance with regulations adopted pursuant to subsection D of  
1572 § 3.2-4114.

1573 2. Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.

1574 C. A processor shall destroy the batch of hemp product intended for smoking whose testing sample  
1575 exceeds the maximum level of allowable contamination for each contaminant established in regulations  
1576 adopted pursuant to subsection C of § 3.2-4114, unless remedial measures can bring the hemp product  
1577 into compliance with such regulation. A processor shall destroy the batch of hemp product that is or  
1578 includes an industrial hemp extract intended for human consumption whose testing sample exceeds the  
1579 maximum level of allowable contamination for each contaminant established in regulations adopted  
1580 pursuant to § 3.2-5145.5, unless remedial measures can bring the hemp product into compliance with  
1581 such regulation.

1582 D. For any violation of subsection A or B by a processor or by a retail establishment, the  
1583 Commissioner may assess a penalty not to exceed (i) \$100 for a first violation, (ii) \$200 for a second  
1584 violation, and (iii) \$500 for a third or subsequent violation. For any violation of subsection C by a  
1585 processor, the Commissioner may assess a penalty not to exceed (a) \$100 for a first violation, (b) \$200  
1586 for a second violation, and (c) \$500 for a third or subsequent violation. All penalties collected by the  
1587 Commissioner pursuant to this subsection shall be deposited in the state treasury.

1588 E. Notwithstanding the provisions of subsection A, any hemp product intended for smoking that is  
1589 produced prior to the initial effective date of the regulations adopted pursuant to subsection C or D of  
1590 § 3.2-4114 may be distributed, offered for sale, or sold. Any person who distributes, offers for sale, or  
1591 sells a hemp product intended for smoking pursuant to this subsection shall provide to the  
1592 Commissioner, upon request, documentation of the date on which the product was processed.

1593 F. Notwithstanding the provisions of subsection B, any hemp product that is an industrial hemp  
1594 extract intended for human consumption and that is produced prior to the initial effective date of the  
1595 regulations adopted pursuant to subsection D of § 3.2-4114 may be distributed, offered for sale, or sold.  
1596 Any person who distributes, offers for sale, or sells a hemp product that is an industrial hemp extract

intended for human consumption pursuant to this subsection shall provide to the Commissioner, upon request, documentation of the date on which the product was processed.

#### Article 6.

#### Edible Marijuana Products.

##### § 3.2-5145.6. Definitions.

As used in this article, unless the context requires a different meaning:

"Edible marijuana product" means the same as that term is defined in § 4.1-600.

"Food" means any article that is intended for human consumption and introduction into commerce, whether the article is simple, mixed, or compound, and all substances or ingredients used in the preparation thereof. "Food" does not mean "drug" as defined in § 54.1-3401.

##### § 3.2-5145.7. Edible marijuana products; approved food; adulterated food.

A. An edible marijuana product is a food and is subject to the requirements of this chapter and regulations adopted pursuant to this chapter.

B. An edible marijuana product that does not comply with the provisions of § 4.1-1403 or health and safety regulations adopted pursuant thereto shall be deemed to be adulterated.

##### § 3.2-5145.8. Manufacturer of edible marijuana products.

A manufacturer of an edible marijuana product shall be an approved source if the manufacturer operates:

1. Under inspection by the Commissioner in the location in which such manufacturing occurs; and
2. In compliance with the laws, regulations, or criteria that pertain to the manufacture of edible marijuana products in the location in which such manufacturing occurs.

##### § 3.2-5145.9. Regulations.

A. The Board is authorized to adopt regulations for the efficient enforcement of this article.

B. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations adopted pursuant to this section. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

##### § 4.1-100. Definitions.

As used in this ~~title~~ subtitle, unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcoholic Beverage Control Act" means Subtitle I (§ 4.1-100 et seq.).

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this ~~title~~

1658 *subtitle.*

1659 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

1660 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms;  
1661 (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii)  
1662 offering at least one meal per day, which may but need not be breakfast, to each person to whom  
1663 overnight lodging is provided. For purposes of the licensing requirements of this ~~title~~ *subtitle*, "bed and  
1664 breakfast establishment" includes any property offered to the public for short-term rental, as that term is  
1665 defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is  
1666 offered to each person to whom overnight lodging is provided.

1667 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of  
1668 barley, malt, and hops or of any similar products in drinkable water and containing one-half of one  
1669 percent or more of alcohol by volume.

1670 "Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

1671 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43  
1672 ounces.

1673 "Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20  
1674 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the  
1675 Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24  
1676 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with  
1677 charging stations at every seat for cellular phones or other portable devices, and (vi) during the  
1678 transportation of passengers, is staffed by an attendant who has satisfied all training requirements set  
1679 forth in this ~~title~~ *subtitle* or Board regulation.

1680 "Club" means any private nonprofit corporation or association which is the owner, lessee, or  
1681 occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other  
1682 like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also  
1683 means the establishment so operated. A corporation or association shall not lose its status as a club  
1684 because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.)  
1685 of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided  
1686 that no alcoholic beverages are served or consumed in the room where such charitable gaming is being  
1687 conducted while such gaming is being conducted and that no alcoholic beverages are made available  
1688 upon the premises to any person who is neither a member nor a bona fide guest of a member.

1689 Any such corporation or association which has been declared exempt from federal and state income  
1690 taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a  
1691 nonprofit corporation or association.

1692 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum of  
1693 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain  
1694 stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a  
1695 physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial  
1696 owners' association that is responsible for the management, maintenance, and operation of the common  
1697 areas thereof.

1698 "Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding  
1699 alcoholic beverages.

1700 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains  
1701 grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes,  
1702 processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with  
1703 the farm winery licensee. For all purposes of this ~~title~~ *subtitle*, wine produced by a contract winemaking  
1704 facility for a farm winery shall be considered to be wine owned and produced by the farm winery that  
1705 supplied the grapes, fruits, or other agricultural products used in the production of the wine. The  
1706 contract winemaking facility shall have no right to sell the wine so produced, unless the terms of  
1707 payment have not been fulfilled in accordance with the contract. The contract winemaking facility may  
1708 charge the farm winery for its services.

1709 "Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent  
1710 structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items  
1711 intended for human consumption consisting of a variety of such items of the types normally sold in  
1712 grocery stores.

1713 "Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a  
1714 building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the  
1715 Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service  
1716 kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and  
1717 recreational and educational activities related to farming, livestock, and other rural activities.

1718 "Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring little  
1719 preparation, such as cheeses, salads, cooked meats, and related condiments.

1720 "Designated area" means a room or area approved by the Board for on-premises licensees.  
 1721 "Dining area" means a public room or area in which meals are regularly served.  
 1722 "Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant  
 1723 to a prescription and other medicines and items for home and general use.  
 1724 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully  
 1725 manufactured, sold, or used.  
 1726 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned  
 1727 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for  
 1728 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
 1729 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned  
 1730 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing  
 1731 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for  
 1732 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
 1733 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher  
 1734 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine  
 1735 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine  
 1736 manufactured by the institution shall be stored on the premises of such farm winery that shall be  
 1737 separate and apart from all other facilities of the institution, and (d) such farm winery is operated in  
 1738 strict conformance with the requirements of this clause (ii) and Board regulations. As used in this  
 1739 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of  
 1740 individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a  
 1741 farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the  
 1742 individual members of the cooperative as long as such land is located in the Commonwealth. For  
 1743 purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or  
 1744 classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this  
 1745 definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for  
 1746 the limitation on land zoned "residential conservation," nothing in the definition of "land zoned  
 1747 agricultural" shall otherwise limit or affect local zoning authority.  
 1748 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty  
 1749 items relating to history, original and handmade arts and products, collectibles, crafts, and floral  
 1750 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure  
 1751 where stock is displayed and offered for sale and which has facilities to properly secure any stock of  
 1752 wine or beer. Such shop may be located (i) on the premises or grounds of a government registered  
 1753 national, state or local historic building or site or (ii) within the premises of a museum. The Board shall  
 1754 consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be  
 1755 considered a gift shop.  
 1756 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may  
 1757 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such  
 1758 persons facilities for manufacturing, fermenting and bottling such wine or beer.  
 1759 "Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial  
 1760 marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for  
 1761 consumption on the premises, and (iii) offers to the public events for the purpose of featuring and  
 1762 educating the consuming public about local oysters and other seafood products.  
 1763 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage  
 1764 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and  
 1765 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually  
 1766 furnished to persons.  
 1767 "Government store" means a store established by the Authority for the sale of alcoholic beverages.  
 1768 "Grocery store" means an establishment that sells food and other items intended for human  
 1769 consumption, including a variety of ingredients commonly used in the preparation of meals.  
 1770 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of  
 1771 the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of  
 1772 showing motion pictures to the public.  
 1773 "Hotel" means any duly licensed establishment, provided with special space and accommodation,  
 1774 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has  
 1775 four or more bedrooms. It shall also mean the person who operates such hotel.  
 1776 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order  
 1777 pursuant to this ~~title~~ subtitle.  
 1778 "Internet wine and beer retailer" means a person who owns or operates an establishment with  
 1779 adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or  
 1780 telephone orders are taken and shipped directly to consumers and which establishment is not a retail

1781 store open to the public.

1782 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to  
1783 observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

1784 "Licensed" means the holding of a valid license granted by the Authority.

1785 "Licensee" means any person to whom a license has been granted by the Authority.

1786 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol  
1787 content of 25 percent by volume.

1788 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol  
1789 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits  
1790 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit  
1791 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by  
1792 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of  
1793 this ~~title~~ *subtitle*, except that low alcohol beverage coolers may be manufactured by a licensed distiller  
1794 or a distiller located outside the Commonwealth.

1795 "Marina store" means an establishment that is located on the same premises as a marina, is operated  
1796 by the owner of such marina, and sells food and nautical and fishing supplies.

1797 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona  
1798 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments  
1799 specializing in full course meals with a single substantial entree.

1800 "Member of a club" means (i) a person who maintains his membership in the club by the payment of  
1801 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii)  
1802 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal  
1803 descendants of a bona fide member, whether alive or deceased, of a national or international  
1804 organization to which an individual lodge holding a club license is an authorized member in the same  
1805 locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the  
1806 annual dues of resident members of the club, the full amount of such contribution being paid in advance  
1807 in a lump sum.

1808 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of  
1809 spirits.

1810 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials,  
1811 and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives  
1812 which are not commonly consumed unless combined with alcoholic beverages, whether or not such  
1813 ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a  
1814 Virginia corporation.

1815 "Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and  
1816 which is the county seat of Smyth County.

1817 "Place or premises" means the real estate, together with any buildings or other improvements thereon,  
1818 designated in the application for a license as the place at which the manufacture, bottling, distribution,  
1819 use or sale of alcoholic beverages shall be performed, except that portion of any such building or other  
1820 improvement actually and exclusively used as a private residence.

1821 "Principal stockholder" means any person who individually or in concert with his spouse and  
1822 immediate family members beneficially owns or controls, directly or indirectly, five percent or more of  
1823 the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse  
1824 and immediate family members has the power to vote or cause the vote of five percent or more of any  
1825 such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the  
1826 Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial  
1827 markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

1828 "Public place" means any place, building, or conveyance to which the public has, or is permitted to  
1829 have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,  
1830 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any  
1831 highway, street, or lane.

1832 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for  
1833 private meetings or private parties limited in attendance to members and guests of a particular group,  
1834 association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or  
1835 similar facilities while such restaurant is closed to the public and in use for private meetings or parties  
1836 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such  
1837 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in  
1838 use for private meetings or parties limited in attendance to employees and nonpaying guests of the  
1839 owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats  
1840 which are not licensed by the Board and on which alcoholic beverages are not sold.

1841 "Residence" means any building or part of a building or structure where a person resides, but does  
1842 not include any part of a building that is not actually and exclusively used as a private residence, nor

any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities both to its members and to the general public; or (iii) operated by a corporation that operates as a management company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients, but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

#### **§ 4.1-101.02. Appointment, salary, and powers of Chief Executive Officer; appointment of confidential assistant to the Chief Executive Officer.**

A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive Officer shall not be a member of the Board; shall hold, at a minimum, a baccalaureate degree in business or a related field of study; and shall possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall receive such compensation as determined by the Board and approved by the Governor, including any performance bonuses or incentives as the Board deems advisable. The

1904 Chief Executive Officer shall be subject to a background check in accordance with § 4.1-101.03. The  
1905 Chief Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or  
1906 imposed upon him by law and (ii) meet performance measures or targets set by the Board and approved  
1907 by the Governor. The Chief Executive Officer may be removed from office by the Governor for cause,  
1908 including the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence,  
1909 misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or  
1910 targets as set by the Board and approved by the Governor, failure to carry out the policies of the  
1911 Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a  
1912 lawful directive of the Governor.

1913 B. The Chief Executive Officer shall devote his full time to the performance of his official duties  
1914 and shall not be engaged in any other profession or occupation.

1915 C. The Chief Executive Officer shall supervise and administer the operations of the Authority in  
1916 accordance with this ~~title~~ subtitle.

1917 D. The Chief Executive Officer shall:

1918 1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the  
1919 Authority and preserve at the Authority's general office all books, documents, and papers of the  
1920 Authority;

1921 2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may  
1922 be conferred or imposed upon him by law;

1923 3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer as  
1924 may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer,  
1925 subject to the Board's approval; and

1926 4. Make recommendations to the Board for legislative and regulatory changes.

1927 E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the  
1928 Chief Executive Officer shall make any contribution to a candidate for office or officeholder at the local  
1929 or state level or cause such a contribution to be made on his behalf.

1930 F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also  
1931 appoint one confidential assistant for administration who shall be deemed to serve on an  
1932 employment-at-will basis.

1933 **§ 4.1-101.07. Forms of accounts and records; audit; annual report.**

1934 A. The accounts and records of the Authority showing the receipt and disbursement of funds from  
1935 whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor  
1936 of Public Accounts or his legally authorized representatives shall annually examine the accounts and  
1937 books of the Authority. The Authority shall submit an annual report to the Governor and General  
1938 Assembly on or before December 15 of each year. Such report shall contain the audited annual financial  
1939 statements of the Authority for the year ending the previous June 30. The Authority shall also submit a  
1940 six-year plan detailing its assumed revenue forecast, assumed operating costs, number of retail facilities,  
1941 capital costs, including lease payments, major acquisitions of services and tangible or intangible  
1942 property, any material changes to the policies and procedures issued by the Authority related to  
1943 procurement or personnel, and any proposed marketing activities.

1944 B. Notwithstanding any other provision of law, in exercising any power conferred under this ~~title~~  
1945 subtitle, the Authority may implement and maintain independent payroll and nonpayroll disbursement  
1946 systems. These systems and related procedures shall be subject to review and approval by the State  
1947 Comptroller. Upon agreement with the State Comptroller, the Authority may report summary level detail  
1948 on both payroll and nonpayroll transactions to the State Comptroller through the Department of  
1949 Accounts' financial management system or its successor system. Such reports shall be made in  
1950 accordance with policies, procedures, and directives as prescribed by the State Comptroller. A  
1951 nonpayroll disbursement system shall include all disbursements and expenditures, other than payroll.  
1952 Such disbursements and expenditures shall include travel reimbursements, revenue refunds,  
1953 disbursements for vendor payments, petty cash, and interagency payments.

1954 **§ 4.1-101.09. Exemptions from taxes or assessments.**

1955 The exercise of the powers granted by this ~~title~~ subtitle shall be in all respects for the benefit of the  
1956 people of the Commonwealth, for the increase of their commerce and prosperity, and for the  
1957 improvement of their living conditions, and as the undertaking of activities in the furtherance of the  
1958 purposes of the Authority constitutes the performance of essential governmental functions, the Authority  
1959 shall not be required to pay any taxes or assessments upon any property acquired or used by the  
1960 Authority under the provisions of this ~~title~~ subtitle or upon the income therefrom, including sales and  
1961 use taxes on the tangible personal property used in the operations of the Authority. The exemption  
1962 granted in this section shall not be construed to extend to persons conducting on the premises of any  
1963 property of the Authority businesses for which local or state taxes would otherwise be required.

1964 **§ 4.1-101.010. Exemption of Authority from personnel and procurement procedures;**  
1965 **information systems; etc.**



A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this ~~title subtitle~~. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this ~~title subtitle~~.

B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from:

1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;

2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117; and

3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for the construction of the Authority's capital projects and construction-related professional services under § 2.2-1132.

C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services, including information technology goods and services; (ii) shall use directly or by integration or interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the Authority and the Department of General Services; and (iii) shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on one website.

**§ 4.1-101.1. Certified mail; subsequent mail or notices may be sent by regular mail; electronic communications as alternative to regular mail; limitation.**

A. Whenever in this ~~title subtitle~~ the Board is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board may be sent by regular mail.

B. Except as provided in subsection C, whenever in this ~~title subtitle~~ the Board is required or permitted to send any mail, notice, or other official communication by regular mail to persons licensed under Chapter 2 (§ 4.1-200 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official communication by email, text message, or other electronic means to the email address, telephone number, or other contact information provided to the Board by the licensee, provided that the Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by the Board confirming the electronic delivery.

C. No notice required by § 4.1-227 to (i) a licensee of a hearing that may result in the suspension or revocation of his license or the imposition of a civil penalty or (ii) a person holding a permit shall be sent by the Board by email, text message, or other electronic means, nor shall any decision by the Board to suspend or revoke a license or permit or impose a civil penalty be sent by the Board by email, text message, or other electronic means.

**§ 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 subtitle~~, 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

2027 things of value, to be held, used, and applied only for the purposes for which such grants and  
2028 contributions may be made. All federal moneys accepted under this section shall be accepted and  
2029 expended by the Authority upon such terms and conditions as are prescribed by the United States and as  
2030 are consistent with state law, and all state moneys accepted under this section shall be expended by the  
2031 Authority upon such terms and conditions as are prescribed by the Commonwealth;

2032 7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business  
2033 shall be transacted and the manner in which the powers of the Authority shall be exercised and its  
2034 duties performed. The Board may delegate or assign any duty or task to be performed by the Authority  
2035 to any officer or employee of the Authority. The Board shall remain responsible for the performance of  
2036 any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be  
2037 accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate,  
2038 the guidelines shall require that the Board receive summaries of actions taken. Such delegation or  
2039 assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties  
2040 and tasks;

2041 8. Conduct or engage in any lawful business, activity, effort, or project consistent with the  
2042 Authority's purposes or necessary or convenient to exercise its powers;

2043 9. Develop policies and procedures generally applicable to the procurement of goods, services, and  
2044 construction, based upon competitive principles;

2045 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of  
2046 Title 2.2;

2047 11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm  
2048 wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its  
2049 possession for sale;

2050 12. Buy and sell any mixers;

2051 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international  
2052 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass),  
2053 and 25 (clothing);

2054 14. Control the possession, sale, transportation, and delivery of alcoholic beverages;

2055 15. Determine, subject to § 4.1-121, the localities within which government stores shall be  
2056 established or operated and the location of such stores;

2057 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic  
2058 beverages to and from such warehouses;

2059 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,  
2060 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the  
2061 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest  
2062 therein, at such annual rental and on such terms and conditions as may be determined by the Board;  
2063 lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest  
2064 therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual  
2065 rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey  
2066 any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired  
2067 or held by the Authority on such terms and conditions as may be determined by the Board; and occupy  
2068 and improve any land or building required for the purposes of this ~~title~~ subtitle;

2069 18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be  
2070 considered necessary or useful in carrying into effect the purposes of this ~~title~~ subtitle, including  
2071 rectifying, blending, and processing plants. The Board may purchase, build, lease, and operate distilleries  
2072 and manufacture alcoholic beverages;

2073 19. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to  
2074 be kept or sold under this ~~title~~ subtitle, and prescribe the form and content of all labels and seals to be  
2075 placed thereon; however, no container sold in or shipped into the Commonwealth shall include  
2076 powdered or crystalline alcohol;

2077 20. Appoint every agent and employee required for its operations; require any or all of them to give  
2078 bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the  
2079 services of experts and professionals;

2080 21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the  
2081 production of records, memoranda, papers and other documents before the Board or any agent of the  
2082 Board; and administer oaths and take testimony thereunder. The Board may authorize any Board  
2083 member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take  
2084 testimony thereunder, and decide cases, subject to final decision by the Board, on application of any  
2085 party aggrieved. The Board may enter into consent agreements and may request and accept from any  
2086 applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a  
2087 license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may  
2088 include an admission or a finding of a violation. A consent agreement shall not be considered a case

decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

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

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

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

25. Assess and collect civil penalties and civil charges for violations of this ~~title~~ subtitle and Board regulations;

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

27. Establish minimum food sale requirements for all retail licensees;

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

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this ~~title~~ subtitle;

30. Establish and collect fees for all permits set forth in this ~~title~~ subtitle, including fees associated with applications for such permits;

31. Impose a requirement that a mixed beverage restaurant licensee located on the premises of and operated by a casino gaming establishment pay for any cost incurred by the Board to enforce such license in excess of the applicable state license fee; and

32. Do all acts necessary or advisable to carry out the purposes of this ~~title~~ subtitle.

**§ 4.1-104. Purchases by the Board.**

The purchasing of alcoholic beverages and mixers, products used in connection with distilled spirits intended for resale, or products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 intended for resale, the making of leases, and the purchasing of real estate by the Board under the provisions of this ~~title~~ subtitle are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

**§ 4.1-105. Police power of members, agents and employees of Board.**

Members of the Board are vested, and such agents and employees of the Board designated by it shall be vested, with like power to enforce the provisions of (i) this ~~title~~ subtitle and the criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii) § 18.2-371.2; and (iv) § 58.1-1037.

**§ 4.1-106. Liability of Board members; suits by and against Board.**

A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his duties as prescribed by this ~~title~~ subtitle, except by the Commonwealth, and then only in the Circuit Court of the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.

B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the names of, the members of the Board.

**§ 4.1-107. Counsel for members, agents and employees of Board.**

If any member, agent, or employee of the Board shall be arrested, indicted or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ special counsel approved by the Attorney General to defend such member, agent, or employee. The compensation for special counsel employed pursuant to this section, shall, subject to the approval of the Attorney General, be paid in the same manner as other expenses incident to the administration of this ~~title~~ subtitle are paid.

**§ 4.1-111. Regulations of Board.**

A. The Board may promulgate reasonable regulations, not inconsistent with this ~~title~~ subtitle or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this ~~title~~ subtitle and to prevent the illegal manufacture, bottling, sale, distribution, and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

- 2150 1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or  
2151 consumed on any licensed premises, including a provision that mixed beverages may be sold only at  
2152 such times as wine and beer may be sold.
- 2153 2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served  
2154 by such licensee.
- 2155 3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers,  
2156 brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established  
2157 trade customs, quantity and value of the articles or services involved; prevent undue competitive  
2158 domination of any person by any other person engaged in the manufacture, distribution and sale at retail  
2159 or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of  
2160 arm's length business transactions.
- 2161 4. Establish requirements for the form, content, and retention of all records and accounts, including  
2162 the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in  
2163 kegs, by all licensees.
- 2164 5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer  
2165 within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at  
2166 the address on record with the Board by certified mail, return receipt requested, and by regular mail.
- 2167 6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage  
2168 spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance  
2169 with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and  
2170 the manufacturers' seals, marks, or stamps affixed to the bottles are intact.
- 2171 7. Prescribe the terms and conditions under which credit or debit cards may be accepted from  
2172 licensees for purchases at government stores, including provision for the collection, where appropriate,  
2173 of related fees, penalties, and service charges.
- 2174 8. Require that banquet licensees in charge of public events as defined by Board regulations report to  
2175 the Board the income and expenses associated with the public event on a form prescribed by the Board  
2176 when the banquet licensee engages another person to organize, conduct, or operate the event on behalf  
2177 of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic  
2178 beverages are being sold.
- 2179 9. Provide alternative methods for licensees to maintain and store business records that are subject to  
2180 Board inspection, including methods for Board-approved electronic and off-site storage.
- 2181 10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing  
2182 one-half of one percent or more of alcohol by volume in the same location where wine and beer are  
2183 available for sale within the licensed premises.
- 2184 11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and  
2185 sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20  
2186 liters.
- 2187 12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to  
2188 subsection C of § 4.1-232.
- 2189 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic  
2190 beverages, not inconsistent with the provisions of this ~~title~~ subtitle, so that such advertising does not  
2191 encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic  
2192 beverages may not be lawfully sold. Such regulations shall:
- 2193 a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i)  
2194 the general prohibition against tied interests between retail licensees and manufacturers or wholesale  
2195 licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of  
2196 wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the  
2197 general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and  
2198 retail licensees as set forth in Board regulation; and
- 2199 b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this ~~title~~ subtitle and (ii)  
2200 the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under  
2201 Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as  
2202 defined in § 55.1-1100, but only in accordance with this ~~title~~ subtitle.
- 2203 14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer  
2204 pursuant to an agreement with a brand owner not under common control with the manufacturing  
2205 brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require  
2206 that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a  
2207 written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board  
2208 are maintained by the parties.
- 2209 15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations  
2210 shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy  
2211 hour and any pricing related to such happy hour. Such regulations shall not prohibit on-premises

licensees from using creative marketing techniques in such advertisements, provided that such techniques do not tend to induce overconsumption or consumption by minors.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shops granted a retail off-premises wine and beer license. Growlers sold by gourmet shops shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shops granted a retail off-premises wine and beer license for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other documents necessary to verify the licensee's compliance with applicable minimum food sale requirements within 30 days of the date such records or documents are due.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

#### **§ 4.1-112.2. Outdoor advertising; limitations; variances; compliance with Title 33.2.**

A. No outdoor alcoholic beverage advertising shall be placed within 500 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on the real property of (i) a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility;

2273 or (iv) a dwelling used for residential use.

2274 B. However, (i) if there is no building or structure on a playground or similar recreational facility,  
2275 the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed  
2276 to the property line of such playground or similar recreational facility and (ii) if a public or private  
2277 school providing grade K through 12 education is located across the road from a sign, the measurement  
2278 shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest  
2279 edge of a building or structure located on such real property across the road.

2280 C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i)  
2281 a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial  
2282 school or an institution of higher education; (iii) a public or private playground or similar recreational  
2283 facility; or (iv) a dwelling used for residential use, but the circumstances change such that the advertiser  
2284 would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as  
2285 displayed for the remainder of the term of any written advertising contract, but in no event more than  
2286 one year from the date of the change in circumstances.

2287 D. The Board may grant a permit authorizing a variance from the distance requirements of this  
2288 section upon a finding that the placement of alcoholic beverage advertising on a sign will not unduly  
2289 expose children to alcoholic beverage advertising.

2290 E. Provided such signs are in compliance with local ordinances, the distance and zoning restrictions  
2291 contained in this section shall not apply to:

- 2292 1. Signs placed by licensees upon the property on which the licensed premises are located; or  
2293 2. Directional signs placed by manufacturers or wholesalers with advertising limited to trade names,  
2294 brand names, the terms "distillery," "brewery," "farm winery," or "winery," and tour information.

2295 F. The distance and zoning restrictions contained in this section shall not apply to any sign that is  
2296 included in the Integrated Directional Sign Program administered by the Virginia Department of  
2297 Transportation or its agents.

2298 G. Nothing in this section shall be construed to authorize billboard signs containing outdoor alcoholic  
2299 beverage advertising on property zoned agricultural or residential, or on any unzoned property. Nor shall  
2300 this section be construed to authorize the erection of new billboard signs containing outdoor advertising  
2301 that would be prohibited under state law or local ordinance.

2302 H. All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this ~~title~~  
2303 *sub*title, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted  
2304 pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage  
2305 directional sign located or to be located on highway rights of way shall also be governed by and comply  
2306 with the Integrated Directional Sign Program administered by the Virginia Department of Transportation  
2307 or its agents.

2308 **§ 4.1-113.1. Outdoor advertising; compliance with Title 33.2.**

2309 All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this ~~title~~  
2310 *sub*title, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted  
2311 pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage  
2312 directional sign located or to be located on highway rights-of-way shall also be governed by and comply  
2313 with the Integrated Directional Sign Program administered by the Virginia Department of Transportation  
2314 or its agents.

2315 **§ 4.1-115. Reports and accounting systems of Board; auditing books and records.**

2316 A. The Board shall make reports to the Governor as he may require covering the administration and  
2317 enforcement of this ~~title~~ *sub*title. Additionally, the Board shall submit an annual report to the Governor  
2318 and General Assembly on or before December 15 each year, which shall contain:

- 2319 1. A statement of the nature and amount of the business transacted by each government store during  
2320 the year;  
2321 2. A statement of the assets and liabilities of the Board, including a statement of income and  
2322 expenses and such other financial statements and matters as may be necessary to show the result of the  
2323 operations of the Board for the year;  
2324 3. A statement showing the taxes collected under this ~~title~~ *sub*title during the year;  
2325 4. General information and remarks about the working of the alcoholic beverage control laws within  
2326 the Commonwealth; and  
2327 5. Any other information requested by the Governor.

2328 B. The Board shall maintain an accounting system in compliance with generally accepted accounting  
2329 principles and approved in accordance with § 2.2-803.

2330 C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual  
2331 audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted  
2332 by the Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit  
2333 examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

2334 **§ 4.1-116. Disposition of moneys collected by Board; creation of Enterprise Fund; reserve fund.**

A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of salaries, fees, costs, charges, expenses, refunds or claims of any description whatever, as required by § 2.2-1802.

All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred in establishing and maintaining government stores and in the administration of the provisions of this ~~title subtitle~~, including the purchasing, building, leasing and operation of distilleries and the manufacture of alcoholic beverages.

B. The net profits derived under the provisions of this ~~title subtitle~~ shall be transferred by the Comptroller to the general fund of the state treasury quarterly, within ~~fifty~~ 50 days after the close of each quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with the administration of this ~~title subtitle~~ and to provide for the depreciation on the buildings, plants and equipment owned, held or operated by the Board.

C. The term "net profits" as used in this section means the total of all moneys collected by the Board less all costs, expenses and charges authorized by this section.

**§ 4.1-118. Certain information not to be made public.**

Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records required pursuant to § 4.1-114; (ii) the purchase orders and invoices for beer and wine filed with the Board by wholesale beer and wine licensees; or (iii) beer and wine taxes collected from, refunded to, or adjusted for any person. The provisions of § 58.1-3 shall apply, mutatis mutandis, to beer and wine taxes collected pursuant to this ~~title subtitle~~ and to purchase orders and invoices for beer and wine filed with the Board by wholesale beer and wine licensees.

Nothing contained in this section shall prohibit the use or release of such information or documents by the Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee.

Nor shall this section prohibit the Board or its employees from compiling and disseminating to any member of the public aggregate statistical information pertaining to (i) malt beverage excise tax collection as long as such information does not reveal or disclose excise tax collection from any identified licensee; (ii) the total quantities of wine sold or shipped into the Commonwealth by each out-of-state winery, distributor, or importer for resale in the Commonwealth by wholesale wine licensees collectively; (iii) the total amount of wine sales in the Commonwealth by wholesale wine licensees collectively; or (iv) the total amount of purchases or sales submitted by licensees as required pursuant to § 4.1-114, provided such information does not identify the licensee.

**§ 4.1-119. (Effective until 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 spirits, wine 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.

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 subtitle~~ and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of

2396 a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low  
2397 alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises,  
2398 at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of  
2399 an event licensed by the Board and conducted for the purpose of featuring and educating the consuming  
2400 public about spirits products.

2401 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions  
2402 of this ~~title~~ subtitle, Board regulations, and the terms of the agency agreement between the Authority  
2403 and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an  
2404 agreement authorized by this subsection a commission of not less than 20 percent of the retail price of  
2405 the goods sold. If the licensed distiller makes application and meets certain requirements established by  
2406 the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board  
2407 to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be  
2408 limited to the amount due to the Board in applicable taxes and markups.

2409 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries  
2410 and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision A 6 of  
2411 § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and  
2412 flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the  
2413 receiving distillery.

2414 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without  
2415 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151  
2416 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

2417 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to  
2418 subsection G sold in government stores established by the Board on a distiller's licensed premises, shall  
2419 be in closed containers, sealed and affixed with labels prescribed by the Board.

2420 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part  
2421 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm  
2422 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a  
2423 permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of  
2424 alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in  
2425 subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic  
2426 beverages may not lawfully be sold pursuant to § 4.1-304.

2427 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed  
2428 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic  
2429 beverages may be lawfully sold for on-premises or off-premises consumption, provided that (i) the  
2430 spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on  
2431 contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall  
2432 exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a  
2433 mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of  
2434 spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be  
2435 given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track  
2436 the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving  
2437 samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or  
2438 vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery,  
2439 provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed  
2440 premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant  
2441 to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not  
2442 manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits  
2443 or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous  
2444 premises of the licensed distillery shall be purchased from the Board.

2445 The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

2446 Any case fee charged to a licensed distiller by the Board for moving spirits from the production and  
2447 bailment area to the tasting area of a government store established by the Board on the distiller's  
2448 licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

2449 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in  
2450 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or  
2451 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii)  
2452 provide notice to licensees on Board policies relating to the assignment of government stores from  
2453 which licensees may purchase products and any procedure for the licensee to elect to make purchases  
2454 from an alternative government store.

2455 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in  
2456 payment for any purchase or series of purchases. The Board may adopt regulations which provide for  
2457 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 spirits, wine 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.

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~~ *sub*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~~ *sub*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 authorized by this subsection a commission of not less than 20 percent of the retail price of the goods 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 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.

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 A 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 14 of § 4.1-212, at which the samples of

2519 alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in  
2520 subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic  
2521 beverages may not lawfully be sold pursuant to § 4.1-304.

2522 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed  
2523 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic  
2524 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or  
2525 cider samples are manufactured within the same licensed premises or on contiguous premises of such  
2526 agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer,  
2527 two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which  
2528 case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than  
2529 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person  
2530 per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each  
2531 consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of  
2532 a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on  
2533 the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75  
2534 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous  
2535 premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep  
2536 on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the  
2537 licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in  
2538 such samples that are not manufactured on the licensed premises or on contiguous premises of the  
2539 licensed distillery shall be purchased from the Board.

2540 The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

2541 Any case fee charged to a licensed distiller by the Board for moving spirits from the production and  
2542 bailment area to the tasting area of a government store established by the Board on the distiller's  
2543 licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

2544 H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in  
2545 payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or  
2546 check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii)  
2547 provide notice to licensees on Board policies relating to the assignment of government stores from  
2548 which licensees may purchase products and any procedure for the licensee to elect to make purchases  
2549 from an alternative government store.

2550 I. With respect to purchases by consumers at government stores, the Authority shall accept cash in  
2551 payment for any purchase or series of purchases. The Board may adopt regulations which provide for  
2552 accepting a credit card or debit card as payment. Such regulations may provide for the collection, where  
2553 appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by  
2554 any consumer.

2555 J. Before the Authority implements any increase in the markup on distilled spirits or any change to  
2556 the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the  
2557 retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public  
2558 notice before such a price increase takes effect; (ii) provide the opportunity for submission of written  
2559 comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of  
2560 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal  
2561 comments before implementing such a price increase.

2562 **§ 4.1-122. Effect of local option referenda.**

2563 A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a  
2564 majority of the qualified voters vote "Yes" on the question, then on and after 60 days from the date on  
2565 which the order of the court, setting forth the results of such referendum was entered of record, none of  
2566 the alcoholic beverages voted against shall be sold in such county, city, or town except for delivery or  
2567 shipment to persons outside of such county, city, or town authorized under this ~~title~~ subtitle to acquire  
2568 the alcoholic beverages for resale. This subsection shall not apply to common carriers of passengers by  
2569 train, boat or airplane selling wine and beer to bona fide passengers.

2570 B. If in any such referendum held in any county, city, or town in which a majority of the qualified  
2571 voters have previously voted to prohibit the sale of alcoholic beverages by the Board and in a  
2572 subsequent election a majority of the voters of the county, city, or town vote "No" on the question  
2573 stated in § 4.1-121, then such alcoholic beverages may, in accordance with this ~~title~~ subtitle, be sold  
2574 within the county, city, or town on and after 60 days from the day on which the order of the court  
2575 setting forth the results of such election is entered of record.

2576 C. If any referendum is held under the provisions of § 4.1-124 in any county, town, or supervisor's  
2577 election district of a county and the majority of voters voting in such referendum voted "Yes," the sale  
2578 by the Board of alcoholic beverages, other than beer and wine not produced by farm wineries, shall be  
2579 prohibited in such county, town, or supervisor's election district of a county. Notwithstanding this  
2580 section and any referendum held under § 4.1-121 to the contrary, persons licensed to sell mixed

beverages in such county, town, or supervisor's election district of a county shall also be permitted to sell wine and beer for on-premises consumption, provided the appropriate license fees are paid for the privilege.

D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery or shipment of alcoholic beverages specified in § 4.1-200 to and by persons therein authorized to sell alcoholic beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations into any county, city, or town, except as otherwise prohibited by this ~~title~~ subtitle.

E. For the purpose of this section, when any referendum is held in any town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county.

**§ 4.1-124. Referendum on the sale of mixed beverages.**

A. The provisions of this ~~title~~ subtitle relating to the sale of mixed beverages shall be effective in any town, county, or supervisor's election district of a county unless a majority of the voters voting in a referendum vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under this ~~title~~ subtitle should be prohibited. The qualified voters of a town, county, or supervisor's election district of a county may file a petition with the circuit court of the county asking that a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

Petition requirements for any county shall be based on the number of registered voters in the county, including the number of registered voters in any town having a population in excess of 1,000 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election officials of the county to conduct a referendum on the question.

The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be prohibited in \_\_\_\_\_ (name of town, county, or supervisor's election district of county)?"

The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages prohibited from sale by such referendum shall not be sold by restaurants within the town, county, or supervisor's election district of a county on or after 30 days following the entry of the order if a majority of the voters voting in the referendum have voted "Yes."

The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the same extent and subject to the same conditions and limitations as are otherwise applicable to counties under this section. Such towns shall be treated as separate local option units, and only residents of any such town shall be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this section for any county in which the town is located.

Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants licensed under this ~~title~~ subtitle should be prohibited was previously held in the former city and a majority of the voters voting in such referendum voted "Yes."

B. Once a referendum has been held, no other referendum on the same question shall be held in the town, county, or supervisor's election district of a county for a period of 23 months.

C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property dedicated for industrial or commercial development and controlled through the provision of public utilities and covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement between three or more counties, cities, or towns and such jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the counties and that the governing board of the authority authorizes an establishment located within the confines of such property to apply to the Board for such license. The appropriate license fees shall be paid for this privilege.

D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license to a restaurant located on the premises of and operated by a private club exclusively for its members and their guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-206.3. However, no license authorized by this subsection shall be granted if the private club restricts its membership on the basis of race, color, creed, national origin, or sex.

**§ 4.1-128. Local ordinances or resolutions regulating or taxing alcoholic beverages.**

A. No county, city, or town shall, except as provided in § 4.1-205 or 4.1-129, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board, and federal law at a licensed farm winery.

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by § 58.1-605, 58.1-3833 or 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance that (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of subsections B and E of § 4.1-308, or the acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this ~~title~~ subtitle, are repealed to the extent of such inconsistency.

**§ 4.1-200. Exemptions from licensure.**

The licensure requirements of this chapter shall not apply to:

1. A person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, who administers or causes to be administered alcoholic beverages to any bona fide patient or inmate of the institution who is in need of the same, either by way of external application or otherwise for emergency medicinal purposes. Such person may charge for the alcoholic beverages so administered, and carry such stock as may be necessary for this purpose. No charge shall be made of any patient for the alcoholic beverages so administered to him where the same have been supplied to the institution by the Board free of charge.

2. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicine containing sufficient medication to prevent it from being used as a beverage.

3. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicinal preparations manufactured in accordance with formulas prescribed by the United States pharmacopoeia; national formulary, patent and proprietary preparations; and other bona fide medicinal and technical preparations; which contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in such preparations, and no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, and which are manufactured and sold to be used exclusively as medicine and not as beverages.

4. The manufacture, sale and delivery or shipment of toilet, medicinal and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages.

5. The manufacture and sale of food products known as flavoring extracts which are manufactured and sold for cooking and culinary purposes only and not sold as beverages.

6. Any person who manufactures at his residence or at a gourmet brewing shop for domestic consumption at his residence, but not to be sold, dispensed or given away, except as hereinafter provided, wine or beer or both, in an amount not to exceed the limits permitted by federal law.

Any person who manufactures wine or beer in accordance with this subdivision may remove from his residence an amount not to exceed ~~fifty~~ 50 liters of such wine or ~~fifteen~~ 15 gallons of such beer on any one occasion for (i) personal or family use, provided such use does not violate the provisions of this

~~title subtitle~~ or Board regulations; (ii) giving to any person to whom wine or beer may be lawfully sold an amount not to exceed (a) one liter of wine per person per year or (b) ~~seventy-two~~ 72 ounces of beer per person per year, provided such gift is for noncommercial purposes; or (iii) giving to any person to whom beer may lawfully be sold a sample of such wine or beer, not to exceed (a) one ounce of wine by volume or (b) two ounces of beer by volume for on-premises consumption at events organized for judging or exhibiting such wine or beer, including events held on the premises of a retail licensee. Nothing in this paragraph shall be construed to authorize the sale of such wine or beer.

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

7. Any person who keeps and possesses lawfully acquired alcoholic beverages in his residence for his personal use or that of his family. However, such alcoholic beverages may be served or given to guests in such residence by such person, his family or servants when (i) such guests are 21 years of age or older or are accompanied by a parent, guardian, or spouse who is 21 years of age or older, (ii) the consumption or possession of such alcoholic beverages by family members or such guests occurs only in such residence where the alcoholic beverages are allowed to be served or given pursuant to this subdivision, and (iii) such service or gift is in no way a shift or device to evade the provisions of this ~~title subtitle~~. The provisions of this subdivision shall not apply when a person serves or provides alcoholic beverages to a guest occupying the residence as the lessee of a short-term rental, as that term is defined in § 15.2-983, regardless of whether the person who permanently resides in the residence is present during the short-term rental.

8. Any person who manufactures and sells cider to distillery licensees, or any person who manufactures wine from grapes grown by such person and sells it to winery licensees.

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

10. The keeping and consumption of any lawfully acquired alcoholic beverages at a private meeting or private party limited in attendance to members and guests of a particular group, association or organization at a banquet or similar affair, or at a special event, if a banquet license has been granted. However, no banquet license shall be required for private meetings or private parties limited in attendance to the members of a common interest community as defined in § 54.1-2345 and their guests, provided (i) the alcoholic beverages shall not be sold or charged for in any way, (ii) the premises where the alcoholic beverages are consumed is limited to the common area regularly occupied and utilized for such private meetings or private parties, and (iii) such meetings or parties are not open to the public.

**§ 4.1-201. Conduct not prohibited by this subtitle; limitation.**

A. Nothing in this ~~title subtitle~~ or any Board regulation adopted pursuant thereto shall prohibit:

1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or given away in violation of this ~~title subtitle~~.

2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in accordance with Board regulations.

3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic beverages.

4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the places of business or establishments for which the retail licenses are desired are located upon the premises occupied or to be occupied by such distillery, winery, or brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary.

6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

2765 7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed  
2766 containers from other wineries or farm wineries located inside or outside the Commonwealth, or the  
2767 receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from  
2768 fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to  
2769 be used only for the fortification of wine produced by the licensee in accordance with Board regulations,  
2770 or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed  
2771 to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale  
2772 outside the Commonwealth.

2773 8. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to  
2774 another farm winery or winery licensee for the purpose of additional bottling in accordance with Board  
2775 regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

2776 9. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed  
2777 containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be  
2778 used by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall  
2779 be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the  
2780 extent it is produced from fresh fruits or agricultural products grown or produced in the Commonwealth.  
2781 The selling licensee shall provide to the receiving licensee, and both shall maintain complete and  
2782 accurate records of, the source of the fresh fruits or agricultural products used to produce the wine so  
2783 transferred.

2784 10. Any retail on-and-off-premises wine and beer licensee, his agent or employee, from giving a  
2785 sample of wine or beer to persons to whom alcoholic beverages may be lawfully sold for on-premises  
2786 consumption, or any mixed beverage licensee, his agent or employee, from giving a sample of wine,  
2787 beer, or spirits to persons to whom alcoholic beverages may be lawfully sold for on-premises  
2788 consumption. Samples of wine shall not exceed two ounces, samples of beer shall not exceed four  
2789 ounces, and samples of spirits shall not exceed one-half ounce, unless served as a mixed beverage, in  
2790 which case a sample of spirits may contain up to one and one-half ounces of spirits. No more than 12  
2791 ounces of beer, five ounces of wine, or three ounces of spirits shall be given to any person per day.

2792 11. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not  
2793 licensed in the Commonwealth, from selling service items bearing alcoholic brand references to  
2794 on-premises retail licensees or prohibit any such retail licensee from displaying the service items on the  
2795 premises of his licensed establishment. Each such retail licensee purchasing such service items shall  
2796 retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of  
2797 not less than two years from the date of each sale of the service items. As used in this subdivision,  
2798 "service items" mean articles of tangible personal property normally used by the employees of  
2799 on-premises retail licensees to serve alcoholic beverages to customers including, but not limited to,  
2800 glasses, napkins, buckets, and coasters.

2801 12. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in  
2802 the Commonwealth, from distributing to retail licensees and their employees novelties and specialties,  
2803 including wearing apparel, having a wholesale value of \$10 or less and that bear alcoholic beverage  
2804 advertising. Such items may be distributed to retail licensees in quantities equal to the number of  
2805 employees of the retail establishment present at the time the items are delivered. Thereafter, such  
2806 employees may wear or display the items on the licensed premises.

2807 13. Any (i) retail on-premises wine and beer licensee, his agent or employee from offering for sale  
2808 or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of  
2809 wines or beers consisting of samples of not more than five different wines or beers and (ii) mixed  
2810 beverage licensee, his agent or employee from offering for sale or selling for one price to any person to  
2811 whom alcoholic beverages may be lawfully sold a flight of distilled spirits consisting of samples of not  
2812 more than five different spirits products.

2813 14. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired  
2814 wine, beer, or cider by bona fide customers on the premises in all areas and locations covered by the  
2815 license, provided that (i) all such wine, beer, or cider shall have been acquired by the customer from a  
2816 retailer licensed to sell such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought  
2817 onto the licensed premises by the customer except in sealed, nonresealable bottles or cans. The licensee  
2818 may charge a corkage fee to such customer for the wine, beer, or cider so consumed; however, the  
2819 licensee shall not charge any other fee to such customer.

2820 15. Any winery, farm winery, wine importer, wine wholesaler, brewery, limited brewery, beer  
2821 importer, beer wholesaler, or distiller licensee from providing to adult customers of licensed retail  
2822 establishments information about wine, beer, or spirits being consumed on such premises.

2823 16. Any private swim club operated by a duly organized nonprofit corporation or association from  
2824 allowing members to bring lawfully acquired alcoholic beverages onto the premises of such club and  
2825 consume such alcoholic beverages on the premises of such club.

2826 B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale

outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from receiving or selling the same.

**§ 4.1-202. To whom privileges conferred by licenses extend; liability for violations of law.**

The privilege of any licensee to sell or serve alcoholic beverages shall extend to such licensee and to all agents or employees of such licensee for the purpose of selling or serving alcoholic beverages under such license. The licensee may be held liable for any violation of this ~~title~~ subtitle or any Board regulation committed by such agents or employees in connection with their employment.

**§ 4.1-205. Local licenses.**

A. In addition to the state licenses provided for in this chapter, the governing body of each county, city or town in the Commonwealth may provide by ordinance for the issuance of county, city or town licenses and to charge and collect license taxes therefor, to persons licensed by the Board to manufacture, bottle or sell alcoholic beverages within such county, city or town, except for temporary licenses authorized by § 4.1-211. Subject to § 4.1-233.1, the governing body of a county, city or town may classify licenses and graduate the license taxes therefor in the manner it deems proper.

B. No county, city, or town shall issue a local license to any person who does not hold or secure simultaneously the proper state license. If any person holds any local license without at the same time holding the proper state license, the local license, during the period when such person does not hold the proper state license, shall confer no privileges under the provisions of this ~~title~~ subtitle.

**§ 4.1-206.1. (Effective until July 1, 2022) Manufacturer licenses.**

The Board may grant the following manufacturer licenses:

1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated as distillers for all purposes of this ~~title~~ subtitle except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-premises consumption.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ subtitle except as otherwise provided in this subdivision.

2888 5. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or  
2889 ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the  
2890 wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth  
2891 for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate  
2892 distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit  
2893 juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate  
2894 a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii)  
2895 store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and  
2896 (iv) sell wine at retail at the place of business designated in the winery license for on-premises  
2897 consumption or in closed containers for off-premises consumption, provided that any brand of wine not  
2898 owned by the winery licensee is purchased from a wholesale wine licensee and any wine sold for  
2899 on-premises consumption is manufactured on the licensed premises.

2900 6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21  
2901 percent or less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board  
2902 regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured  
2903 at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the  
2904 licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this  
2905 wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for  
2906 the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility  
2907 on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded  
2908 warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes  
2909 of this ~~title~~ *subtitle*, a farm winery license shall be designated either as a Class A or Class B farm  
2910 winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into  
2911 an agreement in accordance with Board regulations with a winery or farm winery licensee operating a  
2912 contract winemaking facility.

2913 Such licenses shall also authorize the licensee to sell wine at retail at the places of business  
2914 designated in the licenses, which may include no more than five additional retail establishments of the  
2915 licensee. Wine may be sold at these business places for on-premises consumption and in closed  
2916 containers for off-premises consumption, provided that any brand of wine not owned by the farm winery  
2917 licensee is purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the  
2918 licensee to be served and sold for on-premises or off-premises consumption at these business places.

2919 7. Wine importer's licenses, which shall authorize persons located within or outside the  
2920 Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed  
2921 containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of  
2922 resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

2923 8. Beer importer's licenses, which shall authorize persons located within or outside the  
2924 Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed  
2925 containers, to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of  
2926 resale and to persons outside the Commonwealth for resale outside the Commonwealth.

2927 **§ 4.1-206.1. (Effective July 1, 2022) Manufacturer licenses.**

2928 The Board may grant the following manufacturer licenses:

2929 1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other  
2930 than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in  
2931 closed containers, to the Board and to persons outside the Commonwealth for resale outside the  
2932 Commonwealth. When the Board has established a government store on the distiller's licensed premises  
2933 pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to  
2934 consumers to participate in an organized tasting event conducted in accordance with subsection G of  
2935 § 4.1-119 and Board regulations.

2936 2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on  
2937 land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural  
2938 products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's  
2939 licensees shall be treated as distillers for all purposes of this ~~title~~ *subtitle* except as otherwise provided  
2940 in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as  
2941 an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery  
2942 use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential  
2943 conservation." Except for the limitation on land zoned "residential conservation," nothing in this  
2944 definition shall otherwise limit or affect local zoning authority.

2945 3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or  
2946 ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons  
2947 licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the  
2948 Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in  
2949 the brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided



that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-premises consumption.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ subtitle except as otherwise provided in this subdivision.

5. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (iv) sell wine at retail at the place of business designated in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and any wine sold for on-premises consumption is manufactured on the licensed premises.

6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this ~~title~~ subtitle, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption, provided that any brand of wine not owned by the farm winery licensee is purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises consumption at these business places.

7. Wine importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Beer importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to persons outside the Commonwealth for resale outside the Commonwealth.

#### **§ 4.1-206.2. Wholesale licenses.**

The Board may grant the following wholesale licenses:

3011 1. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and  
3012 shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the  
3013 license, in accordance with Board regulations, in closed containers to (i) persons licensed under this  
3014 chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered  
3015 under the laws of the United States sailing for ports of call of a foreign country or another state, and  
3016 (iii) persons outside the Commonwealth for resale outside the Commonwealth.

3017 No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth  
3018 who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's  
3019 license and purchases beer for resale pursuant to the privileges of such beer importer's license.

3020 2. Wholesale wine licenses, including those granted pursuant to subdivision 3, which shall authorize  
3021 the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the  
3022 wine from one or more premises identified in the license, in accordance with Board regulations, in  
3023 closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside  
3024 the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for  
3025 sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for  
3026 ports of call of a foreign country or another state.

3027 No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth  
3028 who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's  
3029 license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3030 3. Restricted wholesale wine licenses, which shall authorize a nonprofit, nonstock corporation created  
3031 in accordance with subdivision B 2 of § 3.2-102 to provide wholesale wine distribution services to  
3032 winery and farm winery licensees, provided that no more than 3,000 cases of wine produced by a  
3033 winery or farm winery licensee shall be distributed by the corporation in any one year. The corporation  
3034 shall provide such distribution services in accordance with the terms of a written agreement approved by  
3035 the corporation between it and the winery or farm winery licensee, which shall comply with the  
3036 provisions of this ~~title~~ subtitle and Board regulations. The corporation shall receive all of the privileges  
3037 of, and be subject to, all laws and regulations governing wholesale wine licenses granted under  
3038 subdivision 2.

3039 **§ 4.1-206.3. (Effective until July 1, 2022) Retail licenses.**

3040 A. The Board may grant the following mixed beverages licenses:

3041 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed  
3042 beverages for on-premises consumption in dining areas and other designated areas of such restaurant or  
3043 off-premises consumption. Such license may be granted only to persons (i) who operate a restaurant and  
3044 (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and  
3045 nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45  
3046 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this  
3047 subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the  
3048 licensed premises, which outdoor dining areas may have more than one means of ingress and egress to  
3049 an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved  
3050 by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued  
3051 pursuant to subdivision A 5 of § 4.1-201.

3052 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent  
3053 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,  
3054 bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed  
3055 beverages for on-premises consumption in such designated areas, bedrooms, and other private rooms or  
3056 off-premises consumption and (b) sell spirits packaged in original closed containers purchased from the  
3057 Board for on-premises consumption to registered guests and at scheduled functions of such hotel or  
3058 motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort  
3059 complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all  
3060 areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any  
3061 person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

3062 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club  
3063 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in  
3064 another city with which it has an agreement for reciprocal dining privileges, such license shall also  
3065 authorize the licensees to (1) sell and serve mixed beverages for on-premises or off-premises  
3066 consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity  
3067 of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where  
3068 such club prepares no food in its restaurant but purchases its food requirements from a restaurant  
3069 licensed by the Board and located on another portion of the premises of the same hotel or motel  
3070 building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all  
3071 other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the  
3072 premises and food resold to its members and guests and consumed on the premises shall amount to at

least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, for off-premises consumption or for on-premises consumption in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption;

3134 however, the licensee shall be required to pay the local fee required for such additional license pursuant  
3135 to § 4.1-233.1.

3136 6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve  
3137 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs  
3138 shall be combined with coffee or other nonalcoholic beverages, for on-premises consumption in dining  
3139 areas of the restaurant or off-premises consumption. Such license may be granted only to persons who  
3140 operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with  
3141 the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food  
3142 and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically  
3143 authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or  
3144 in closed containers for off-premises consumption; however, the licensee shall be required to pay the  
3145 local fee required for such additional license pursuant to § 4.1-233.1.

3146 7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to  
3147 sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable  
3148 containers or in single original metal cans for on-premises consumption in all seating areas, concourses,  
3149 walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by  
3150 the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and  
3151 beer for on-premises consumption or in closed containers for off-premises consumption; however, the  
3152 licensee shall be required to pay the local fee required for such additional license pursuant to  
3153 § 4.1-233.1. Such licenses may be granted to the following:

3154 a. Corporations or associations operating a performing arts facility, provided the performing arts  
3155 facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide  
3156 lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated  
3157 in accordance with historic preservation standards;

3158 b. Persons operating food concessions at any performing arts facility located in the City of Norfolk  
3159 or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide  
3160 long-term lease or concession agreement, the original term of which was more than five years; (ii) has a  
3161 capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation  
3162 standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed  
3163 on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly  
3164 minimum established by Board regulations for mixed beverage restaurants;

3165 c. Persons operating food concessions at any performing arts facility located in the City of  
3166 Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease  
3167 or concession agreement, the original term of which was more than five years; (ii) has a total capacity  
3168 in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation  
3169 standards;

3170 d. Persons operating food concessions at any performing arts facility located in the arts and cultural  
3171 district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a  
3172 bona fide long-term lease or concession agreement, the original term of which was more than five years;  
3173 (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross  
3174 receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic  
3175 beverages served on the premises that meet or exceed the monthly minimum established by Board  
3176 regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

3177 e. Persons operating food concessions at any multipurpose theater located in the historical district of  
3178 the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity  
3179 and (ii) has a total capacity in excess of 100 patrons;

3180 f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar  
3181 facility that has seating for more than 20,000 persons and is located in Prince William County or the  
3182 City of Virginia Beach;

3183 g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar  
3184 facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City  
3185 of Portsmouth; or

3186 h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax  
3187 County, provided that the corporate and performing arts facility (i) is occupied under a bona fide  
3188 long-term lease, management, or concession agreement, the original term of which was more than one  
3189 year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the  
3190 dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the  
3191 licensed premises approved by the Board.

3192 8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any  
3193 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to  
3194 subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and  
3195 which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed

beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this ~~title~~ *subtitle* and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The

3257 granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a  
3258 license to sell and serve wine and beer for on-premises consumption or in closed containers for  
3259 off-premises consumption; however, the licensee shall be required to pay the local fee required for such  
3260 additional license pursuant to § 4.1-233.1.

3261 14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or  
3262 association operating either a performing arts facility or an art education and exhibition facility; (ii) a  
3263 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and  
3264 objects significant in American history and culture; (iii) persons operating an agricultural event and  
3265 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space  
3266 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped  
3267 with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events  
3268 conducted on the premises of a museum for historic interpretation that is owned and operated by the  
3269 locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a  
3270 bona fide lease, the original term of which was for more than one year's duration. Such license shall  
3271 authorize the licensee to sell alcoholic beverages during scheduled events and performances for  
3272 on-premises consumption in areas upon the licensed premises approved by the Board.

3273 B. The Board may grant an on-and-off-premises wine and beer license to the following:

3274 1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed  
3275 containers for off-premises consumption or (ii) for on-premises consumption, either with or without  
3276 meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest  
3277 rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and  
3278 areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may  
3279 authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed  
3280 appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and  
3281 consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to  
3282 persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or  
3283 areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed  
3284 on the premises, provided that at least one meal is provided each day by the hotel to such guests. With  
3285 regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as  
3286 continuing care communities that are also licensed by the Board under this subdivision, any resident  
3287 may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic  
3288 beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other  
3289 designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises,  
3290 which may have more than one means of ingress and egress to an adjacent public thoroughfare,  
3291 provided that such outdoor dining areas are under the control of the licensee and approved by the Board.  
3292 Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to  
3293 subdivision A 5 of § 4.1-201.

3294 2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for  
3295 their on-premises consumption only in such rooms, provided the consent of the patient's attending  
3296 physician is first obtained or (ii) in closed containers for off-premises consumption.

3297 3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises  
3298 consumption or in closed containers for off-premises consumption. No license shall be granted unless (i)  
3299 the grocery store is located in any town or in a rural area outside the corporate limits of any city or  
3300 town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment  
3301 exists and that public convenience and the purposes of this ~~title~~ subtitle will be promoted by granting  
3302 the license.

3303 4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer  
3304 during any event and immediately subsequent thereto to patrons within all seating areas, concourses,  
3305 walkways, concession areas, and additional locations designated by the Board (i) in closed containers for  
3306 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original  
3307 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and  
3308 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations  
3309 covered by the license. Such licenses may be granted to persons operating food concessions at  
3310 coliseums, stadiums, racetracks, or similar facilities.

3311 5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer  
3312 during the performance of any event to patrons within all seating areas, concourses, walkways, or  
3313 concession areas, or other areas approved by the Board (i) in closed containers for off-premises  
3314 consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for  
3315 on-premises consumption. Upon authorization of the licensee, any person may keep and consume his  
3316 own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the  
3317 license. Such licenses may be granted to persons operating food concessions at any outdoor performing  
3318 arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is

located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer

3380 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms  
3381 or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also  
3382 be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises  
3383 consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one  
3384 such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may  
3385 ship such wine, in accordance with Board regulations, in closed containers to persons located within the  
3386 Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of  
3387 each banquet or special event. For the purposes of this subdivision, when the location named in the  
3388 original application for a license is outdoors, the application may also name an alternative location in the  
3389 event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club  
3390 holding a retail wine and beer license.

3391 b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in  
3392 charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for  
3393 on-premises consumption in areas approved by the Board on the premises of the place designated in the  
3394 license. A separate license shall be required for each day of each special event.

3395 c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall  
3396 authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members  
3397 and their guests in areas approved by the Board on the club premises. A separate license shall be  
3398 required for each day of each club event. No more than 12 such licenses shall be granted to a club in  
3399 any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize  
3400 the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however,  
3401 the licensee shall be required to pay the local fee required for such additional license pursuant to  
3402 § 4.1-233.1.

3403 d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages  
3404 of the type specified in the license in designated areas at events held by the licensee. A tasting license  
3405 shall be issued for the purpose of featuring and educating the consuming public about the alcoholic  
3406 beverages being tasted. A separate license shall be required for each day of each tasting event. No  
3407 tasting license shall be required for conduct authorized by § 4.1-201.1.

3408 2. Annual licenses.

3409 a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable  
3410 membership organizations that are exempt from state and federal taxation and in charge of banquets  
3411 conducted exclusively for members and their guests, which shall authorize the licensee to serve wine  
3412 and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such  
3413 rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per  
3414 calendar year. For the purposes of this subdivision, when the location named in the original application  
3415 for a license is outdoors, the application may also name an alternative location in the event of inclement  
3416 weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail  
3417 wine and beer license.

3418 b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services  
3419 agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic  
3420 beverages on the premises of the licensee by any person, and bona fide members and guests thereof,  
3421 otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be  
3422 purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the  
3423 premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency  
3424 station or both, regularly occupied as such and recognized by the governing body of the county, city, or  
3425 town in which it is located. Under conditions as specified by Board regulation, such premises may be  
3426 other than a volunteer fire or volunteer emergency medical services agency station, provided such other  
3427 premises are occupied and under the control of the volunteer fire department or volunteer emergency  
3428 medical services agency while the privileges of its license are being exercised.

3429 c. Designated outdoor refreshment area licenses to a locality, business improvement district, or  
3430 nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic  
3431 beverages within the area designated by the Board for the designated outdoor refreshment area and (ii)  
3432 any permanent retail on-premises licensee that is located within the area designated by the Board for the  
3433 designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for  
3434 consumption in the area designated for the designated outdoor refreshment area, including sidewalks and  
3435 the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such  
3436 businesses. In determining the designated area for the designated outdoor refreshment area, the Board  
3437 shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16  
3438 events per year, and the duration of any event shall not exceed three consecutive days. However, the  
3439 Board may increase the frequency and duration of events after adoption of an ordinance by a locality  
3440 requesting such increase in frequency and duration. Such ordinance shall include the size and scope of  
3441 the area within which such events will be held, a public safety plan, and any other considerations



deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this ~~title~~ *subtitle* and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this ~~title~~ *subtitle* and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3503 3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments  
3504 of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board  
3505 regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under  
3506 the laws of the United States sailing for ports of call of a foreign country or another state, and (iii)  
3507 persons outside the Commonwealth for resale outside the Commonwealth.

3508 4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a  
3509 place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer  
3510 owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the  
3511 owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with  
3512 Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the  
3513 Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any  
3514 financial interest, direct or indirect, in the business for which any fulfillment warehouse license is  
3515 issued.

3516 5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized  
3517 under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place  
3518 of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive  
3519 orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom  
3520 wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon  
3521 receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer  
3522 shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the  
3523 shipper.

3524 **§ 4.1-206.3. (Effective July 1, 2022) Retail licenses.**

3525 A. The Board may grant the following mixed beverages licenses:

3526 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed  
3527 beverages for consumption in dining areas and other designated areas of such restaurant. Such license  
3528 may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale  
3529 of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the  
3530 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale  
3531 of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include  
3532 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas  
3533 may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such  
3534 areas are under the control of the licensee and approved by the Board. Such noncontiguous designated  
3535 areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

3536 If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent  
3537 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,  
3538 bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed  
3539 beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell  
3540 spirits packaged in original closed containers purchased from the Board for on-premises consumption to  
3541 registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private  
3542 rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale  
3543 and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed  
3544 appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own  
3545 lawfully acquired spirits in bedrooms or private rooms.

3546 If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club  
3547 exclusively for its members and their guests, or members of another private, nonprofit, or profit club in  
3548 another city with which it has an agreement for reciprocal dining privileges, such license shall also  
3549 authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell  
3550 spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or  
3551 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no  
3552 food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and  
3553 located on another portion of the premises of the same hotel or motel building, this fact shall not  
3554 prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's  
3555 gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its  
3556 members and guests and consumed on the premises shall amount to at least 45 percent of its gross  
3557 receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club  
3558 shall be excluded in any consideration of the qualifications of such restaurant for a license from the  
3559 Board.

3560 If the restaurant is located on the premises of and operated by a municipal golf course, the Board  
3561 shall recognize the seasonal nature of the business and waive any applicable monthly food sales  
3562 requirements for those months when weather conditions may reduce patronage of the golf course,  
3563 provided that prepared food, including meals, is available to patrons during the same months. The gross  
3564 receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic

beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a

license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this ~~title~~ subtitle and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and

entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this ~~title~~ subtitle will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original

metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the

original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

## 2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this ~~title~~ *subtitle* and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or



similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this ~~title~~ *subtitle* and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the

owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

**§ 4.1-212. Permits required in certain instances.**

A. The Board may grant the following permits which shall authorize:

1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.

3. Any person to keep upon his premises alcoholic beverages that he is not authorized by any license to sell and which shall be used for culinary purposes only.

4. Any person to transport lawfully purchased alcoholic beverages within, into or through the Commonwealth, except that no permit shall be required for any person shipping or transporting into the Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of residence to the Commonwealth in accordance with § 4.1-310.

5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling alcohol.

6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside of the Commonwealth.

7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery in accordance with subsection C of § 4.1-132.

9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal representative, receiver or other officer acting under authority of a court having jurisdiction in the Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.

11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises to continue to operate the establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

12. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth.

13. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses located in the Commonwealth.

14. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has filed an application for a permit in which the applicant represents (i) that he or she is under contract to

conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such contract grants to the applicant the authority to act as the authorized representative of such manufacturer or wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named in the application may be held liable for any violation of § 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with § 4.1-229.

15. Any person who, through contract, lease, concession, license, management or similar agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a person licensed by the Board to continue to operate the establishment to the same extent as a person holding such licenses, provided such person has made application to the Board for a license at the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by the Board pending the completion of the processing of the permittee's license application. No permit shall be issued without the written consent of the previous licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation of this ~~title subtitle~~ or any Board regulation, unless the permittee agrees to assume the liability of the previous licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to the effective date of the contract, in which case the permit when issued shall become effective on the effective date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance with the provisions of this ~~title subtitle~~ and any Board regulation and (b) the previous licensee shall not be held liable for any violation of this ~~title subtitle~~ or any Board regulation committed by, or any errors or omissions of, the permittee.

16. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting individuals for compensation to a winery, brewery, or restaurant, licensed under this chapter and authorized to conduct tastings, to collect the licensee's tasting fees from tour participants for the sole purpose of remitting such fees to the licensee.

17. Any tour company guiding individuals for compensation on a walking tour to one or more establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one fee from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a fee for any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company shall remit to the licensee any fee collected for the alcoholic beverages and any food served as part of the tour. The tour company shall ensure that (a) each tour includes no more than 15 participants per tour guide and no more than three tour guides, (b) a tour guide is present with the participants throughout the duration of the tour, and (c) all participants are persons to whom alcoholic beverages may be lawfully sold.

B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

#### **§ 4.1-213. Manufacture and sale of cider.**

A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) the Board, (ii) any wholesale wine licensee, and (iii) persons outside the Commonwealth.

B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver and ship the cider in accordance with Board regulations to (i) the Board, (ii) any wholesale wine licensee, (iii) any retail licensee approved by the Board for the purpose of selling cider, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner and to the same persons, and subject to the same limitations and conditions, as such license authorizes him to sell other alcoholic beverages.

D. Cider containing less than seven percent of alcohol by volume may be sold in any containers that comply with federal regulations for wine or beer, provided such containers are labeled in accordance with Board regulations. Cider containing seven percent or more of alcohol by volume may be sold in any containers that comply with federal regulations for wine, provided such containers are labeled in accordance with Board regulations.

E. No additional license fees shall be charged for the privilege of handling cider.

F. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold, or both, in the Commonwealth.

G. The Board shall adopt regulations relating to the manufacture, possession, transportation and sale of cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale of cider and to ensure that the markup required to be paid will be collected.

H. For the purposes of this section:

"Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must before or during fermentation.

"Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural sugar content of apples or pears (i) containing not more than 10 percent of alcohol by volume without chaptalization or (ii) containing not more than seven percent of alcohol by volume regardless of chaptalization. Cider shall be treated as wine for all purposes of this ~~title~~ subtitle, except as otherwise provided in this ~~title~~ subtitle or Board regulations.

I. This section shall not limit the privileges set forth in subdivision 8 of § 4.1-200, nor shall any person be denied the privilege of manufacturing and selling sweet cider.

**§ 4.1-215. Limitation on manufacturers, bottlers, and wholesalers; exemptions.**

A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall be granted to any (i) manufacturer, bottler, or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler, or wholesaler; (iii) partnership or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler, or wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another subsidiary corporation which is a manufacturer, bottler, or wholesaler of alcoholic beverages; or (v) manufacturer, bottler, or wholesaler of alcoholic beverages who has a financial interest in a corporation which has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler, or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such manufacturer, bottler, or wholesaler and such retailer are under common control, by stock ownership or otherwise.

2. Notwithstanding any other provision of this ~~title~~ subtitle, a manufacturer of wine or malt beverages, or two or more of such manufacturers together, whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-206.3 upon application to the Board, provided that the event for which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about wine or malt beverage products. Such manufacturer shall be limited to eight banquet licenses, whether or not jointly obtained, for such events per year without regard to the number of wineries or breweries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event.

3. Notwithstanding any other provision of this ~~title~~ subtitle, a manufacturer of distilled spirits, whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in subdivision D 1 b of § 4.1-206.3 upon application to the Board, provided that such event is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than eight banquet licenses for such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license shall authorize the manufacturer to sell or give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas at the special event, provided that (a) no single sample shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits, and (b) no more than three ounces of spirits may be offered to any patron per day. Nothing in this paragraph shall prohibit such manufacturer from serving such samples as part of a mixed beverage.

B. This section shall not apply to:

1. Corporations operating dining cars, buffet cars, club cars, or boats;

2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;

3. Farm winery licensees engaging in conduct authorized by subdivision 6 of § 4.1-206.1;

4. Manufacturers, bottlers, or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, or wholesalers;

5. Wineries, farm wineries, or breweries engaging in conduct authorized by subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1; or

6. One out-of-state winery, not under common control or ownership with any other winery, that is under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the restaurant before it is offered for sale to consumers.

C. The General Assembly finds that it is necessary and proper to require a separation between

manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing techniques. The exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition and shall therefore be construed accordingly.

**§ 4.1-216. Further limitations on manufacturers, bottlers, importers, brokers or wholesalers; ownership interests prohibited; exceptions; prohibited trade practices.**

A. As used in this section:

"Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who regularly engages in the business of bringing together sellers and purchasers of alcoholic beverages for resale and arranges for or consummates such transactions with persons in the Commonwealth to whom such alcoholic beverages may lawfully be sold and shipped into the Commonwealth pursuant to the provisions of this ~~title~~ *subtitle*.

"Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any officers or directors of any such manufacturer, bottler, importer, broker or wholesaler.

B. Except as provided in this ~~title~~ *subtitle*, no manufacturer, importer, bottler, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial interest, direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises where the business of a retail licensee is conducted.

1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or wholesaler does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to such retail licensee and such retailer is not required by agreement or otherwise to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, importers, brokers or wholesalers.

2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares of stock of which are sold to the general public on any national or local stock exchange, shall not be deemed to be a financial interest, direct or indirect, in the business or the premises of the retail licensee.

3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a financing corporation, may participate in financing the business of a wholesale licensee in the Commonwealth by providing debt or equity capital or both but only if done in accordance with the provisions of this subsection.

a. In order to assist a proposed new owner of an existing wholesale licensee, a financing corporation may provide debt or equity capital, or both, if prior approval of the Board has been obtained pursuant to subdivision 3 b of subsection B. A financing corporation which proposes to provide equity capital shall cause the proposed new owner to form a Virginia limited partnership in which the new owner is the general partner and the financing corporation is a limited partner. If the general partner defaults on any financial obligation to the limited partner, which default has been specifically defined in the partnership agreement, or, if the new owner defaults on its obligation to pay principal and interest when due to the financing corporation as specifically defined in the loan documents, then, and only then, shall such financing corporation be allowed to take title to the business of the wholesale licensee. Notwithstanding any other law to the contrary and provided written notice has been given to the Board within two business days after taking title, the wholesale licensee may be managed and operated by such financing corporation pursuant to the existing wholesale license for a period of time not to exceed 180 days as if the license had been issued in the name of the financing corporation. On or before the expiration of such 180-day period, the financing corporation shall cause ownership of the wholesale licensee's business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed terminated. The financing corporation may not participate in financing the transfer of ownership to the new owner or to any other subsequent owner for a period of ~~twenty~~ 20 years following the effective date of the original financing transaction; except where a transfer takes place before the expiration of the eighth full year following the effective date of the original financing transaction in which case the financing corporation may finance such transfer as long as the new owner is required to return such debt or equity capital within the originally prescribed eight-year period. The financing corporation may exercise its right to take title to, manage and operate the business of, the wholesale licensee only once during such eight-year period.

b. In any case in which a financing corporation proposes to provide debt or equity capital in order to assist in a change of ownership of an existing wholesale licensee, the parties to the transaction shall first submit an application for a wholesale license in the name of the proposed new owner to the Board.

The Board shall be provided with all documents that pertain to the transaction at the time of the license application and shall ensure that the application complies with all requirements of law pertaining to the issuance of wholesale licenses except that if the financing corporation proposes to provide equity

capital and thereby take a limited partnership interest in the applicant entity, the financing corporation shall not be required to comply with any Virginia residency requirement applicable to the issuance of wholesale licenses. In addition to the foregoing, the applicant entity shall certify to the Board and provide supporting documentation that the following requirements are met prior to issuance of the wholesale license: (i) the terms and conditions of any debt financing which the financing corporation proposes to provide are substantially the same as those available in the financial markets to other wholesale licensees who will be in competition with the applicant, (ii) the terms of any proposed equity financing transaction are such that future profits of the applicant's business shall be distributed annually to the financing corporation in direct proportion to its percentage of ownership interest received in return for its investment of equity capital, (iii) if the financing corporation proposes to provide equity capital, it shall hold an ownership interest in the applicant entity through a limited partnership interest and no other arrangement and (iv) the applicant entity shall be contractually obligated to return such debt or equity capital to the financing corporation not later than the end of the eighth full year following the effective date of the transaction thereby terminating any ownership interest or right thereto of the financing corporation.

Once the Board has issued a wholesale license pursuant to an application filed in accordance with this subdivision 3 b, any subsequent change in the partnership agreement or the financing documents shall be subject to the prior approval of the Board. In accordance with the previous paragraph, the Board may require the licensee to resubmit certifications and documentation.

c. If a financing corporation wishes to provide debt financing, including inventory financing, but not equity financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee, it may do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B under the following circumstances and subject to the following conditions: (i) in order to secure such debt financing, a wholesale licensee or a proposed new owner thereof may grant a security interest in any of its assets, including inventory, other than the wholesale license itself or corporate stock of the wholesale licensee; in the event of default, the financing corporation may take title to any assets pledged to secure such debt but may not take title to the business of the wholesale licensee and may not manage or operate such business; (ii) debt capital may be supplied by such financing corporation to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee so long as debt capital is provided on terms and conditions which are substantially the same as those available in the financial markets to other wholesale licensees in competition with the wholesale licensee which is being so financed; and (iii) the licensee or proposed new owner shall certify to the Board and provide supporting documentation that the requirements of (i) and (ii) of this subdivision 3 c have been met.

Nothing in this section shall eliminate, affect or in any way modify the requirements of law pertaining to issuance and retention of a wholesale license as they may apply to existing wholesale licensees or new owners thereof which have received debt financing prior to the enactment of this subdivision 3 c.

4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery licensees may sell beer to retail licensees for resale only under the following conditions: If such brewery or an affiliate or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the provisions of subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-day period of operation allowed under that subdivision. Moreover, the holder of a brewery license may make sales of alcoholic beverages directly to retail licensees for a period not to exceed ~~thirty~~ 30 days in the event that such retail licensees are normally serviced by a wholesale licensee representing that brewery which has been forced to suspend wholesale operations as a result of a natural disaster or other act of God or which has been terminated by the brewery for fraud, loss of license or assignment of assets for the benefit of creditors not in the ordinary course of business.

5. Notwithstanding any provision of this section, including but not limited to those provisions whereby certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages shall make an agreement, or attempt to make an agreement, with a retail licensee pursuant to which any products sold by a competitor are excluded in whole or in part from the premises on which the retail licensee's business is conducted.

6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a royalty to a historical preservation entity pursuant to a bona fide intellectual property agreement that (i) authorizes the winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on authentic historical recipes and identified with brand names owned and trademarked by the historical preservation entity; (ii) provides for royalties to be paid based solely on the volume of wine, beer, or spirits manufactured using such recipes and trademarks, rather than on the sales revenues generated from such wine, beer, or spirits; and (iii) has been approved by the Board.

For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt from income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes include the preservation, restoration, and protection of a historic community in the Commonwealth that

is the site of at least 50 historically significant houses, shops, and public buildings dating to the eighteenth century; and (c) that owns not more than 12 retail establishments in the Commonwealth for which retail licenses have been issued by the Board.

C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall sell, rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which the business of any retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property, services or anything of value with which the business of such retail licensee is or may be conducted, or for any other purpose; (ii) advertising materials; and (iii) business entertainment, provided that no transaction permitted under this section or by Board regulation shall be used to require the retail licensee to partially or totally exclude from sale at its establishment alcoholic beverages of other manufacturers or wholesalers.

The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and wholesalers selling alcoholic beverages to any governmental instrumentality or employee thereof selling alcoholic beverages at retail within the exterior limits of the Commonwealth, including all territory within these limits owned by or ceded to the United States of America.

The provisions of this subsection shall not apply to any commercial lifestyle center licensee.

**§ 4.1-216.1. Point-of-sale advertising materials authorized under certain conditions; civil penalties.**

A. As used in this section:

"Alcoholic beverage advertising material" or "advertising material" means any item, other than an illuminated device, which contains one or more references to a brand of alcoholic beverage and which is used to promote the sale of alcoholic beverages within the interior of a licensed retail establishment and which otherwise complies with Board regulations.

"Authorized vendor" or "vendor" means any person, other than a wholesale wine or beer licensee, that a manufacturer has authorized to engage in a business consisting in whole or in part of the sale and distribution of any articles of tangible personal property bearing any of the manufacturer's alcoholic beverage trademarks.

"Manufacturer" means any brewery, winery, distillery, bottler, broker, importer and any person that a brewery, winery, or distiller has authorized to sell or arrange for the sale of its products to wholesale wine and beer licensees in Virginia or, in the case of spirits, to the Board.

B. Notwithstanding the provisions of § 4.1-215 or 4.1-216 and Board regulations adopted thereunder, a manufacturer or its authorized vendor and a wholesale wine and beer licensee may lend, buy for, or give to a retail licensee any alcoholic beverage advertising material made of paper, cardboard, canvas, rubber, foam, or plastic, provided the advertising materials have a wholesale value of \$40 or less per item.

C. Alcoholic beverage advertising materials, other than those authorized by subsection B to be given to a retailer, may be displayed by a retail licensee in the interior of its licensed establishment provided:

1. The wholesale value of the advertising material does not exceed \$250 per item, and
2. The advertising material is not obtained from a manufacturer, its authorized vendor, or any wholesale wine or beer licensee.

A retail licensee shall retain for at least two years a record of its procurement of, including any payments for, such advertising materials along with an invoice or sales ticket containing a description of the item so purchased or otherwise procured.

D. Except as otherwise provided in this ~~title~~ *subsection*, a retail licensee shall not display in the interior of its licensed establishment any alcoholic beverage advertising materials, other than those that may be lawfully obtained and displayed in accordance with this section or Board regulation.

E. Nothing in this section shall be construed to prohibit any advertising materials permitted under Board regulations in effect on January 1, 2007.

**§ 4.1-222. Conditions under which Board may refuse to grant licenses.**

The Board may refuse to grant any license if it has reasonable cause to believe that:

1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an association, any member thereof, or limited partner of 10 percent or more with voting rights, or if the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the applicant is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

- a. Is not 21 years of age or older;
- b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude under the laws of any state, or of the United States;

- c. Has been convicted, within the five years immediately preceding the date of the application for such license, of a violation of any law applicable to the manufacture, transportation, possession, use or

4364 sale of alcoholic beverages;  
4365 d. Is not a person of good moral character and repute;  
4366 e. Is not the legitimate owner of the business proposed to be licensed, or other persons have  
4367 ownership interests in the business which have not been disclosed;  
4368 f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business  
4369 proposed to be licensed;  
4370 g. Has maintained a noisy, lewd, disorderly or unsanitary establishment;  
4371 h. Has demonstrated, either by his police record or by his record as a former licensee of the Board, a  
4372 lack of respect for law and order;  
4373 i. Is unable to speak, understand, read and write the English language in a reasonably satisfactory  
4374 manner;  
4375 j. Is a person to whom alcoholic beverages may not be sold under § 4.1-304;  
4376 k. Has the general reputation of drinking alcoholic beverages to excess or is addicted to the use of  
4377 narcotics;  
4378 l. Has misrepresented a material fact in applying to the Board for a license;  
4379 m. Has defrauded or attempted to defraud the Board, or any federal, state or local government or  
4380 governmental agency or authority, by making or filing any report, document or tax return required by  
4381 statute or regulation which is fraudulent or contains a false representation of a material fact; or has  
4382 willfully deceived or attempted to deceive the Board, or any federal, state or local government, or  
4383 governmental agency or authority, by making or maintaining business records required by statute or  
4384 regulation which are false and fraudulent;  
4385 n. Is violating or allowing the violation of any provision of this ~~title~~ *subtitle* in his establishment at  
4386 the time his application for a license is pending;  
4387 o. Is a police officer with police authority in the political subdivision within which the establishment  
4388 designated in the application is located;  
4389 p. Is physically unable to carry on the business for which the application for a license is filed or has  
4390 been adjudicated incapacitated; or  
4391 q. Is a member, agent or employee of the Board.  
4392 2. The place to be occupied by the applicant:  
4393 a. Does not conform to the requirements of the governing body of the county, city or town in which  
4394 such place is located with respect to sanitation, health, construction or equipment, or to any similar  
4395 requirements established by the laws of the Commonwealth or by Board regulation;  
4396 b. Is so located that granting a license and operation thereunder by the applicant would result in  
4397 violations of this ~~title~~ *subtitle*, Board regulations, or violation of the laws of the Commonwealth or local  
4398 ordinances relating to peace and good order;  
4399 c. Is so located with respect to any church; synagogue; hospital; public, private, or parochial school  
4400 or an institution of higher education; public or private playground or other similar recreational facility;  
4401 or any state, local, or federal government-operated facility, that the operation of such place under such  
4402 license will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities  
4403 or institutions;  
4404 d. Is so located with respect to any residence or residential area that the operation of such place  
4405 under such license will adversely affect real property values or substantially interfere with the usual  
4406 quietude and tranquility of such residence or residential area; or  
4407 e. Under a retail on-premises license is so constructed, arranged or illuminated that law-enforcement  
4408 officers and special agents of the Board are prevented from ready access to and reasonable observation  
4409 of any room or area within which alcoholic beverages are to be sold or consumed.  
4410 3. The number of licenses existent in the locality is such that the granting of a license is detrimental  
4411 to the interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall  
4412 consider the (i) character of, population of, the number of similar licenses and the number of all licenses  
4413 existent in the particular county, city or town and the immediate neighborhood concerned; (ii) effect  
4414 which a new license may have on such county, city, town or neighborhood in conforming with the  
4415 purposes of this ~~title~~ *subtitle*; and (iii) objections, if any, which may have been filed by a local  
4416 governing body or local residents.  
4417 4. There exists any law, ordinance, or regulation of the United States, the Commonwealth or any  
4418 political subdivision thereof, which warrants refusal by the Board to grant any license.  
4419 5. The Board is not authorized under this chapter to grant such license.  
4420 **§ 4.1-224. Notice and hearings for refusal to grant licenses; Administrative Process Act;**  
4421 **exceptions.**  
4422 A. The action of the Board in granting or in refusing to grant any license shall be subject to review  
4423 in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in  
4424 subsections B and C. Review shall be limited to the evidential record of the proceedings provided by the  
4425 Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from



any order of the court.

B. The Board may refuse a hearing on any application for the granting of any retail alcoholic beverage or mixed beverage license, including a banquet license, provided such:

1. License for the applicant has been refused or revoked within a period of ~~twelve~~ 12 months;

2. License for any premises has been refused or revoked at that location within a period of ~~twelve~~ 12 months;

3. Applicant, within a period of ~~twelve~~ 12 months immediately preceding, has permitted a license granted by the Board to expire for nonpayment of license tax, and at the time of expiration of such license, there was a pending and unadjudicated charge, either before the Board or in any court, against the licensee alleging a violation of this ~~title~~ subtitle; or

4. Applicant has received a restricted license and reapplies for a lesser-restricted license at the same location within ~~twelve~~ 12 months of the date of the issuance of the restricted license.

C. If an applicant has permitted a license to expire for nonpayment of license tax, and at the time of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the Board may refuse a hearing on an application for a new license until after the date on which the suspension period would have been executed had the license not have been permitted to expire.

**§ 4.1-225. Grounds for which Board may suspend or revoke licenses.**

The Board may suspend or revoke any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Has misrepresented a material fact in applying to the Board for such license;

b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227, has (i) been convicted of a violation of any law, ordinance, or regulation of the Commonwealth, of any county, city, or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use, or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule, or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;

d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business ~~which~~ that have not been disclosed;

e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;

f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;

g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

h. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other than a busboy, cook, or other kitchen help, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation, possession, use, or sale of alcoholic beverages;

i. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect for law and order;

j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii) intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as provided under this ~~title~~ subtitle;

l. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

m. Has allowed any obscene literature, pictures, or materials upon the licensed premises;

n. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

4487 o. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly  
4488 allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use  
4489 marijuana, controlled substances, imitation controlled substances, drug paraphernalia, or controlled  
4490 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)  
4491 of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in  
4492 violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1  
4493 or 1.1 of Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision shall also  
4494 apply to any conduct related to the operation of the licensed business that facilitates the commission of  
4495 any of the offenses set forth herein;

4496 p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises  
4497 immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any  
4498 portion of public property immediately adjacent to the licensed premises from becoming a place where  
4499 patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et  
4500 seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5  
4501 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2  
4502 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.)  
4503 of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of  
4504 Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to  
4505 reasonably be deemed a continuing threat to the public safety; or

4506 q. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious  
4507 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises  
4508 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any  
4509 portion of public property immediately adjacent to the licensed premises.

4510 2. The place occupied by the licensee:

4511 a. Does not conform to the requirements of the governing body of the county, city, or town in which  
4512 such establishment is located, with respect to sanitation, health, construction, or equipment, or to any  
4513 similar requirements established by the laws of the Commonwealth or by Board regulations;

4514 b. Has been adjudicated a common nuisance under the provisions of this ~~title~~ subtitle or § 18.2-258;  
4515 or

4516 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,  
4517 prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are  
4518 regularly used or distributed. The Board may consider the general reputation in the community of such  
4519 establishment in addition to any other competent evidence in making such determination.

4520 3. The licensee or any employee of the licensee discriminated against any member of the armed  
4521 forces of the United States by prices charged or otherwise.

4522 4. The licensee, his employees, or any entertainer performing on the licensed premises has been  
4523 convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed  
4524 premises and the licensee allowed such conduct to occur.

4525 5. Any cause exists for which the Board would have been entitled to refuse to grant such license had  
4526 the facts been known.

4527 6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any  
4528 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is  
4529 located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality,  
4530 unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for  
4531 correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into  
4532 a payment plan approved by the same locality to settle the outstanding liability.

4533 7. Any other cause authorized by this ~~title~~ subtitle.

4534 **§ 4.1-227. Suspension or revocation of licenses; notice and hearings; imposition of penalties.**

4535 A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery  
4536 licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action  
4537 shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative  
4538 Process Act (§ 2.2-4000 et seq.).

4539 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee,  
4540 permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the  
4541 licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or  
4542 present employee of the licensee to any law-enforcement officer, the existence of which is known by the  
4543 Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this  
4544 chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or  
4545 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and  
4546 upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter  
4547 against the licensee. In addition, any subpoena for the production of documents issued to any person at  
4548 the request of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the

documents sought within ~~ten~~ 10 working days, notwithstanding anything to the contrary in § 4.1-103.

If the Board fails to provide for inspection or copying under this section for the licensee after a written request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully been entitled to inspect or copy under this section.

The action of the Board in suspending or revoking any license or in imposing a civil penalty against the holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 *et seq.*). Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license, the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second violation occurring within five years immediately preceding the date of the second violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated, or interdicted persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second violation occurring within five years immediately preceding the date of the second violation in lieu of such suspension or any portion thereof, or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent agreement as authorized in subdivision 21 of § 4.1-103. The notice shall advise the licensee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Virginia Administrative Process Act (§ 2.2-4000 *et seq.*); and (c) (1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. In case of an offense by the holder of a brewery license, the Board may (i) require that such holder pay the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-premises privileges of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first violation, \$50,000 for the second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed \$100,000. Such suspension or revocation shall not prohibit the licensee from manufacturing or selling beer manufactured by it to the owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and to persons outside the Commonwealth.

E. The Board shall, by regulation or written order:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;

2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;

3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or seller training certified in advance by the Board;

4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and

5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this ~~title subtitle~~ or Board regulations.

#### **§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.**

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

4610 Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a  
4611 food establishment permit from the Department of Health or an inspection by the Department of  
4612 Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a  
4613 pending application for such permit, or proof of a pending request for such inspection. If the applicant  
4614 provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or  
4615 proof of a pending request for an inspection, a license may be issued to the applicant. If a license is  
4616 issued on the basis of a pending application or inspection, such license shall authorize the licensee to  
4617 purchase alcoholic beverages in accordance with the provisions of this ~~title~~ subtitle; however, the  
4618 licensee shall not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

4619 B. In addition, each applicant for a license under the provisions of this chapter, except applicants for  
4620 annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine and  
4621 beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of  
4622 Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application  
4623 with the Board on the front door of the building, place or room where he proposes to engage in such  
4624 business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain  
4625 such information as required by the Board, including a statement that any objections shall be submitted  
4626 to the Board not more than 30 days following initial publication of the notice required pursuant to this  
4627 subsection.

4628 The applicant shall also cause notice to be published at least once a week for two consecutive weeks  
4629 in a newspaper published in or having a general circulation in the county, city, or town wherein such  
4630 applicant proposes to engage in such business. Such notice shall contain such information as required by  
4631 the Board, including a statement that any objections to the issuance of the license be submitted to the  
4632 Board not later than 30 days from the date of the initial newspaper publication. In the case of wine and  
4633 beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars,  
4634 buses, and airplanes, the posting and publishing of notice shall not be required.

4635 Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club  
4636 events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts  
4637 venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal  
4638 history records search, which may include a fingerprint-based national criminal history records search,  
4639 on each applicant for a license. However, the Board may waive, for good cause shown, the requirement  
4640 for a criminal history records search and completed personal data form for officers, directors,  
4641 nonmanaging members, or limited partners of any applicant corporation, limited liability company, or  
4642 limited partnership.

4643 Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall notify  
4644 the local governing body of each license application through the county or city attorney or the chief  
4645 law-enforcement or administrative officer of the locality. Local governing bodies shall submit objections  
4646 to the granting of a license within 30 days of the filing of the application.

4647 C. Each applicant shall pay the required application fee at the time the application is filed. Each  
4648 license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195,  
4649 plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or  
4650 the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of  
4651 Investigation or the Central Criminal Records Exchange for each criminal history records search required  
4652 by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the  
4653 application fee shall be \$15. The application fee for banquet special event and mixed beverage special  
4654 event licenses shall be \$45. Application fees shall be in addition to the state license fee required  
4655 pursuant to § 4.1-231.1 and shall not be refunded.

4656 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however,  
4657 all licensees shall file and maintain with the Board a current, accurate record of the information required  
4658 by the Board pursuant to subsection A and notify the Board of any changes to such information in  
4659 accordance with Board regulations.

4660 E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the  
4661 Board. Such permits shall confer upon their holders no authority to make solicitations in the  
4662 Commonwealth as otherwise provided by law.

4663 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for  
4664 applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied  
4665 by the number of months for which the permit is granted.

4666 F. The Board shall have the authority to increase state license fees from the amounts set forth in  
4667 § 4.1-231.1 as it was in effect on January 1, 2022. The Board shall set the amount of such increases on  
4668 the basis of the consumer price index and shall not increase fees more than once every three years. Prior  
4669 to implementing any state license fee increase, the Board shall provide notice to all licensees and the  
4670 general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be  
4671 required for any license affected by the Board's proposed fee increases. Such notice shall be provided on

or before November 1 in any year in which the Board has decided to increase state license fees, and such increases shall become effective July 1 of the following year.

**§ 4.1-240. Collection of taxes and fees; service charge; storage of credit card, debit card, and automated clearinghouse information.**

A. The Board may accept payment by any commercially acceptable means, including checks, credit cards, debit cards, and electronic funds transfers, for the taxes, penalties, or other fees imposed on a licensee in accordance with this ~~title~~ *subtitle*. In addition, the Board may assess a service charge for the use of a credit or debit card. The service charge shall not exceed the amount negotiated and agreed to in a contract with the Department.

B. Upon the request of a license applicant or licensee, the Board may collect and maintain a record of the applicant's or licensee's credit card, debit card, or automated clearinghouse transfer information and use such information for future payments of taxes, penalties, other fees, or amounts due for products purchased from the Board. The Board may assess a service charge as provided in subsection A for any payments made under this subsection. The Board may procure the services of a third-party vendor for the secure storage of information collected pursuant to this subsection.

**§ 4.1-300. Illegal manufacture and bottling; penalty.**

A. Except as otherwise provided in §§ 4.1-200 and 4.1-201, no person shall manufacture alcoholic beverages in the Commonwealth without being licensed under this ~~title~~ *subtitle* to manufacture such alcoholic beverages. Nor shall any person, other than a brewery licensee or bottler's licensee, bottle beer for sale.

B. The presence of mash at an unlicensed distillery shall constitute manufacturing within the meaning of this section.

C. Any person convicted of a violation of this section shall be guilty of a Class 6 felony.

**§ 4.1-302. Illegal sale of alcoholic beverages in general; penalty.**

If any person who is not licensed sells any alcoholic beverages except as permitted by this ~~title~~ *subtitle*, he shall be guilty of a Class 1 misdemeanor.

In the event of a second or subsequent conviction under this section, a jail sentence of no less than ~~thirty~~ 30 days shall be imposed and in no case be suspended.

**§ 4.1-303. Purchase of alcoholic beverages from person not authorized to sell; penalty.**

If any person buys alcoholic beverages from any person other than the Board, a government store or a person authorized under this ~~title~~ *subtitle* to sell alcoholic beverages, he shall be guilty of a Class 1 misdemeanor.

**§ 4.1-310. Illegal importation, shipment and transportation of alcoholic beverages; penalty; exception.**

A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported, or brought into the Commonwealth, other than to distillery licensees or winery licensees, unless consigned to the Board. However, the Board may permit such alcoholic beverages ordered by it from outside the Commonwealth for (i) persons, for industrial purposes, (ii) the manufacture of articles allowed to be manufactured under § 4.1-200, or (iii) hospitals, to be shipped or transported directly to such persons. On such orders or shipments of alcohol, the Board shall charge only a reasonable permit fee.

B. Except as otherwise provided in subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1, no wine shall be imported, shipped, transported or brought into the Commonwealth unless it is consigned to a wholesale wine licensee.

C. Except as otherwise provided in subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1, no beer shall be imported, shipped, transported or brought into the Commonwealth except to persons licensed to sell it.

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

E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal possession, or through United States Customs in his accompanying baggage, into the Commonwealth not for resale, alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the alcoholic beverages being transported is held in metric-sized containers, (ii) the shipment or transportation into the Commonwealth of a reasonable quantity of alcoholic beverages not for resale in the personal or household effects of a person relocating his place of residence to the Commonwealth, or (iii) the possession or storage of alcoholic beverages on passenger boats, dining cars, buffet cars and club cars, licensed under this ~~title~~ *subtitle*, or common carriers engaged in interstate or foreign commerce.

**§ 4.1-310.1. Delivery of wine or beer to retail licensee.**

Except as otherwise provided in this ~~title~~ *subtitle* or in Board regulation, no wine or beer may be shipped or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to the licensed premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the wholesaler for not less than four hours prior to reloading on a vehicle, and (iii) recorded in the

wholesaler's inventory. Any holder of a restricted wholesale wine license issued pursuant to subdivision 3 of § 4.1-206.2 shall be exempt from the requirement set forth in clause (ii).

**§ 4.1-320. Illegal advertising; penalty; exception.**

A. Except in accordance with this ~~title subtitle~~ and Board regulations, no person shall advertise in or send any advertising matter into the Commonwealth about or concerning alcoholic beverages other than those which may legally be manufactured or sold without a license.

B. Manufacturers, wholesalers, and retailers may engage in the display of outdoor alcoholic beverage advertising on lawfully erected signs provided such display is done in accordance with § 4.1-112.2 and Board regulations.

C. Except as provided in subsection D, any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

D. For violations of § 4.1-112.2 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this ~~title subtitle~~ and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser shall be guilty of a Class 4 misdemeanor.

E. Neither this section nor any Board regulation shall prohibit (i) the awarding of watches of a wholesale value of less than \$100 by a licensed distillery, winery or brewery, to participants in athletic contests; (ii) the exhibition or display of automobiles, boats, or aircraft regularly and normally used in racing or other competitive events and the sponsorship of an automobile, boat or aircraft racing team by a licensed distillery, winery or brewery and the display on the automobile, boat or aircraft and uniforms of the members of the racing team, the trademark or brand name of an alcoholic beverage manufactured by such distillery, winery or brewery; (iii) the sponsorship of a professional athletic event, including, but not limited to, golf, auto racing or tennis, by a licensed distillery, winery or brewery or the use of any trademark or brand name of any alcoholic beverage in connection with such sponsorship; (iv) the advertisement of beer by the display of such product's name on any airship, which advertising is paid for by the manufacturer of such product; (v) the advertisement of beer or any alcoholic beverage by the display of such product's name on any scale model, reproduction or replica of any motor vehicle, aircraft or watercraft offered for sale; (vi) the placement of billboard advertising within stadia, coliseums, or racetracks that are used primarily for professional or semiprofessional athletic or sporting events; or (vii) the sponsorship of an entertainment or cultural event.

**§ 4.1-323. Attempts; aiding or abetting; penalty.**

No person shall attempt to do any of the things prohibited by this ~~title subtitle~~ or to aid or abet another in doing, or attempting to do, any of the things prohibited by this ~~title subtitle~~.

On an indictment, information or warrant for the violation of this ~~title subtitle~~, the jury or the court may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the defendant were solely guilty of such violation.

**§ 4.1-324. Illegal sale or keeping of alcoholic beverages by licensees; penalty.**

A. No licensee or any agent or employee of such licensee shall:

1. Sell any alcoholic beverages of a kind other than that which such license or this ~~title subtitle~~ authorizes him to sell;

2. Sell beer to which wine, spirits or alcohol has been added, except that a mixed beverage licensee may combine wine or spirits, or both, with beer pursuant to a patron's order;

3. Sell wine to which spirits or alcohol, or both, have been added, otherwise than as required in the manufacture thereof under Board regulations, except that a mixed beverage licensee may (i) make sangria that contains brandy, triple sec, or other similar spirits and (ii) combine beer or spirits, or both, with wine pursuant to a patron's order;

4. Sell alcoholic beverages of a kind which such license or this ~~title subtitle~~ authorizes him to sell, but to any person other than to those to whom such license or this ~~title subtitle~~ authorizes him to sell;

5. Sell alcoholic beverages which such license or this ~~title subtitle~~ authorizes him to sell, but in any place or in any manner other than such license or this ~~title subtitle~~ authorizes him to sell;

6. Sell any alcoholic beverages when forbidden by this ~~title subtitle~~;

7. Keep or allow to be kept, other than in his residence and for his personal use, any alcoholic beverages other than that which he is authorized to sell by such license or by this ~~title subtitle~~;

8. Sell any beer to a retail licensee, except for cash, if the seller holds a brewery, bottler's or wholesale beer license;

9. Sell any beer on draft and fail to display to customers the brand of beer sold or misrepresent the brand of any beer sold;

10. Sell any wine for delivery within the Commonwealth to a retail licensee, except for cash, if the seller holds a wholesale wine or farm winery license;

11. Keep or allow to be kept or sell any vaporized form of an alcoholic beverage produced by an alcohol vaporizing device;

12. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except: (i) for a frozen alcoholic beverage; and (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; or

13. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

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

C. Neither this section nor any Board regulation shall prohibit an on-premises restaurant licensee from using alcoholic beverages that the licensee otherwise is authorized to purchase and possess for the purposes of preparing and selling for on-premises consumption food products with a final alcohol content of more than one-half of one percent by volume, as long as such food products are sold to and consumed by persons who are 21 years of age or older.

**§ 4.1-325. Prohibited acts by mixed beverage licensees; penalty.**

A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

1. Sell or serve any alcoholic beverage other than as authorized by law;
2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this title subtitle;

4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;

5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to which spirits may be added, to be served and sold for consumption on the licensed premises;

7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted pursuant to subdivision B 11 of § 4.1-111;

8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;

9. Remove or obliterate any label, mark, or stamp affixed to any container of alcoholic beverages offered for sale;

10. Deliver or sell the contents of any container if the label, mark, or stamp has been removed or obliterated;

11. Allow any obscene conduct, language, literature, pictures, performance, or materials on the licensed premises;

12. Allow any striptease act on the licensed premises;

13. Allow persons connected with the licensed business to appear nude or partially nude;

14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-206.3.

The provisions of this subdivision shall not apply to the delivery of:

a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage distilled from rice, barley or sweet potatoes; or

b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;

16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

4856 17. Conceal any sale or consumption of any alcoholic beverages;  
4857 18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or  
4858 obstruct special agents of the Board in the discharge of their duties;  
4859 19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any  
4860 such alcoholic beverages from the premises;  
4861 20. Knowingly employ in the licensed business any person who has the general reputation as a  
4862 prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person  
4863 who drinks to excess or engages in illegal gambling;  
4864 21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device,  
4865 machine or apparatus;  
4866 22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a  
4867 matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the  
4868 restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or  
4869 conduct on any conference, convention, trade show or event held or to be held on the premises of the  
4870 licensee, when such gift is made in the course of usual and customary business entertainment and is in  
4871 no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection  
4872 B of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation.  
4873 Any gift permitted by this subdivision shall be subject to the taxes imposed by this ~~title~~ *subtitle* on sales  
4874 of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in  
4875 accordance with this subdivision; or  
4876 23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or  
4877 device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase  
4878 the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the  
4879 normal or customary price charged for the same alcoholic beverage.  
4880 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.  
4881 C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters,  
4882 concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or  
4883 theatrical performances, when the performances that are presented are expressing matters of serious  
4884 literary, artistic, scientific, or political value.  
4885 **§ 4.1-325.2. Prohibited acts by employees of wine or beer licensees; penalty.**  
4886 A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or  
4887 employee shall consume any alcoholic beverages while on duty and in a position that is involved in the  
4888 selling or serving of alcoholic beverages to customers.  
4889 The provisions of this subsection shall not prohibit any retail licensee or his designated employee  
4890 from (i) consuming product samples or sample servings of beer or wine provided by a representative of  
4891 a licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with  
4892 Board regulations and the retail licensee or his designated employee does not violate the provisions of  
4893 subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a  
4894 customer for quality control purposes.  
4895 B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its  
4896 employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not  
4897 be deemed to be agents of the retail wine or beer licensee.  
4898 C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic  
4899 beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so  
4900 long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to  
4901 a person responsible for the planning, preparation or conduct on any conference, convention, trade show  
4902 or event held or to be held on the premises of the licensee, when such gift is made in the course of  
4903 usual and customary business entertainment and is in no way a shift or device to evade the restriction  
4904 set forth in this subsection; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision A 10  
4905 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be  
4906 subject to the taxes imposed by this ~~title~~ *subtitle* on sales of alcoholic beverages. The licensee shall keep  
4907 complete and accurate records of gifts given in accordance with this subsection.  
4908 D. Any person convicted of a violation of this section shall be subject to a civil penalty in an  
4909 amount not to exceed \$500.  
4910 **§ 4.1-329. Illegal advertising materials; penalty.**  
4911 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to, any  
4912 manufacturer, as defined in § 4.1-216.1, or any wholesale licensee selling, renting, lending, buying for  
4913 or giving to any person any advertising materials or decorations under circumstances prohibited by this  
4914 ~~title~~ *subtitle* or Board regulations.  
4915 Any person found by the Board to have violated this section shall be subject to a civil penalty as  
4916 provided in § 4.1-227.  
4917 **§ 4.1-336. Contraband beverages and other articles subject to forfeiture.**



All stills and distilling apparatus and materials for the manufacture of alcoholic beverages, all alcoholic beverages and materials used in their manufacture, all containers in which alcoholic beverages may be found, which are kept, stored, possessed, or in any manner used in violation of the provisions of this ~~title~~ *subtitle*, and any dangerous weapons as described in § 18.2-308, which may be used, or which may be found upon the person or in any vehicle which such person is using, to aid such person in the unlawful manufacture, transportation or sale of alcoholic beverages, or found in the possession of such person, or any horse, mule or other beast of burden, any wagon, automobile, truck or vehicle of any nature whatsoever which is found in the immediate vicinity of any place where alcoholic beverages are being unlawfully manufactured and which such animal or vehicle is being used to aid in the unlawful manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

Proceedings for the confiscation of the above property shall be in accordance with § 4.1-338 for all such property except motor vehicles which proceedings shall be in accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

**§ 4.1-337. Search warrants.**

A. If complaint on oath is made that alcoholic beverages are being manufactured, sold, kept, stored, or in any manner held, used or concealed in a particular house, or other place, in violation of law, the judge, magistrate, or other person having authority to issue criminal warrants, to whom such complaint is made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search such house or other place for alcoholic beverages. Such warrants, except as herein otherwise provided, shall be issued, directed and executed in accordance with the laws of the Commonwealth pertaining to search warrants.

B. Warrants issued under this ~~title~~ *subtitle* for the search of any automobile, boat, conveyance or vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or not, for alcoholic beverages, may be executed in any part of the Commonwealth where they are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile, boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be transported contrary to law.

**§ 4.1-338. Confiscation proceedings; disposition of forfeited articles.**

A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and forfeited to the Commonwealth under this chapter shall be as provided in this section.

B. Production of seized property. — Whenever any article declared contraband under the provisions of this ~~title~~ *subtitle* and required to be forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with the enforcement of this ~~title~~ *subtitle*, he shall produce the contraband article and any person in whose possession it was found. In those cases where no person is found in possession of such articles the return shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the articles were found, or if there is no door, then in any conspicuous place upon the premises.

In case of seizure of a still, doubler, worm, worm tub, mash tub, fermenting tub, or other distilling apparatus, for any offense involving their forfeiture, where it is impracticable to remove such distilling apparatus to a place of safe storage from the place where seized, the seizing officer may destroy such apparatus only as necessary to prevent use of all or any part thereof for the purpose of distilling. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction, to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the apparatus destroyed, and the materials remaining after such destruction. The report shall include a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the distilling apparatus was set up for use, or had been used in the unlawful distillation of spirits, and that it was impracticable to remove such apparatus to a place of safe storage.

In case of seizure of any quantity of mash, or of alcoholic beverages on which the tax imposed by the laws of the United States has not been paid, for any offense involving forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose of unlawful distillation of spirits or any other violation of this ~~title~~ *subtitle*. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction, to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the mash was intended for use in the unlawful distillation of spirits, or that the alcoholic beverages were intended for use in violation of this ~~title~~ *subtitle*.

C. Hearing and determination. — Upon the return of the warrant as provided in this section, the court shall fix a time not less than ~~ten~~ 10 days, unless waived by the accused in writing, and not more

than ~~thirty~~ 30 days thereafter, for the hearing on such return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept, stored or possessed in violation of this ~~title subtitle~~.

At such hearing if no claimant appears, the court shall declare the articles seized forfeited to the Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn them over to the Board. Any person claiming an interest in any of the articles seized may appear at the hearing and file a written claim setting forth particularly the character and extent of his interest. The court shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and determine the validity of such claim.

If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a bar to any prosecution under any other provision of this ~~title subtitle~~.

D. Disposition of forfeited beverages and other articles. — Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be paid into the Literary Fund. If the Board believes that any alcoholic beverages forfeited to the Commonwealth and turned over to the Board in accordance with this section cannot be sold and should not be destroyed, it may give such alcoholic beverages for medicinal purposes to any institution in the Commonwealth regularly conducted as a hospital, nursing home or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, to supply the needs of such institution for alcoholic beverages for such purposes, provided that (i) the State Health Commissioner has issued a certificate stating that such institution has need for such alcoholic beverages and (ii) preference is accorded by the Board to institutions supported either in whole or in part by public funds. A record shall be made showing the amount issued in each case, to whom issued and the date when issued, and shall be kept in the offices of the State Health Commissioner and the Board. No charge shall be made to any patient for the alcoholic beverages supplied to him where they have been received from the Board pursuant to this section. Such alcoholic beverages shall be administered only upon approval of the patient's physician.

If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in accordance with this section are usable, should not be destroyed and cannot be sold or whose sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be made showing the nature of the foodstuffs and amount given, to whom given and the date when given, and shall be kept in the offices of the Board.

**§ 4.1-348. Beverages not licensed under this subtitle.**

The provisions of §§ 4.1-339 through 4.1-348 shall not apply to alcoholic beverages ~~which~~ that may be manufactured and sold without any license under the provisions of this ~~title subtitle~~.

**§ 4.1-349. Punishment for violations of subtitle or regulations; bond.**

A. Any person convicted of a misdemeanor under the provisions of this ~~title subtitle~~ without specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating any Board regulation, shall be guilty of a Class 1 misdemeanor.

B. In addition to the penalties imposed by this ~~title subtitle~~ for violations, any court before whom any person is convicted of a violation of any provision of this ~~title subtitle~~ may require such defendant to execute bond, with approved security, in the penalty of not more than \$1,000, with the condition that the defendant will not violate any of the provisions of this ~~title subtitle~~ for the term of one year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged by the court, provided he shall not be confined for a period longer than six months. If any such bond required by a court is not given during the term of the court by which conviction is had, it may be given before any judge or before the clerk of such court.

C. The provisions of this ~~title subtitle~~ shall not prevent the Board from suspending, revoking or refusing to continue the license of any person convicted of a violation of any provision of this ~~title subtitle~~.

D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant has been notified that such a case is pending.

**§ 4.1-350. Witness not excused from testifying because of self-incrimination.**

No person shall be excused from testifying for the Commonwealth as to any offense committed by another under this ~~title subtitle~~ by reason of his testimony tending to incriminate him. The testimony given by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against him and he shall not be prosecuted for the offense to which he testifies.

**§ 4.1-351. Previous convictions.**

In any indictment, information or warrant charging any person with a violation of any provision of this ~~title subtitle~~, it may be alleged and evidence may be introduced at the trial of such person to prove that such person has been previously convicted of a violation of this ~~title subtitle~~.

**§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the Department of Forensic Science, when signed by him, shall be *admissible as evidence in all prosecutions for violations of this title and all controversies in any judicial proceedings touching the mixture analyzed by him of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding.* On motion of the accused or any party in interest, the court may require the forensic scientist making the analysis to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable time prior to the day on which the case is set for trial.

**§ 4.1-353. Label on sealed container prima facie evidence of alcoholic content.**

In any prosecution for violations of this ~~title~~ *subtitle*, where a sealed container is labeled as containing an alcoholic beverage as defined herein, such labeling shall be prima facie evidence of the alcoholic content of the container. Nothing shall preclude the introduction of other relevant evidence to establish the alcoholic content of a container, whether sealed or not.

**§ 4.1-354. No recovery for alcoholic beverages illegally sold.**

No action to recover the price of any alcoholic beverages sold in contravention of this ~~title~~ *subtitle* may be maintained.

**§ 4.1-606. Regulations of the Board.**

A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and to prevent the illegal cultivation, manufacture, sale, and testing of marijuana and marijuana products. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended, or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including security requirements to include lighting, physical security, and alarm requirements, provided that such requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

2. Establish requirements for securely transporting marijuana between marijuana establishments;

3. Establish sanitary standards for retail marijuana product preparation;

4. Establish a testing program for retail marijuana and retail marijuana products pursuant to Chapter 14 (§ 4.1-1400 et seq.);

5. Establish an application process for licensure as a marijuana establishment pursuant to this subtitle in a way that, when possible, prevents disparate impacts on historically disadvantaged communities;

6. Establish requirements for health and safety warning labels to be placed on retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle;

7. Establish a maximum tetrahydrocannabinol level for retail marijuana products, which shall not exceed (i) five milligrams per serving for edible marijuana products and where practicable an equivalent amount for other marijuana products or (ii) 50 milligrams per package for edible marijuana products and where practicable an equivalent amount for other marijuana products. Such regulations may include other product and dispensing limitations on tetrahydrocannabinol;

8. Establish requirements for the form, content, and retention of all records and accounts by all licensees;

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and offsite storage;

10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana stores in the community and (ii) metrics that have similarly shown an association with negative community-level health outcomes or health disparities. In promulgating such regulations, the Board shall coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail;

12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to subsection C of § 4.1-1002;

13. Establish criteria by which to evaluate social equity license applicants, which shall be an applicant who has lived or been domiciled for at least 12 months in the Commonwealth and is either (i) ~~an applicant with at least 66 percent ownership by a person or persons who have been convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-250.1, or subsection~~

5102 A of ~~§ 18.2-265.3~~ as it relates to marijuana; (ii) an applicant with at least 66 percent ownership by a  
5103 person or persons who is the parent, child, sibling, or spouse of a person who has been convicted of or  
5104 adjudicated delinquent for any misdemeanor violation of ~~§ 18.2-248.1~~, former ~~§ 18.2-250.1~~, or subsection  
5105 A of ~~§ 18.2-265.3~~ as it relates to marijuana; (iii) an applicant with at least 66 percent ownership by a  
5106 person or persons who have resided for at least three of the past five years in a jurisdiction that is  
5107 determined by the Board after utilizing census tract data made available by the United States Census  
5108 Bureau to have been disproportionately policed for marijuana crimes; ~~(iv) (ii) an applicant whose~~  
5109 ~~principal place of business is located in a jurisdiction determined by the Board after utilizing census~~  
5110 ~~tract data made available by the United States Census Bureau to be economically distressed;~~ (iii) an  
5111 applicant with at least 66 percent ownership by a person or persons who have resided for at least three  
5112 of the last five years in a jurisdiction determined by the Board after utilizing census tract data made  
5113 available by the United States Census Bureau to be economically distressed; or ~~(iv) (iv) an applicant with~~  
5114 at least 66 percent ownership by a person or persons who graduated from a historically black college or  
5115 university located in the Commonwealth;

5116 14. For the purposes of establishing criteria by which to evaluate social equity license applicants,  
5117 establish standards by which to determine (i) which jurisdictions have been disproportionately policed  
5118 for marijuana crimes and (ii) which jurisdictions are economically distressed;

5119 15. Establish standards and requirements for (i) any preference in the licensing process for qualified  
5120 social equity applicants; *and* (ii) what percentage of application or license fees are waived for a qualified  
5121 social equity applicant; *and* (iii) a ~~low-interest business loan program for qualified social equity~~  
5122 ~~applicants;~~

5123 16. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal  
5124 cultivation of marijuana that promote personal and public safety, including child protection, and  
5125 discourage personal cultivation practices that create a nuisance, including a nuisance caused by odor;

5126 17. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail  
5127 marijuana or retail marijuana products, not inconsistent with the provisions of this chapter, so that such  
5128 advertising displaces the illicit market and notifies the public of the location of marijuana establishments.  
5129 Such regulations shall be promulgated in accordance with § 4.1-1404;

5130 18. Establish restrictions on the number of licenses that a person may be granted to operate a  
5131 marijuana establishment in single locality or region; and

5132 19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have been  
5133 granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure all  
5134 licensees have an equal and meaningful opportunity to participate in the market. Such regulations may  
5135 limit the amount of products cultivated or manufactured by the pharmaceutical processor or industrial  
5136 hemp processor that such processor may offer for sale in its retail marijuana stores.

5137 C. The Board may promulgate regulations that:

5138 1. Limit the number of licenses issued by type or class to operate a marijuana establishment;  
5139 however, the number of licenses issued shall not exceed the following limits:

5140 a. Retail marijuana stores, 400;

5141 b. Marijuana wholesalers, 25;

5142 c. Marijuana manufacturing facilities, 60; and

5143 d. Marijuana cultivation facilities, 450.

5144 In determining the number of licenses issued pursuant to this subdivision, the Board shall not  
5145 consider any license granted pursuant to subsection C of § 4.1-805 to (i) a pharmaceutical processor that  
5146 has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the  
5147 Drug Control Act or (ii) an industrial hemp processor registered with the Commissioner of Agriculture  
5148 and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

5149 2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-1003  
5150 and 4.1-1004, including method of filing a return, information required on a return, and form of  
5151 payment.

5152 3. Limit the allowable square footage of a retail marijuana store, which shall not exceed 1,500 square  
5153 feet.

5154 4. Allow certain persons to be granted or have interest in a license in more than one of the following  
5155 license categories: marijuana cultivation facility license, marijuana manufacturing facility license,  
5156 marijuana wholesaler license, or retail marijuana store license. Such regulations shall be drawn narrowly  
5157 to limit vertical integration to small businesses and ensure that all licensees have an equal and  
5158 meaningful opportunity to participate in the market.

5159 D. Board regulations shall be uniform in their application, except those relating to hours of sale for  
5160 licensees.

5161 E. Courts shall take judicial notice of Board regulations.

5162 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any  
5163 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6,

7, 10, or 16, and shall not promulgate any such regulation that has not been approved by a majority of the members of the Cannabis Public Health Advisory Council.

G. With regard to regulations governing licensees that have been issued a permit by the Board of Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act, the Board shall make reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board of Pharmacy that establish health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated pursuant to this subtitle such pharmaceutical processors and cannabis dispensing facilities that have been found to be in compliance with regulations promulgated by the Board of Pharmacy that mirror or are more extensive in scope than similar regulations promulgated pursuant to this subtitle.

H. The Board's power to regulate shall be broadly construed.

**§ 4.1-614. Disposition of moneys collected by the Board.**

A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as required by § 2.2-1802.

All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred in the administration of this subtitle.

B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller to the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with the administration of this subtitle and to provide for the depreciation on the buildings, plants, and equipment owned, held, or operated by the Board. After accounting for the Authority's expenses as provided in subsection A, net profits shall be appropriated in the general appropriation act as follows:

1. Forty percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;

2. Thirty percent to the ~~Cannabis Equity Reinvestment~~ *Public School Assistance* Fund established pursuant to § ~~2.2-2499.8~~ *22.1-141.3*;

3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which shall distribute such appropriated funds to community services boards for the purpose of administering substance use disorder prevention and treatment programs; and

4. Five percent to public health programs, including public awareness campaigns that are designed to prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform the public of other potential risks.

C. As used in this section, "net profits" means the total of all moneys collected by the Board, less local marijuana tax revenues collected under § 4.1-1004 and distributed pursuant to § 4.1-614 and all costs, expenses, and charges authorized by this section.

D. All local tax revenues collected under § 4.1-1004 shall be paid into the state treasury as provided in subsection A and credited to a special fund, which is hereby created on the Comptroller's books under the name "Collections of Local Marijuana Taxes." The revenues shall be credited to the account of the locality in which they were collected. If revenues were collected from a marijuana establishment located in more than one locality by reason of the boundary line or lines passing through the marijuana establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall provide to the Comptroller any records and assistance necessary for the Comptroller to determine the locality to which tax revenues are attributable.

On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each locality entitled to the return of its tax revenues, and such payments shall be charged to the account of each such locality under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.

**§ 4.1-629. Local referendum on prohibition of retail marijuana stores.**

A. The governing body of a locality may, by resolution, petition the circuit court for the locality for a referendum on the question of whether retail marijuana stores should be prohibited in the locality.

Upon the filing of a petition, the circuit court shall order the election officials to conduct a referendum on the question on the date fixed in the order. The date set by the order shall comply with the provisions of § 24.2-682, but in no event shall such date be more than 90 days from the date the

5225 order is issued. The clerk of the circuit court shall publish notice of the referendum in a newspaper of  
5226 general circulation in the locality once a week for three consecutive weeks prior to the referendum.

5227 The question on the ballot shall be:

5228 "Shall the operation of retail marijuana stores be prohibited in \_\_\_\_\_ (name of county, city, or  
5229 town)?"

5230 The referendum shall be held and the results certified as provided in § 24.2-684. In addition to the  
5231 certifications required by such section, the secretary of the local electoral board shall certify the results  
5232 of the referendum to the Board of Directors of the Virginia Cannabis Control Authority and to the  
5233 governing body of the locality.

5234 B. If a majority of the qualified voters voting in such referendum vote "No" on the question of  
5235 whether retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be  
5236 permitted to operate within the locality 60 days after the results are certified or on January 1, 2024,  
5237 whichever is later, and no subsequent referendum may be held pursuant to this section within such  
5238 locality.

5239 If a majority of the qualified voters voting in such referendum vote "Yes" on the question of whether  
5240 retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be prohibited in  
5241 the locality effective January 1 of the year immediately following the referendum. A referendum on the  
5242 same question may be held subsequent to a vote to prohibit retail marijuana stores but not earlier than  
5243 four years following the date of the previous referendum. Any subsequent referendum shall be held  
5244 pursuant to the provisions of this section.

5245 C. When any referendum is held pursuant to this section in a town, separate and apart from the  
5246 county in which such town or a part thereof is located, such town shall be treated as being separate  
5247 and apart from such county. When any referendum is held pursuant to this section in a county, any  
5248 town located within such county, shall be treated as being part of such county.

5249 D. The legality of any referendum held pursuant to this section shall be subject to the inquiry,  
5250 determination, and judgment of the circuit court that ordered the referendum. The court shall proceed  
5251 upon the complaint of 15 or more qualified voters of the county, city, or town, filed within 30 days after  
5252 the date the results of the referendum are certified and setting out fully the grounds of contest. The  
5253 complaint and the proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654,  
5254 and the judgment of the court entered of record shall be a final determination of the legality of the  
5255 referendum.

5256 **§ 4.1-630. Local ordinances or resolutions regulating retail marijuana or retail marijuana**  
5257 **products.**

5258 A. No county, city, or town shall, except as provided in §§ 4.1-629 and 4.1-631, adopt any ordinance  
5259 or resolution that regulates or prohibits the cultivation, manufacture, possession, sale, wholesale  
5260 distribution, handling, transportation, consumption, use, advertising, or dispensing of retail marijuana or  
5261 retail marijuana products in the Commonwealth.

5262 B. However, the governing body of any county, city, or town may adopt an ordinance (i) that  
5263 prohibits the acts described in § 4.1-1108, or the acts described in § 4.1-1109, and may provide a  
5264 penalty for violation thereof and (ii) that regulates or prohibits the possession of opened retail  
5265 marijuana or retail marijuana products containers in its local public parks, playgrounds, public streets,  
5266 and any sidewalk adjoining any public street.

5267 C. Nothing in this chapter shall be construed to supersede or limit the authority of a locality to  
5268 adopt and enforce local ordinances to regulate businesses licensed pursuant to this chapter, including  
5269 local zoning and land use requirements and business license requirements.

5270 D. Except as provided in this section, all local acts, including charter provisions and ordinances of  
5271 counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the  
5272 extent of such inconsistency.

5273 **§ 4.1-631. Local ordinances regulating time of sale of retail marijuana and retail marijuana**  
5274 **products.**

5275 The governing body of each county may adopt ordinances effective in that portion of such county not  
5276 embraced within the corporate limits of any incorporated town, and the governing body of each city and  
5277 town may adopt ordinances effective in such city or town, fixing hours during which retail marijuana  
5278 and retail marijuana products may be sold. Such governing bodies shall provide for fines and other  
5279 penalties for violations of any such ordinances, which shall be enforced as if the violations were Class 1  
5280 misdemeanors with a right of appeal pursuant to § 16.1-106.

5281 A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the  
5282 governing body adopting it and transmitted to the Board.

5283 On and after the effective date of any ordinance adopted pursuant to this section, no retail  
5284 marijuana store shall sell retail marijuana and retail marijuana products during the hours limited by  
5285 the ordinance.

5286

## ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

**§ 4.1-700. Exemptions from licensure.**

The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act; (ii) a dealer, grower, or processor of industrial hemp registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2; (iii) a manufacturer of an industrial hemp extract or food containing an industrial hemp extract operating in accordance with Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2 and subsection B of § 3.2-4122; or (iv) a person who cultivates marijuana at home for personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a) prevent any person described in clause (i), (ii), or (iii) from obtaining a license pursuant to this subtitle, provided such person satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp products from an industrial hemp processor in accordance with the provisions of Chapter 41.1 of Title 3.2; or (c) prevent a cultivation, manufacturing, wholesale, or retail licensee from operating on the licensed premises a pharmaceutical processing facility in accordance with Article 4.2 of the Drug Control Act or an industrial hemp processing facility in accordance with Chapter 41.1 of Title 3.2.

**§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.**

The privilege of any licensee to cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products shall extend to such licensee and to all agents or employees of such licensee for the purpose of operating under such license. The licensee may be held liable for any violation of this subtitle or any Board regulation committed by such agents or employees in connection with their employment.

**§ 4.1-702. Separate license for each place of business; transfer or amendment; posting; expiration; civil penalties.**

A. Each license granted by the Board shall designate the place where the business of the licensee will be carried on. A separate license shall be required for each separate place of business.

B. No license shall be transferable from one person to another or from one location to another. The Board may permit a licensee to amend the classification of an existing license without complying with the posting and publishing procedures required by § 4.1-1000 if the effect of the amendment is to reduce materially the privileges of an existing license. However, if (i) the Board determines that the amendment is a device to evade the provisions of this subtitle, (ii) a majority of the corporate stock of a retail marijuana store licensee is sold to a new entity, or (iii) there is a change of business at the premises of a retail marijuana store licensee, the Board may, within 30 days of receipt of written notice by the licensee of a change in ownership or a change of business, require the licensee to comply with any or all of the requirements of § 4.1-1000. If the Board fails to exercise its authority within the 30-day period, the licensee shall not be required to reapply for a license. The licensee shall submit such written notice to the secretary of the Board.

C. Each license shall be posted in a location conspicuous to the public at the place where the licensee carries on the business for which the license is granted.

D. The privileges conferred by any license granted by the Board shall continue until the last day of the twelfth month next ensuing or the last day of the designated month and year of expiration, except the license may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a license or by operation of law, voluntary surrender, or order of the Board.

The Board may grant licenses for one year or for multiple years, not to exceed three years, based on the fees set by the Board pursuant to § 4.1-1001. Qualification for a multiyear license shall be determined on the basis of criteria established by the Board. Fees for multiyear licenses shall not be refundable except as provided in § 4.1-1002. The Board may provide a discount for two-year or three-year licenses, not to exceed five percent of the applicable license fee, which extends for one fiscal year and shall not be altered or rescinded during such period.

E. The Board may permit a licensee who fails to pay:

1. The required license fee covering the continuation or reissuance of his license by midnight of the fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable, to pay the fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such fee, whichever is greater; and

2. The fee and civil penalty pursuant to subdivision 1 to pay the fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made within 45 days following the 30 days specified in subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such fee, whichever is greater.

Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-614.

**§ 4.1-703. Records of licensees; inspection of records and places of business.**

5348 A. Every licensed marijuana manufacturing facility or marijuana wholesaler shall keep complete,  
5349 accurate, and separate records in accordance with Board regulations of all marijuana and marijuana  
5350 products it purchased, manufactured, sold, or shipped.

5351 B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in  
5352 accordance with Board regulations of all purchases of retail marijuana products, the prices charged  
5353 such licensee therefor, and the names and addresses of the persons from whom purchased. Every  
5354 licensed retail marijuana store shall also preserve all invoices showing its purchases for a period as  
5355 specified by Board regulations. The licensee shall also keep an accurate account of daily sales, showing  
5356 quantities of retail marijuana products sold and the total price charged by it therefor. Except as  
5357 otherwise provided in subsections D and E, such account need not give the names or addresses of the  
5358 purchasers thereof, except as may be required by Board regulation.

5359 Notwithstanding the provisions of subsection E, electronic records of licensed retail marijuana stores  
5360 may be stored off site, provided that such records are readily retrievable and available for electronic  
5361 inspection by the Board or its special agents at the licensed premises. However, in the case that such  
5362 electronic records are not readily available for electronic inspection on the licensed premises, the  
5363 licensee may obtain Board approval, for good cause shown, to permit the licensee to provide the  
5364 records to a special agent of the Board within three business days or less, as determined by the Board,  
5365 after a request is made to inspect the records.

5366 C. Every licensed marijuana cultivation facility shall keep complete, accurate, and separate records  
5367 in accordance with Board regulations of all marijuana and marijuana products it purchased,  
5368 manufactured, sold, or shipped.

5369 D. Every licensed marijuana testing facility shall keep complete, accurate, and separate records in  
5370 accordance with Board regulations of all marijuana and marijuana products it developed, researched,  
5371 or tested and the names and addresses of the licensees or persons who submitted the marijuana or  
5372 marijuana product to the marijuana testing facility.

5373 E. The Board and its special agents shall be allowed free access during reasonable hours to every  
5374 place in the Commonwealth and to the premises of every licensee or for the purpose of examining and  
5375 inspecting such place and all records, invoices, and accounts therein.

5376 For the purposes of a Board inspection of the records of any retail marijuana store licensees,  
5377 "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not  
5378 open to the public substantially during the same hours, "reasonable hours" means the business hours  
5379 when the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's  
5380 records are not available for inspection, the licensee shall provide the records to a special agent of the  
5381 Board within 24 hours after a request is made to inspect the records.

## 5382 CHAPTER 8.

### 5383 ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

#### 5384 § 4.1-800. Marijuana cultivation facility license.

5385 A. The Board may issue any of the following marijuana cultivation facility licenses, which shall  
5386 authorize the licensee to cultivate, label, and package retail marijuana; to purchase or take possession  
5387 of marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and  
5388 sell retail marijuana, immature marijuana plants, and marijuana seeds to marijuana wholesalers and  
5389 retail marijuana stores; to transfer possession of and sell retail marijuana, marijuana plants, and  
5390 marijuana seeds to other marijuana cultivation facilities; to transfer possession of and sell retail  
5391 marijuana to marijuana manufacturing facilities; and to sell immature marijuana plants and marijuana  
5392 seeds to consumers for the purpose of cultivating marijuana at home for personal use:

5393 1. Class A cultivation facility license, which shall authorize the licensee to cultivate not more than a  
5394 certain number of marijuana plants or marijuana plants in an area not larger than a certain number of  
5395 square feet, as determined by the Board.

5396 2. Class B cultivation facility license, which shall authorize the licensee to cultivate marijuana plants  
5397 with a tetrahydrocannabinol concentration of no more than one percent, as determined  
5398 post-decarboxylation.

5399 B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall  
5400 track the retail marijuana it cultivates from seed or immature marijuana plant to the point at which the  
5401 marijuana plant or the marijuana produced by the marijuana plant is delivered or transferred to a  
5402 marijuana testing facility, a marijuana wholesaler, another marijuana cultivation facility, a marijuana  
5403 manufacturer, a retail marijuana store, or a consumer or is disposed of or destroyed.

#### 5404 § 4.1-801. Marijuana manufacturing facility license.

5405 A. The Board may issue marijuana manufacturing facility licenses, which shall authorize the licensee  
5406 to manufacture, label, and package retail marijuana and retail marijuana products; to purchase or take  
5407 possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing  
5408 facility; and to transfer possession of and sell retail marijuana and retail marijuana products to  
5409 marijuana wholesalers, retail marijuana stores, or other marijuana manufacturing facilities.



B. Except as otherwise provided in this subtitle, retail marijuana products shall be prepared on a licensed premises that is used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products and using equipment that is used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products.

C. All areas within the licensed premises of a marijuana manufacturing facility in which retail marijuana and retail marijuana products are manufactured shall meet all sanitary standards specified in regulations adopted by the Board. A marijuana manufacturing facility that manufactures an edible marijuana product shall comply with the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and any regulations adopted pursuant thereto.

D. In accordance with the requirements of § 4.1-611, a marijuana manufacturing facility licensee shall track the retail marijuana it uses in its manufacturing processes from the point the retail marijuana is delivered or transferred to the marijuana manufacturing facility by a marijuana wholesaler licensee to the point the retail marijuana or retail marijuana products produced using the retail marijuana are delivered or transferred to another marijuana manufacturing facility, a marijuana testing facility, or a marijuana wholesaler or are disposed of or destroyed.

**§ 4.1-802. Marijuana testing facility license.**

A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to develop, research, or test retail marijuana, retail marijuana products, and other substances.

B. A marijuana testing facility may develop, research, or test retail marijuana and retail marijuana products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use the retail marijuana or retail marijuana product for personal use as authorized under § 4.1-1100.

C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a marijuana testing facility from developing, researching, or testing substances that are not marijuana or marijuana products for that facility or for another person.

D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body.

E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track all marijuana and marijuana products it receives from a licensee for testing purposes from the point at which the marijuana or marijuana products are delivered or transferred to the marijuana testing facility to the point at which the marijuana or marijuana products are disposed of or destroyed.

F. A person that has an interest in a marijuana testing facility license shall not have any interest in a licensed marijuana cultivation facility, a licensed marijuana manufacturing facility, a licensed marijuana wholesaler, or a licensed retail marijuana store.

**§ 4.1-803. Marijuana wholesaler license.**

A. The Board may issue marijuana wholesaler licenses, which shall authorize the licensee to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana store, or another marijuana wholesaler.

B. All areas within the licensed premises of a marijuana wholesaler in which retail marijuana and retail marijuana products are stored shall meet all sanitary standards specified in regulations adopted by the Board.

C. In accordance with the requirements of § 4.1-611, a marijuana wholesaler licensee shall track the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the point at which the retail marijuana, retail marijuana products, plants, or seeds are delivered or transferred to the marijuana wholesaler to the point at which the retail marijuana, retail marijuana products, plants, or seeds are transferred or sold to a marijuana manufacturer, marijuana wholesaler, retail marijuana store, or marijuana testing facility or are disposed of or destroyed.

**§ 4.1-804. Retail marijuana store license.**

A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers on premises approved by the Board.

B. Retail marijuana stores shall be operated in accordance with the following provisions:

1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.

2. A retail marijuana store shall be permitted to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers only in a direct, face-to-face exchange. Such store shall not be permitted to sell retail marijuana, retail marijuana products, immature

5471 marijuana plants, or marijuana seeds using:

5472 a. An automated dispensing or vending machine;

5473 b. A drive-through sales window;

5474 c. An Internet-based sales platform; or

5475 d. A delivery service.

5476 3. A retail marijuana store shall not be permitted to sell more than one ounce of marijuana or an  
5477 equivalent amount of marijuana products as determined by regulation promulgated by the Board during  
5478 a single transaction to one person.

5479 4. A retail marijuana store shall not:

5480 a. Give away any retail marijuana or retail marijuana products, except as otherwise permitted by  
5481 this subtitle;

5482 b. Sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds  
5483 to any person when at the time of such sale he knows or has reason to believe that the person  
5484 attempting to purchase the retail marijuana, retail marijuana product, immature marijuana plant, or  
5485 marijuana seeds is intoxicated or is attempting to purchase retail marijuana for someone younger than  
5486 21 years of age; or

5487 c. Employ or allow to volunteer any person younger than 21 years of age.

5488 5. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all  
5489 retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the  
5490 point at which the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana  
5491 seeds are delivered or transferred to the retail marijuana store to the point at which the retail  
5492 marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds are sold to a  
5493 consumer, delivered or transferred to a marijuana testing facility, or disposed of or destroyed.

5494 6. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et  
5495 seq.) of Title 3.2.

5496 C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the  
5497 existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the  
5498 availability of a means to report crimes or gain assistance. The notice required by this subsection shall  
5499 (i) be posted in a place readily visible and accessible to the public and (ii) meet the requirements  
5500 specified in subsection C of § 40.1-11.3.

5501 D. Each retail marijuana store licensee shall prominently display and make available for  
5502 dissemination to consumers Board-approved information regarding the potential risks of marijuana use.

5503 E. Each retail marijuana store licensee shall provide training, established by the Board, to all  
5504 employees educating them on how to discuss the potential risks of marijuana use with consumers.

5505 F. Any retail marijuana store license granted to a pharmaceutical processor that has been issued a  
5506 permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control  
5507 Act shall authorize the licensee to exercise any privileges set forth in subsection A at the place of  
5508 business designated in the license, which, notwithstanding subsection A of § 4.1-702, may include, upon  
5509 request by the licensee, up to five additional retail establishments of the licensee. Such additional retail  
5510 establishments shall be located at the five cannabis dispensing facilities for which the Board of Health  
5511 has issued a permit pursuant to subsection B of § 54.1-3442.6 in the health service area in which the  
5512 pharmaceutical processing facility is located.

5513 **§ 4.1-805. Multiple licenses awarded to one person prohibited.**

5514 A. As used in this section, "interest" means an equity ownership interest or a partial equity  
5515 ownership interest or any other type of financial interest, including but not limited to being an investor  
5516 or serving in a management position.

5517 B. Except as otherwise permitted by Board regulation promulgated pursuant to subdivision C 4 of §  
5518 4.1-606, no person shall be granted or have interest in a license in more than one of the following  
5519 license categories: marijuana cultivation facility license, marijuana manufacturing facility license,  
5520 marijuana wholesaler license, retail marijuana store license, or marijuana testing facility license.

5521 C. Notwithstanding subsection B and any other provision of law to the contrary, any (i)  
5522 pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article  
5523 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or (ii) industrial hemp processor that is registered  
5524 with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et  
5525 seq.) of Title 3.2 and completed such registration prior to January 1, 2021, shall be permitted to  
5526 possess one or any combination of the following licenses: marijuana cultivation facility license,  
5527 marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store license.  
5528 However, no pharmaceutical processor or industrial hemp processor that has been issued a marijuana  
5529 cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or  
5530 retail marijuana store license shall be issued a marijuana testing facility license or have any interest in  
5531 a marijuana testing facility licensee. Any pharmaceutical processor or industrial hemp processor that  
5532 wishes to possess a license in more than one license category pursuant to this subsection shall (a) pay a

\$250,000 fee to the Board and (b) submit a diversity, equity, and inclusion plan to the Cannabis Business Equity and Diversity Support Team (the Support Team) for approval and, upon approval, implement such plan in accordance with the requirements set by the Support Team. Fees collected by the Board pursuant to this subsection shall be allocated to the Public School Assistance Fund established pursuant to § 22.1-141.3.

**§ 4.1-806. Temporary permits required in certain instances.**

A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure, secured creditor's, or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises to continue to operate the marijuana establishment to the same extent as the previous owner for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the requirements in this subsection.

B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board for any cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a temporary permit shall be effective upon service of the order of revocation upon the permittee or upon the expiration of three business days after the order of the revocation has been mailed to the permittee at either his residence or the address given for the business in the permit application. No further notice shall be required.

**§ 4.1-807. Licensee shall maintain possession of premises.**

As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises. If the licensee fails to maintain possession of the licensed premises, the license shall be revoked by the Board.

**§ 4.1-808. Use or consumption of marijuana or marijuana products on premises of licensee by licensee, agent, or employee.**

No marijuana or marijuana products may be used or consumed on the premises of a licensee by the licensee or any agent or employee of the licensee, except for certain sampling for quality control purposes that may be permitted by Board regulation.

**§ 4.1-809. Conditions under which the Board may refuse to grant licenses.**

The Board may refuse to grant any license if it has reasonable cause to believe that:

1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the applicant is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Is not 21 years of age or older;

b. Is not a resident of the Commonwealth;

c. Has been convicted in any court of any crime or offense involving moral turpitude under the laws of any state or of the United States within seven years of the date of the application or has not completed all terms of sentencing and probation resulting from any such felony conviction;

d. Knowingly employs someone younger than 21 years of age;

e. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business that have not been disclosed;

f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business proposed to be licensed;

g. Has misrepresented a material fact in applying to the Board for a license;

h. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or governmental agency or authority, by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a false representation of a material fact; or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or governmental agency or authority, by making or maintaining business records required by statute or regulation that are false or fraudulent;

i. Is violating or allowing the violation of any provision of this subtitle in his establishment at the time his application for a license is pending;

j. Is a police officer with police authority in the political subdivision within which the establishment designated in the application is located;

k. Is a manufacturer, distributor, or retailer of alcoholic beverages licensed under Chapter 2 (§ 4.1-200 et seq.) of Title 4.1 or a retailer of tobacco or tobacco products;

l. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations

5594 promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of  
5595 the Drug Control Act; or

5596 m. Is physically unable to carry on the business for which the application for a license is filed or  
5597 has been adjudicated incapacitated.

5598 2. The place to be occupied by the applicant:

5599 a. Does not conform to the requirements of the governing body of the county, city, or town in which  
5600 such place is located with respect to sanitation, health, construction, or equipment, or to any similar  
5601 requirements established by the laws of the Commonwealth or by Board regulation;

5602 b. Is so located that granting a license and operation thereunder by the applicant would result in  
5603 violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local  
5604 ordinances relating to peace and good order;

5605 c. Is so located with respect to any place of religious worship; hospital; public, private, or parochial  
5606 school or institution of higher education; public or private playground or other similar recreational  
5607 facility; child day program; substance use disorder treatment facility; or federal, state, or local  
5608 government-operated facility that the operation of such place under such license will adversely affect or  
5609 interfere with the normal, orderly conduct of the affairs of such facilities, programs, or institutions;

5610 d. Is so located with respect to any residence or residential area that the operation of such place  
5611 under such license will adversely affect real property values or substantially interfere with the usual  
5612 quietude and tranquility of such residence or residential area;

5613 e. When the applicant is applying for a retail marijuana store license, is located within 1,000 feet of  
5614 an existing retail marijuana store; or

5615 f. Under a retail marijuana store license, is so constructed, arranged, or illuminated that  
5616 law-enforcement officers and special agents of the Board are prevented from ready access to and  
5617 reasonable observation of any room or area within which retail marijuana or retail marijuana products  
5618 are to be sold.

5619 Nothing in this subdivision 2 shall be construed to require an applicant to have secured a place or  
5620 premises until the final stage of the license approval process.

5621 3. The number of licenses existing in the locality is such that the granting of a license is detrimental  
5622 to the interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall  
5623 consider (i) the criteria established by the Board to evaluate new licensees based on the density of retail  
5624 marijuana stores in the community; (ii) the character of, population of, number of similar licenses, and  
5625 number of all licenses existent in the particular county, city, or town and the immediate neighborhood  
5626 concerned; (iii) the effect that a new license may have on such county, city, town, or neighborhood in  
5627 conforming with the purposes of this subtitle; and (iv) the objections, if any, that may have been filed by  
5628 a local governing body or local residents.

5629 4. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any  
5630 political subdivision thereof that warrants refusal by the Board to grant any license.

5631 5. The Board is not authorized under this subtitle to grant such license.

5632 **§ 4.1-810. Conditions under which the Board shall refuse to grant licenses.**

5633 The Board shall refuse to grant any license to any member or employee of the Board or to any  
5634 corporation or other business entity in which such member or employee is a stockholder or has any  
5635 other economic interest.

5636 Whenever any other elected or appointed official of the Commonwealth or any political subdivision  
5637 thereof applies for such a license or continuance thereof, he shall state on the application the official  
5638 position he holds, and whenever a corporation or other business entity in which any such official is a  
5639 stockholder or has any other economic interest applies for such a license, it shall state on the  
5640 application the full economic interests of each such official in such corporation or other business entity.

5641 **§ 4.1-811. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.**

5642 A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial  
5643 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in  
5644 subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided  
5645 by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of  
5646 Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the  
5647 circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the  
5648 Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

5649 B. The Board may refuse a hearing on any application for the granting of any retail marijuana store  
5650 license, provided that such:

5651 1. License for the applicant has been refused or revoked within a period of 12 months;

5652 2. License for any premises has been refused or revoked at that location within a period of 12  
5653 months; or

5654 3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted by  
5655

the Board to expire for nonpayment of license fee, and at the time of expiration of such license, there was a pending and unadjudicated charge, either before the Board or in any court, against the licensee alleging a violation of this subtitle.

C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the Board may refuse a hearing on an application for a new license until after the date on which the suspension period would have been executed had the license not have been permitted to expire.

#### CHAPTER 9.

#### ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

##### **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

The Board may suspend or revoke any license if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Has misrepresented a material fact in applying to the Board for such license;

b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.), or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state or of the United States;

d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business that have not been disclosed;

e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;

f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;

g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana product except as provided under this subtitle;

j. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use, controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision l shall also apply to any conduct related to the operation of the licensed business that facilitates the commission of any of the offenses set forth herein;

m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety;

n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any

5717 premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii)  
5718 any portion of public property immediately adjacent to the licensed premises; or  
5719 o. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations  
5720 promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of  
5721 the Drug Control Act.

5722 2. The place occupied by the licensee:

5723 a. Does not conform to the requirements of the governing body of the county, city, or town in which  
5724 such establishment is located, with respect to sanitation, health, construction, or equipment, or to any  
5725 similar requirements established by the laws of the Commonwealth or by Board regulations;

5726 b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

5727 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,  
5728 prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are  
5729 regularly used or distributed. The Board may consider the general reputation in the community of such  
5730 establishment in addition to any other competent evidence in making such determination.

5731 3. The licensee or any employee of the licensee discriminated against any member of the Armed  
5732 Forces of the United States by prices charged or otherwise.

5733 4. Any cause exists for which the Board would have been entitled to refuse to grant such license had  
5734 the facts been known.

5735 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any  
5736 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is  
5737 located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality,  
5738 unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for  
5739 correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered  
5740 into a payment plan approved by the same locality to settle the outstanding liability.

5741 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of  
5742 its agents or employees constituting a pattern or practice of employing unauthorized aliens on the  
5743 licensed premises in the Commonwealth.

5744 7. Any other cause authorized by this subtitle.

5745 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

5746 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the  
5747 Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or  
5748 permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily  
5749 injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises  
5750 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any  
5751 portion of public property immediately adjacent to the licensed premises, and the Board finds that there  
5752 exists a continuing threat to public safety and that summary suspension of the license or permit is  
5753 justified to protect the health, safety, or welfare of the public.

5754 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall  
5755 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of  
5756 any such act of violence. If the Board determines suspension is warranted, it shall immediately notify  
5757 the licensee of its intention to temporarily suspend his license pending the outcome of a formal  
5758 investigation. Such temporary suspension shall remain effective for a minimum of 48 hours. After the  
5759 48-hour period, the licensee may petition the Board for a restricted license pending the results of the  
5760 formal investigation and proceedings for disciplinary review. If the Board determines that a restricted  
5761 license is warranted, the Board shall have discretion to impose appropriate restrictions based on the  
5762 facts presented.

5763 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a  
5764 formal investigation. The formal investigation shall be completed within 10 days of its commencement  
5765 and the findings reported immediately to the Secretary of the Board. If, following the formal  
5766 investigation, the Secretary of the Board determines that suspension of the license is warranted, a  
5767 hearing shall be held within five days of the completion of the formal investigation. A decision shall be  
5768 rendered within 10 days of the conclusion of the hearing. If a decision is not rendered within 10 days of  
5769 the conclusion of the hearing, the order of suspension shall be vacated and the license reinstated. Any  
5770 appeal by the licensee shall be filed within 10 days of the decision and heard by the Board within 20  
5771 days of the decision. The Board shall render a decision on the appeal within 10 days of the conclusion  
5772 of the appeal hearing.

5773 D. Service of any order of suspension issued pursuant to this section shall be made by a special  
5774 agent of the Board in person and by certified mail to the licensee. The order of suspension shall take  
5775 effect immediately upon service.

5776 E. This section shall not apply to temporary permits granted under § 4.1-806.

5777 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

5778 The Board shall suspend or revoke any license if it finds that:

1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a gambling device, upon the premises for which the Board has granted a retail marijuana store license.

2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local government or governmental agency or authority, by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a willful or knowing false representation of a material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or governmental agency or authority, by making or maintaining business records required by statute or regulation that are false or fraudulent.

**§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.**

A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et seq.).

Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof, that are within the possession, custody, or control of the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee. In addition, any subpoena for the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

If the Board fails to provide for inspection or copying under this section for the licensee after a written request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully been entitled to inspect or copy under this section.

The action of the Board in suspending or revoking any license or in imposing a civil penalty shall be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license, the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second or subsequent violation occurring within five years immediately preceding the date of the second or subsequent violation. However, if the violation involved selling retail marijuana or retail marijuana products to a person prohibited from purchasing retail marijuana or retail marijuana products or allowing consumption of retail marijuana or retail marijuana products, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second or subsequent violation occurring within five years immediately preceding the date of the second or subsequent violation in lieu of such suspension or any portion thereof, or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. The Board shall, by regulation or written order:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;



5840 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of  
5841 suspension may be accepted for a first offense occurring within three years immediately preceding the  
5842 date of the violation;

5843 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil  
5844 penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to its  
5845 employees marijuana seller training certified in advance by the Board;

5846 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a  
5847 license and the civil charge acceptable in lieu of such suspension; and

5848 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the  
5849 licensee has had no prior violations within five years immediately preceding the date of the violation.  
5850 No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this  
5851 subtitle or Board regulations.

5852 **§ 4.1-904. Suspension or revocation; disposition of retail marijuana or retail marijuana products**  
5853 **on hand; termination.**

5854 A. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by any  
5855 licensee at the time the license of such person is suspended or revoked may be disposed of as follows:

5856 1. Sold to persons in the Commonwealth licensed to sell such retail marijuana or retail marijuana  
5857 products upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by  
5858 the Board; or

5859 2. Provided to the Virginia State Police to be destroyed.

5860 B. All retail marijuana or retail marijuana products owned by or in the possession of any person  
5861 whose license is suspended or revoked shall be disposed of by such person in accordance with the  
5862 provisions of this section within 60 days from the date of such suspension or revocation.

5863 C. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by  
5864 persons whose licenses have been terminated other than by suspension or revocation may be disposed of  
5865 in accordance with subsection A within such time as the Board deems proper. Such period shall not be  
5866 less than 60 days.

5867 D. All retail marijuana or retail marijuana products owned by or remaining in the possession of any  
5868 person described in subsection A or C after the expiration of such period shall be deemed contraband  
5869 and forfeited to the Commonwealth in accordance with the provisions of § 4.1-1304.

5870 CHAPTER 10.

5871 ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.

5872 **§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.**

5873 A. Every person intending to apply for any license authorized by this subtitle shall file with the  
5874 Board an application on forms provided by the Board and a statement in writing by the applicant  
5875 swearing and affirming that all of the information contained therein is true.

5876 Applicants for licenses for establishments that are otherwise required to obtain an inspection by the  
5877 Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a  
5878 pending request for such inspection. If the applicant provides proof of inspection or proof of a pending  
5879 request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of  
5880 a pending application or inspection, such license shall authorize the licensee to purchase retail  
5881 marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds in accordance  
5882 with the provisions of this subtitle; however, the licensee shall not sell retail marijuana, retail marijuana  
5883 products, immature marijuana plants, or marijuana seeds until an inspection is completed.

5884 B. In addition, each applicant for a license under the provisions of this subtitle shall post a notice of  
5885 his application with the Board on the front door of the building, place, or room where he proposes to  
5886 engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a  
5887 size and contain such information as required by the Board, including a statement that any objections  
5888 shall be submitted to the Board not more than 30 days following initial posting of the notice required  
5889 pursuant to this subsection.

5890 The applicant shall also cause notice to be published at least once a week for two consecutive weeks  
5891 in a newspaper published in or having a general circulation in the county, city, or town wherein such  
5892 applicant proposes to engage in such business. Such notice shall contain such information as required  
5893 by the Board, including a statement that any objections to the issuance of the license be submitted to  
5894 the Board not later than 30 days from the date of the initial newspaper publication.

5895 The Board shall conduct a background investigation, to include a criminal history records search,  
5896 which may include a fingerprint-based national criminal history records search, on each applicant for a  
5897 license. However, the Board may waive, for good cause shown, the requirement for a criminal history  
5898 records search and completed personal data form for officers, directors, nonmanaging members, or  
5899 limited partners of any applicant corporation, limited liability company, or limited partnership. In  
5900 considering criminal history record information, the Board shall not disqualify an applicant because of  
5901 a past conviction for a marijuana-related offense.



The Board shall notify the local governing body of each license application through the town manager, city manager, county administrator, or other designee of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed, except that such fee shall be waived or discounted for qualified social equity applicants pursuant to regulations promulgated by the Board. The license application fee shall be determined by the Board and shall be in addition to the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board. Application fees shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell retail marijuana or retail marijuana products computed to the nearest cent and multiplied by the number of months for which the permit is granted.

F. The Board shall have the authority to increase state license fees. The Board shall set the amount of such increases on the basis of the consumer price index and shall not increase fees more than once every three years. Prior to implementing any state license fee increase, the Board shall provide notice to all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any license affected by the Board's proposed fee increases. Such notice shall be provided on or before November 1 in any year in which the Board has decided to increase state license fees, and such increases shall become effective July 1 of the following year.

#### **§ 4.1-1001. Fees for state licenses.**

A. The annual fees on state licenses shall be determined by the Board.

B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such fee shall not be refundable, except as provided in § 4.1-1002.

C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this subtitle, shall be liable to state merchants' license taxation and other state taxation.

D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

#### **§ 4.1-1002. Refund of state license fee.**

A. The Board may correct erroneous assessments made by it against any person and make refunds of any amounts collected pursuant to erroneous assessments, or collected as fees on licenses, that are subsequently refused or application therefor withdrawn, and to allow credit for any license fees paid by any licensee for any license that is subsequently merged or changed into another license during the same license period. No refund shall be made of any such amount, however, unless made within three years from the date of collection of the same.

B. In any case where a licensee has changed its name or form of organization during a license period without any change being made in its ownership, and because of such change is required to pay an additional license fee for such period, the Board shall refund to such licensee the amount of such fee so paid in excess of the required license fee for such period.

C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or similar natural disaster or phenomenon.

D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

#### **§ 4.1-1003. Marijuana tax; exceptions.**

A. A tax of 10 percent is levied on the sale in the Commonwealth of any retail marijuana, retail marijuana products, marijuana paraphernalia sold by a retail marijuana store, non-retail marijuana, and non-retail marijuana products. The tax shall be in addition to any tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) or any other provision of federal, state, or local law.

5963 *B. The tax shall not apply to any sale:*

5964 *1. From a marijuana establishment to another marijuana establishment.*

5965 *2. Of cannabis oil for treatment under the provisions of § 54.1-3408.3 and Article 4.2 (§ 54.1-3442.5*  
5966 *et seq.) of the Drug Control Act.*

5967 *3. Of industrial hemp by a grower, processor, or dealer under the provisions of Chapter 41.1*  
5968 *(§ 3.2-4112 et seq.) of Title 3.2.*

5969 *4. Of industrial hemp extract or food containing an industrial hemp extract under the provisions of*  
5970 *Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2.*

5971 *C. All revenues remitted to the Authority under this section shall be disposed of as provided in*  
5972 *§ 4.1-614.*

5973 **§ 4.1-1004. Optional local marijuana tax.**

5974 *A. Any locality may by ordinance levy a three percent tax on any sale taxable under § 4.1-1003. The*  
5975 *tax shall be in addition to any local sales tax imposed under the Virginia Retail Sales and Use Tax Act*  
5976 *(§ 58.1-600 et seq.), any food and beverage tax imposed under Article 7.1 (§ 58.1-3833 et seq.) of*  
5977 *Chapter 38 of Title 58.1, and any excise tax imposed on meals under § 58.1-3840. Other than the taxes*  
5978 *authorized and identified in this subsection, a locality shall not impose any other tax on a sale taxable*  
5979 *under § 4.1-1003.*

5980 *B. If a town imposes a tax under this section, any tax imposed by its surrounding county under this*  
5981 *section shall not apply within the limits of the town.*

5982 *C. Nothing in this section shall be construed to prohibit a locality from imposing any tax authorized*  
5983 *by law on a person or property regulated under this subtitle. Nothing in this section shall be construed*  
5984 *to limit the authority of any locality to impose a license or privilege tax or fee on a business engaged in*  
5985 *whole or in part in sales taxable under § 4.1-1003 if such tax or fee is (i) based on an annual or*  
5986 *per-event flat fee authorized by law or (ii) is an annual license or privilege tax authorized by law, and*  
5987 *such tax includes sales or receipts taxable under § 4.1-1003 in its taxable measure.*

5988 *D. Any locality that enacts an ordinance pursuant to subsection A shall, within 30 days, notify the*  
5989 *Authority and any retail marijuana store in such locality of the ordinance's enactment. The ordinance*  
5990 *shall take effect on the first day of the second month following its enactment.*

5991 *E. Any tax levied under this section shall be administered and collected by the Authority in the same*  
5992 *manner as provided for the tax imposed under § 4.1-1003.*

5993 *F. All revenues remitted to the Authority under this section shall be disposed of as provided in*  
5994 *§ 4.1-614.*

5995 **§ 4.1-1005. Tax returns and payments; commissions; interest.**

5996 *A. For any sale taxable under §§ 4.1-1003 and 4.1-1004, the seller shall be liable for collecting any*  
5997 *taxes due. All taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The*  
5998 *buyer shall not be liable for collecting or remitting the taxes or filing a return.*

5999 *B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 or*  
6000 *4.1-1004 shall file a return under oath with the Authority and pay any taxes due. Upon written*  
6001 *application by a person filing a return, the Authority may, if it determines good cause exists, grant an*  
6002 *extension to the end of the calendar month in which the tax is due, or for a period not exceeding 30*  
6003 *days. Any extension shall toll the accrual of any interest or penalties under § 4.1-1008.*

6004 *C. The Authority may accept payment by any commercially acceptable means, including cash, checks,*  
6005 *credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under*  
6006 *this subtitle. The Board may assess a service charge for the use of a credit or debit card.*

6007 *D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit*  
6008 *card, or automated clearinghouse transfer information and use such information for future payments of*  
6009 *taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any*  
6010 *payments made under this subsection. The Authority may procure the services of a third-party vendor*  
6011 *for the secure storage of information collected pursuant to this subsection.*

6012 *E. If any person liable for tax under §§ 4.1-1003 and 4.1-1004 sells out his business or stock of*  
6013 *goods or quits the business, such person shall make a final return and payment within 15 days after the*  
6014 *date of selling or quitting the business. Such person's successors or assigns, if any, shall withhold*  
6015 *sufficient of the purchase money to cover the amount of such taxes, interest, and penalties due and*  
6016 *unpaid until such former owner produces a receipt from the Authority showing payment or a certificate*  
6017 *stating that no taxes, penalties, or interest are due. If the buyer of a business or stock of goods fails to*  
6018 *withhold the purchase money as provided in this subsection, such buyer shall be liable for the payment*  
6019 *of the taxes, interest, and penalties due and unpaid on account of the operation of the business by any*  
6020 *former owner.*

6021 *F. When any person fails to timely pay the full amount of tax due under § 4.1-1003 or 4.1-1004,*  
6022 *interest at a rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any*  
6023 *taxes due under §§ 4.1-1003 and 4.1-1004 shall, if applicable, be subject to penalties as provided in*  
6024 *§§ 4.1-1206 and 4.1-1207.*

**§ 4.1-1006. Bonds.**

The Authority may, when deemed necessary and advisable to do so in order to secure the collection of the taxes levied under §§ 4.1-1003 and 4.1-1004, require any person subject to such tax to file a bond, with such surety as it determines is necessary to secure the payment of any tax, penalty, or interest due or that may become due from such person. In lieu of such bond, securities approved by the Authority may be deposited with the State Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold by the State Treasurer at the request of the Authority at public or private sale if it becomes necessary to do so in order to recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the surplus, if any, above the amounts due shall be returned to the person who deposited the securities.

**§ 4.1-1007. Refunds.**

A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to § 4.1-1003 or 4.1-1004 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise deemed to be unsalable by reason of fire or any other providential cause before sale to the consumer; (ii) destroyed voluntarily because the taxable items were defective and after notice to and approval by the Authority of such destruction; or (iii) destroyed in any manner while in the possession of a common, private, or contract carrier, the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may be proper.

B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable items that have been sold by such person in such manner as to be exempt from the tax, the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may be proper.

C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-1003 or 4.1-1004 has been collected or charged to the account of the buyer, the seller shall be entitled to a refund of the amount of tax so collected or charged in the manner prescribed by the Authority. The amount of tax so refunded to the seller shall not, however, include the tax paid upon any amount retained by the seller after such return of merchandise. In case the tax has not been remitted by the seller, the seller may deduct the same in submitting his return.

**§ 4.1-1008. Statute of limitations; civil remedies for collecting past-due taxes, interest, and penalties.**

A. The taxes imposed under §§ 4.1-1003 and 4.1-1004 shall be assessed within three years from the date on which such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the collection of such taxes may be begun without assessment, at any time within six years from such date. The Authority shall not examine any person's records beyond the three-year period of limitations unless it has reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a return and failed to do so.

B. If any person fails to file a return as required by this section, or files a return that is false or fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person and assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10 days' notice requiring such person to provide any records as it may require relating to the business of such person for the taxable period. The Authority may require such person or the agents and employees of such person to give testimony or to answer interrogatories under oath administered by the Authority respecting taxable sales, the filing of the return, and any other relevant information. If any person fails to file a required return, refuses to provide required records, or refuses to answer interrogatories from the Authority, the Authority may make an estimated assessment based upon the information available to it and issue a memorandum of lien under subsection C for the collection of any taxes, interest, or penalties. The estimated assessment shall be deemed prima facie correct.

C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay within 30 days after the due date, taking into account any extensions granted by the Authority, the Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which the person's place of business is located or in which the person resides. If the person has no place of business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however, in those instances where the Authority determines that the collection of

any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given to the person at his last known address.

2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal under § 4.1-1009.

3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or satisfactory arrangements for payment made, the Authority may cause a writ of fieri facias to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the Authority. In the event that the person against whom the distraint has been applied subsequently appeals under § 4.1-1009, the person shall have the right to post bond equaling the amount of liability in lieu of payment until the appeal is resolved.

4. A person may petition the Authority after a memorandum of lien has been filed under this subsection if the person alleges an error in the filing of the lien. The Authority shall make a determination on such petition within 14 days. If the Authority determines that the filing was erroneous, it shall issue a certificate of release of the lien within seven days after such determination is made.

**§ 4.1-1009. Appeals.**

Any tax imposed under § 4.1-1003 or 4.1-1004, any interest imposed under § 4.1-1008, any action of the Authority under § 4.1-1204, and any penalty imposed under § 4.1-1206 or 4.1-1207 shall be subject to review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of the proceedings provided by the Authority in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

**§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or older lawful; penalties.**

A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person 21 years of age or older may lawfully possess on his person or in any public place not more than one ounce of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board.

B. Any person who possesses on his person or in any public place marijuana or marijuana products in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25. The penalty for any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

C. With the exception of a licensee in the course of his duties related to such licensee's marijuana establishment, any person who possesses on his person or in any public place (i) more than two and one-half ounces but not more than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty of a Class 1 misdemeanor and (ii) more than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty of a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or both.

D. The provisions of this section shall not apply to members of federal, state, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

**§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

~~Notwithstanding the provisions of subdivision e of § 18.2-248.1,~~ A person 21 years of age or older may cultivate up to four marijuana plants for personal use at their place of residence; however, at no point shall a household contain more than four marijuana plants. For purposes of this section, a "household" means those individuals, whether related or not, who live in the same house or other place of residence.

A person may only cultivate marijuana plants pursuant to this section at such person's main place of residence.

B. A person who cultivates marijuana for personal use pursuant to this section shall:

1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars, or other optical aids;

2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or identification number, and a notation that the marijuana plant is being grown for personal use as

authorized under this section.

C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to manufacture marijuana concentrate from home-cultivated marijuana within or on that property or land.

D. The following penalties or punishments shall be imposed on any person convicted of a violation of this section:

1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2 misdemeanor for a third and any subsequent offense;

2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or both.

**§ 4.1-1101.1. Adult sharing of marijuana.**

A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i) marijuana is given away contemporaneously with another reciprocal transaction between the same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

B. ~~Notwithstanding the provisions of § 18.2-248.1, no~~ No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not exceed one ounce or of an equivalent amount of marijuana products.

**§ 4.1-1102. Illegal cultivation or manufacture of marijuana or marijuana products; conspiracy; penalties.**

A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate or manufacture marijuana or marijuana products in the Commonwealth without being licensed under this subtitle to cultivate or manufacture such marijuana or marijuana products.

B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

C. If two or more persons conspire together to do any act that is in violation of subsection A, and one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy is guilty of a Class 6 felony.

**§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i) marijuana is given away contemporaneously with another reciprocal transaction between the same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

B. If any person who is not licensed sells, gives, or distributes any marijuana or marijuana products except as permitted by this chapter or provided in subsection C, he is guilty of a Class 2 misdemeanor.

A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not exceed one ounce or of an equivalent amount of marijuana products.

**§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal age; penalties.**

A. No person shall, except pursuant to § 4.1-700, sell, give, or distribute any marijuana or marijuana products to any individual when at the time of such sale he knows or has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age or (ii) intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. It is unlawful for any person 21 years of age or older to sell or distribute, or possess with the intent to sell or distribute, marijuana paraphernalia to any person younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

C. It is unlawful for any person 21 years of age or older to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of marijuana paraphernalia to persons younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

D. Any person who sells, except pursuant to § 4.1-700, any marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of the sale does not require the individual to present bona fide evidence of legal age indicating that the individual is 21 years of age or

6209 older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to any  
6210 evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the  
6211 United States or the District of Columbia, military identification card, United States passport or foreign  
6212 government visa, unexpired special identification card issued by the Department of Motor Vehicles, or  
6213 any other valid government-issued identification card bearing the individual's photograph, signature,  
6214 height, weight, and date of birth, or which bears a photograph that reasonably appears to match the  
6215 appearance of the purchaser. A student identification card shall not constitute bona fide evidence of  
6216 legal age for purposes of this subsection. Any person convicted of a violation of this subsection is guilty  
6217 of a Class 3 misdemeanor. Notwithstanding the provisions of § 4.1-701, the Board shall not take  
6218 administrative action against a licensee for the conduct of his employee who violates this subsection.

6219 E. No person shall be convicted of both subsections A and D for the same sale.

6220 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**  
6221 **exceptions; penalties; forfeiture; treatment and education programs and services.**

6222 A. No person to whom retail marijuana or retail marijuana products may not lawfully be sold under  
6223 § 4.1-1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any  
6224 marijuana or marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local  
6225 law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary  
6226 in the performance of his duties. Such person may be prosecuted either in the county or city in which  
6227 the marijuana or marijuana products were possessed or consumed or in the county or city in which the  
6228 person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

6229 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no  
6230 more than \$25 and shall be ordered to enter a substance abuse treatment or education program or  
6231 both, if available, that in the opinion of the court best suits the needs of the accused.

6232 C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the  
6233 court shall require the accused to enter a substance abuse treatment or education program or both, if  
6234 available, that in the opinion of the court best suits the needs of the accused. For purposes of  
6235 §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as  
6236 delinquent.

6237 D. Any such substance abuse treatment or education program to which a juvenile is ordered  
6238 pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral  
6239 Health and Developmental Services or (ii) a similar program available through a facility or program  
6240 operated by or under contract with the Department of Juvenile Justice or a locally operated court  
6241 services unit or a program funded through the Virginia Juvenile Community Crime Control Act (§  
6242 16.1-309.2 et seq.). Any such substance abuse treatment or education program to which a person 18  
6243 years of age or older is ordered pursuant to this section shall be provided by (a) a program licensed by  
6244 the Department of Behavioral Health and Developmental Services or (b) a program or services made  
6245 available through a community-based probation services agency established pursuant to Article 9  
6246 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an  
6247 offender is ordered to a local community-based probation services agency, the local community-based  
6248 probation services agency shall be responsible for providing for services or referring the offender to  
6249 education or treatment services as a condition of probation.

6250 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender  
6251 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21  
6252 years of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to  
6253 operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not  
6254 limited to a birth certificate or student identification card; or (iii) motor vehicle driver's license or other  
6255 document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another  
6256 jurisdiction, birth certificate, or student identification card of another person in order to establish a  
6257 false identification or false age for himself to consume, purchase, or attempt to consume or purchase  
6258 retail marijuana or retail marijuana products. Any person convicted of a violation of this subsection is  
6259 guilty of a Class 1 misdemeanor.

6260 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be  
6261 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

6262 G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or  
6263 local law-enforcement agency of a violation or suspected violation of this section shall be accorded  
6264 immunity from an administrative penalty for a violation of § 4.1-1104.

6265 **§ 4.1-1106. Purchasing retail marijuana or retail marijuana products for one to whom they may**  
6266 **not be sold; penalties; forfeiture.**

6267 A. Any person who purchases retail marijuana or retail marijuana products for another person and  
6268 at the time of such purchase knows or has reason to believe that the person for whom the retail  
6269 marijuana or retail marijuana products were purchased was intoxicated is guilty of a Class 1  
6270 misdemeanor.

B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail marijuana or retail marijuana products to, another person when he knows or has reason to know that such person is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a Class 1 misdemeanor.

C. Any marijuana or marijuana products purchased in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

**§ 4.1-1111. Illegal importation, shipment, and transportation of marijuana or marijuana products; penalty; exception.**

A. No marijuana or marijuana products shall be imported, shipped, transported, or brought into the Commonwealth.

B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

**§ 4.1-1113. Maintaining common nuisances; penalties.**

A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of every description where marijuana or marijuana products are manufactured, stored, sold, dispensed, given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed common nuisances.

No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common nuisance.

Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not involved in the original offense, by a proceeding analogous to that provided in §§ 4.1-1304 and 4.1-1305 and upon proof of guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or other place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the penalty of not less than \$500 and with security to be approved by the court, conditioned that the premises shall not be used for unlawful purposes, or in violation of the provisions of this subtitle for a period of five years, turn the same over to its owner or lessor, or proceeding may be had in equity as provided in § 4.1-1305.

C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii) had the right, because of such unlawful use, to enter and repossess the property.

**§ 4.1-1114. Maintaining a fortified drug house; penalty.**

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

**§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum of any hearing held and conducted by the Board, any Board member, or any agent authorized by the Board to hold and conduct such hearing.

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

**§ 4.1-1116. Illegal advertising; penalty; exception.**

A. Except in accordance with this title and Board regulations, no person shall advertise in or send any advertising matter into the Commonwealth about or concerning marijuana other than such that may legally be manufactured or sold without a license.

B. Marijuana cultivation facility licensees, marijuana manufacturing facility licensees, marijuana wholesaler licensees, and retail marijuana store licensees may engage in the display of outdoor retail marijuana or retail marijuana products advertising on lawfully erected signs, provided that such display is done in accordance with § 4.1-1405 and Board regulations.

C. Except as provided in subsection D, any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

D. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this title and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

**§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional correctional facility or any person committed to the Department of Juvenile Justice in any juvenile



6332 correctional center any marijuana or marijuana products.

6333 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6334 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

6335 A. No person shall separate plant resin by butane extraction or another method that utilizes a  
6336 substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within  
6337 the curtilage of any residential structure.

6338 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6339 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

6340 No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another  
6341 in doing, or attempting to do, any of the things prohibited by this subtitle.

6342 On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may  
6343 find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as  
6344 if the defendant were solely guilty of such violation.

6345 CHAPTER 12.

6346 PROHIBITED PRACTICES BY LICENSEES.

6347 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

6348 A. No licensee or any agent or employee of such licensee shall:

6349 1. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products of  
6350 a kind other than that which such license or this subtitle authorizes him to cultivate, manufacture,  
6351 transport, sell, or test;

6352 2. Sell retail marijuana or retail marijuana products to any person other than a person to whom  
6353 such license or this subtitle authorizes him to sell;

6354 3. Cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products that  
6355 such license or this subtitle authorizes him to sell, but in any place or in any manner other than such  
6356 license or this subtitle authorizes him to cultivate, manufacture, transport, sell, or test;

6357 4. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products  
6358 when forbidden by this subtitle;

6359 5. Keep or allow to be kept, other than in his residence and for his personal use, any retail  
6360 marijuana or retail marijuana products other than that which he is authorized to cultivate, manufacture,  
6361 transport, sell, or transport by such license or by this subtitle;

6362 6. Keep any retail marijuana or retail marijuana product other than in the container in which it was  
6363 purchased by him; or

6364 7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee at  
6365 a retail marijuana store.

6366 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6367 **§ 4.1-1201. Prohibited acts by employees of retail marijuana store licensees; civil penalty.**

6368 A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or  
6369 employee shall consume any retail marijuana or retail marijuana products while on duty and in a  
6370 position that is involved in the selling of retail marijuana or retail marijuana products to consumers.

6371 B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana  
6372 or marijuana products.

6373 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount  
6374 not to exceed \$500.

6375 **§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person without  
6376 a license; penalty.**

6377 Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for  
6378 resale or sell any retail marijuana, retail marijuana products, immature marijuana plants, or marijuana  
6379 seeds purchased from anyone other than a marijuana cultivation facility, marijuana manufacturing  
6380 facility, or marijuana wholesaler licensee.

6381 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6382 **§ 4.1-1203. Prohibiting transfer of retail marijuana or retail marijuana products by licensees;  
6383 penalty.**

6384 A. No retail marijuana store licensee shall transfer any retail marijuana or retail marijuana products  
6385 from one licensed place of business to another licensed place of business, whether or not such places of  
6386 business are under the same ownership.

6387 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6388 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

6389 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any  
6390 licensee selling, renting, lending, buying for, or giving to any person any advertising materials or  
6391 decorations under circumstances prohibited by this title or Board regulations.

6392 Any person found by the Board to have violated this section shall be subject to a civil penalty as  
6393 authorized in § 4.1-903.



**§ 4.1-1205. Solicitation by persons interested in manufacture, etc., of marijuana or marijuana products; penalty.**

A. No person having any interest, direct or indirect, in the manufacture, distribution, or sale of retail marijuana or retail marijuana products shall, without a permit granted by the Board and upon such conditions as the Board may prescribe, solicit either directly or indirectly (i) a retail marijuana store licensee; (ii) any agent or employee of such licensee; or (iii) any person connected with the licensee in any capacity whatsoever in his licensed business to sell or offer for sale the retail marijuana or retail marijuana products in which such person may be so interested.

The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate the sale of the retail marijuana or retail marijuana products that were the subject matter of the unlawful solicitation or promotion. In addition, the Board may suspend or terminate the sale of all retail marijuana or retail marijuana products manufactured or distributed by either the employer or principal of such solicitor, the broker, or by the owner of the brand unlawfully solicited or promoted. The Board may impose a civil penalty not to exceed \$250,000 in lieu of such suspension or termination of sales, or both.

Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. No retail marijuana store licensee or any agent or employee of such licensee, or any person connected with the licensee in any capacity whatsoever in his licensed business shall, either directly or indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

The Board may suspend or revoke the license granted to such licensee or may impose a civil penalty not to exceed \$25,000 in lieu of such suspension or any portion thereof, or both.

Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

**§ 4.1-1206. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or to allow examination and inspection; penalty.**

A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003 or 4.1-1004; (ii) deliver, keep, and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or (iii) allow such records, invoices, and accounts or his place of business to be examined and inspected in accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority may suspend or revoke any license of such licensee that was issued by the Authority.

**§ 4.1-1207. Nonpayment of marijuana tax; penalties.**

A. No person shall make a sale taxable under § 4.1-1003 or 4.1-1004 without paying all applicable taxes due under §§ 4.1-1003 and 4.1-1004. No retail marijuana store licensee shall purchase, receive, transport, store, or sell any retail marijuana or retail marijuana products on which such retailer has reason to know such tax has not been paid and may not be paid. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. Any person who fails to file a return required for a tax due under § 4.1-1003 or 4.1-1004 is subject to a civil penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

C. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of any tax due on retail marijuana or retail marijuana products, a civil penalty of 50 percent of the amount of the proper tax due shall be assessed. Such penalty shall be in addition to any penalty imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the actual amount.

D. If any check tendered for any amount due under § 4.1-1003 or 4.1-1004 or this section is not paid by the bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount due within five days after the Authority gives it notice that such check was returned unpaid, the person that tendered the check is guilty of a violation of § 18.2-182.1.

E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner as if they were a part of the tax imposed.

**§ 4.1-1300. Enjoining nuisances.**

A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney for the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in § 4.1-1113 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common nuisance.

B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or

6455 marijuana products are cultivated, manufactured, stored, sold, dispensed, given away, or used in such  
6456 house, building, or other place described in § 4.1-1113 contrary to the laws of the Commonwealth, an  
6457 injunction shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and  
6458 restrain the owners and tenants and their agents and employees, and any person connected with such  
6459 house, building, or other place, and all persons whomsoever from cultivating, manufacturing, storing,  
6460 selling, dispensing, giving away, or using marijuana or marijuana products on such premises. The  
6461 injunction shall also restrain all persons from removing any marijuana or marijuana products then on  
6462 such premises until the further order of the court. If the court is satisfied that the material allegations of  
6463 the bill are true, although the premises complained of may not then be unlawfully used, it shall continue  
6464 the injunction against such place for a period of time as the court deems proper. The injunction may be  
6465 dissolved if a proper case is shown for dissolution.

6466 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.**

6467 A. All apparatus and materials for the cultivation or manufacture of marijuana or marijuana  
6468 products, all marijuana or marijuana products and materials used in their manufacture, all containers  
6469 in which marijuana or marijuana products may be found, that are kept, stored, possessed, or in any  
6470 manner used in violation of the provisions of this subtitle, and any dangerous weapons as described in  
6471 § 18.2-308 that may be used or that may be found upon the person, or in any vehicle that such person  
6472 is using, to aid such person in the unlawful cultivation, manufacture, transportation, or sale of  
6473 marijuana or marijuana products, or found in the possession of such person, or any horse, mule, or  
6474 other beast of burden or any wagon, automobile, truck, or vehicle of any nature whatsoever that is  
6475 found in the immediate vicinity of any place where marijuana or marijuana products are being  
6476 unlawfully manufactured and where such animal or vehicle is being used to aid in the unlawful  
6477 manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

6478 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with §  
6479 4.1-1304 for all such property except motor vehicles, which proceedings shall be in accordance with  
6480 Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

6481 **§ 4.1-1303. Search warrants.**

6482 A. If complaint on oath is made that marijuana or marijuana products are being cultivated,  
6483 manufactured, sold, kept, stored, or in any manner held, used, or concealed in a particular house, or  
6484 other place, in violation of law, the judge, magistrate, or other person having authority to issue criminal  
6485 warrants, to whom such complaint is made, if satisfied that there is a probable cause for such belief,  
6486 shall issue a warrant to search such house or other place for marijuana or marijuana products. Such  
6487 warrants, except as herein otherwise provided, shall be issued, directed, and executed in accordance  
6488 with the laws of the Commonwealth pertaining to search warrants.

6489 B. Warrants issued under this subtitle for the search of any automobile, boat, conveyance, or vehicle,  
6490 whether of like kind or not, or for the search of any article of baggage, whether of like kind or not, for  
6491 marijuana or marijuana products may be executed in any part of the Commonwealth where they are  
6492 overtaken and shall be made returnable before any judge within whose jurisdiction such automobile,  
6493 boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to  
6494 be transported contrary to law.

6495 **§ 4.1-1304. Confiscation proceedings; disposition of forfeited articles.**

6496 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and  
6497 forfeited to the Commonwealth under this subtitle shall be as provided in this section.

6498 B. Production of seized property. Whenever any article declared contraband under the provisions of  
6499 this subtitle and required to be forfeited to the Commonwealth has been seized, with or without a  
6500 warrant, by any officer charged with the enforcement of this subtitle, he shall produce the contraband  
6501 article and any person in whose possession it was found. In those cases where no person is found in  
6502 possession of such articles, the return shall so state and a copy of the warrant shall be posted on the  
6503 door of the buildings or room where the articles were found, or if there is no door, then in any  
6504 conspicuous place upon the premises.

6505 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to  
6506 remove such item to a place of safe storage from the place where seized, the seizing officer may destroy  
6507 such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the  
6508 presence of at least one credible witness, and such witness shall join the officer in a sworn report of the  
6509 seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of  
6510 forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item  
6511 destroyed, and the materials remaining after such destruction. The report shall include a statement that,  
6512 from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the  
6513 item was set up for use, or had been used in the unlawful cultivation or manufacture of marijuana, and  
6514 that it was impracticable to remove such apparatus to a place of safe storage.

6515 In case of seizure of any quantity of marijuana or marijuana products for any offense involving  
6516 forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof

for the purpose of unlawful cultivation or manufacture of marijuana or marijuana products or any other violation of this subtitle. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the marijuana or marijuana products were intended for use in the unlawful cultivation or manufacture of marijuana or marijuana products or were intended for use in violation of this subtitle.

C. Hearing and determination. Upon the return of the warrant as provided in this section, the court shall fix a time not less than 10 days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on such return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept, stored, or possessed in violation of this subtitle.

At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn them over to the Board. Any person claiming an interest in any of the articles seized may appear at the hearing and file a written claim setting forth particularly the character and extent of his interest. The court shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and determine the validity of such claim.

If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a bar to any prosecution under any other provision of this subtitle.

D. Disposition of forfeited articles. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be paid into the Literary Fund.

If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in accordance with this section are usable, should not be destroyed, and cannot be sold or whose sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be made showing the nature of the foodstuffs and amount given, to whom given, and the date when given and shall be kept in the offices of the Board.

**§ 4.1-1305. Search and seizure of conveyances or vehicles used in violation of law; arrests.**

A. When any officer charged with the enforcement of the cannabis control laws of the Commonwealth has reason to believe that retail marijuana or retail marijuana products illegally acquired, or being illegally transported, are in any conveyance or vehicle of any kind, either on land or on water, except a conveyance or vehicle owned or operated by a railroad, express, sleeping, or parlor car or a steamboat company, other than barges, tugs, or small craft, he shall obtain a search warrant and search such conveyance or vehicle. If illegally acquired retail marijuana or retail marijuana products or retail marijuana or retail marijuana products being illegally transported in amounts in excess of two and one-half ounces of retail marijuana, 16 ounces of solid retail marijuana product, or 72 ounces of liquid retail marijuana product, the officer shall seize the retail marijuana or retail marijuana product, seize and take possession of such conveyance or vehicle, and deliver them to the chief law-enforcement officer of the locality in which such seizure was made, taking his receipt therefor in duplicate.

B. The officer making such seizure shall forthwith report in writing such seizure and arrest to the attorney for the Commonwealth for the county or city in which the seizure and arrest were made.

**§ 4.1-1306. Contraband retail marijuana or retail marijuana products.**

Retail marijuana or retail marijuana products seized pursuant to § 4.1-1305 shall be deemed contraband and disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the Board authorizing the transportation of retail marijuana or retail marijuana products within the Commonwealth when other Board regulations applicable to such transportation have been complied with shall not be cause for deeming such retail marijuana or retail marijuana products contraband.

**§ 4.1-1307. Punishment for violations of title or regulations; bond.**

A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is convicted of a violation of any provision of this subtitle may require such defendant to execute bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is required and is not given, the defendant shall be committed to jail until it is

6578 given, or until he is discharged by the court, provided that he shall not be confined for a period longer  
 6579 than six months. If any such bond required by a court is not given during the term of the court by  
 6580 which conviction is had, it may be given before any judge or before the clerk of such court.

6581 C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing  
 6582 to continue the license of any person convicted of a violation of any provision of this subtitle.

6583 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his  
 6584 assistant has been notified that such a case is pending.

6585 **§ 4.1-1308. Witness not excused from testifying because of self-incrimination.**

6586 No person shall be excused from testifying for the Commonwealth as to any offense committed by  
 6587 another under this subtitle by reason of his testimony tending to incriminate him. The testimony given by  
 6588 such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be  
 6589 used against him and he shall not be prosecuted for the offense to which he testifies.

6590 **§ 4.1-1309. Previous convictions.**

6591 In any indictment, information, or warrant charging any person with a violation of any provision of  
 6592 this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that  
 6593 such person has been previously convicted of a violation of this subtitle.

6594 **§ 4.1-1310. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

6595 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or  
 6596 the Department of Forensic Science, when signed by him, shall be admissible as evidence of the facts  
 6597 therein stated and of the results of such analysis (i) in any criminal proceeding, provided the  
 6598 requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the  
 6599 admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On  
 6600 motion of the accused or any party in interest, the court may require the forensic scientist making the  
 6601 analysis to appear as a witness and be subject to cross-examination, provided such motion is made  
 6602 within a reasonable time prior to the day on which the case is set for trial.

6603 **§ 4.1-1311. Label on sealed container prima facie evidence of marijuana content.**

6604 In any prosecution for violations of this subtitle, where a sealed container is labeled as containing  
 6605 retail marijuana or retail marijuana products, such labeling shall be prima facie evidence of the  
 6606 marijuana content of the container. Nothing shall preclude the introduction of other relevant evidence to  
 6607 establish the marijuana content of a container, whether sealed or not.

6608 **§ 4.1-1312. No recovery for retail marijuana or retail marijuana products illegally sold.**

6609 No action to recover the price of any retail marijuana or retail marijuana products sold in  
 6610 contravention of this subtitle may be maintained.

6611 CHAPTER 14.

6612 CANNABIS CONTROL; TESTING; ADVERTISING.

6613 **§ 4.1-1400. Board to establish regulations for marijuana testing.**

6614 The Board shall establish a testing program for marijuana and marijuana products. Except as  
 6615 otherwise provided in this subtitle or otherwise provided by law, the program shall require a licensee,  
 6616 prior to selling or distributing retail marijuana or a retail marijuana product to a consumer or to  
 6617 another licensee, to submit a representative sample of the retail marijuana or retail marijuana product,  
 6618 not to exceed 10 percent of the total harvest or batch, to a licensed marijuana testing facility for testing  
 6619 to ensure that the retail marijuana or retail marijuana product does not exceed the maximum level of  
 6620 allowable contamination for any contaminant that is injurious to health and for which testing is  
 6621 required and to ensure correct labeling. The Board shall adopt regulations (i) establishing a testing  
 6622 program pursuant to this section; (ii) establishing acceptable testing and research practices, including  
 6623 regulations relating to testing practices, methods, and standards; quality control analysis; equipment  
 6624 certification and calibration; marijuana testing facility recordkeeping, documentation, and business  
 6625 practices; disposal of used, unused, and waste retail marijuana and retail marijuana products; and  
 6626 reporting of test results; (iii) identifying the types of contaminants that are injurious to health for which  
 6627 retail marijuana and retail marijuana products shall be tested under this subtitle; and (iv) establishing  
 6628 the maximum level of allowable contamination for each contaminant.

6629 **§ 4.1-1401. Mandatory testing; scope; recordkeeping; notification; additional testing not required;  
 6630 required destruction; random testing.**

6631 A. A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer  
 6632 or to another licensee under this subtitle unless a representative sample of the retail marijuana or retail  
 6633 marijuana product has been tested pursuant to this subtitle and the regulations adopted pursuant to this  
 6634 subtitle and that mandatory testing has demonstrated that (i) the retail marijuana or retail marijuana  
 6635 product does not exceed the maximum level of allowable contamination for any contaminant that is  
 6636 injurious to health and for which testing is required and (ii) the labeling on the retail marijuana or  
 6637 retail marijuana product is correct.

6638 B. Mandatory testing of retail marijuana and retail marijuana products under this section shall  
 6639 include testing for:

1. Residual solvents, poisons, and toxins;
2. Harmful chemicals;
3. Dangerous molds and mildew;
4. Harmful microbes, including but not limited to *Escherichia coli* and *Salmonella*;
5. Pesticides, fungicides, and insecticides; and
6. Tetrahydrocannabinol (THC) potency, homogeneity, and cannabinoid profiles to ensure correct labeling.

Testing shall be performed on the final form in which the retail marijuana or retail marijuana product will be consumed.

C. A licensee shall maintain a record of all mandatory testing that includes a description of the retail marijuana or retail marijuana product provided to the marijuana testing facility, the identity of the marijuana testing facility, and the results of the mandatory test.

D. If the results of a mandatory test conducted pursuant to this section indicate that the tested retail marijuana or retail marijuana product exceeds the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for which testing is required, the marijuana testing facility shall immediately quarantine, document, and properly destroy the retail marijuana or retail marijuana product and within seven days of completing the test shall notify the Board of the test results.

A marijuana testing facility is not required to notify the Board of the results of any test:

1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee pursuant to this section that demonstrates that the marijuana or marijuana product does not exceed the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for which testing is required;

2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee for research and development purposes only, so long as the licensee notifies the marijuana testing facility prior to the performance of the test that the testing is for research and development purposes only; or

3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is not a licensee.

E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee retail marijuana or a retail marijuana product that the licensee has not submitted for testing in accordance with this subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:

1. The retail marijuana or retail marijuana product has previously undergone testing in accordance with this subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and that testing demonstrated that the retail marijuana or retail marijuana product does not exceed the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for which testing is required;

2. The mandatory testing process and the test results for the retail marijuana or retail marijuana product are documented in accordance with the requirements of this subtitle and all applicable regulations adopted pursuant to this subtitle;

3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the retail marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana product to another licensee or to a consumer can be easily identified; and

4. The retail marijuana or retail marijuana product has not undergone any further processing, manufacturing, or alteration subsequent to the performance of the prior testing under subsection A.

F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail marijuana products whose testing samples indicate noncompliance with the health and safety standards required by this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures can bring the retail marijuana or retail marijuana products into compliance with such required health and safety standards.

G. A licensee shall comply with all requests for samples of retail marijuana and retail marijuana products for the purpose of random testing by a state-owned laboratory or state-approved private laboratory.

#### **§ 4.1-1402. Labeling and packaging requirements; prohibitions.**

A. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the provisions of this subtitle shall be labeled with the following information:

1. Identification of the type of marijuana or marijuana product and the date of cultivation, manufacturing, and packaging;

2. The license numbers of the marijuana cultivation facility, the marijuana manufacturing facility, and the retail marijuana store where the retail marijuana or retail marijuana product was cultivated,

6701 *manufactured, and offered for sale, as applicable;*  
6702 3. *A statement of the net weight of the retail marijuana or retail marijuana product;*  
6703 4. *Information concerning (i) pharmacologically active ingredients, including tetrahydrocannabinol*  
6704 *(THC), cannabidiol (CBD), and other cannabinoid content; (ii) the THC and other cannabinoid amount*  
6705 *in milligrams per serving, the total servings per package, and the THC and other cannabinoid amount*  
6706 *in milligrams for the total package; and (iii) the potency of the THC and other cannabinoid content;*  
6707 5. *Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;*  
6708 6. *Instructions on usage;*  
6709 7. *For retail marijuana products, (i) a list of ingredients and possible allergens and (ii) a*  
6710 *recommended use by date or expiration date;*  
6711 8. *For edible retail marijuana products, a nutritional fact panel;*  
6712 9. *The following statement, prominently displayed in bold print and in a clear and legible fashion:*  
6713 *"GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA. MARIJUANA IS FOR USE BY*  
6714 *ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION*  
6715 *OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT*  
6716 *FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING.*  
6717 *PLEASE USE CAUTION AND VISIT \_\_\_\_\_ (website maintained by the Board pursuant to §*  
6718 *4.1-604) FOR MORE INFORMATION.";*  
6719 10. *A universal symbol stamped or embossed on the packaging of any retail marijuana and retail*  
6720 *marijuana products; and*  
6721 11. *Any other information required by Board regulations.*  
6722 B. *Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a*  
6723 *consumer in accordance with the provisions of this subtitle shall be packaged in the following manner:*  
6724 1. *Retail marijuana and retail marijuana products shall be prepackaged in child-resistant,*  
6725 *tamper-evident, and resealable packaging that is opaque or shall be placed at the final point of sale to*  
6726 *a consumer in child-resistant, tamper-evident, and resealable packaging that is opaque;*  
6727 2. *Packaging for multiserving liquid marijuana products shall include an integral measurement*  
6728 *component; and*  
6729 3. *Packaging shall comply with any other requirements imposed by Board regulations.*  
6730 C. *Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a*  
6731 *consumer in accordance with the provisions of this subtitle shall not:*  
6732 1. *Be labeled or packaged in violation of a federal trademark law or regulation;*  
6733 2. *Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of*  
6734 *age;*  
6735 3. *Be labeled or packaged in a manner that obscures identifying information on the label;*  
6736 4. *Be labeled or packaged using a false or misleading label;*  
6737 5. *Be sold or offered for sale using a label or packaging that depicts a human, an animal, a vehicle,*  
6738 *or fruit; and*  
6739 6. *Be labeled or packaged in violation of any other labeling or packaging requirements imposed by*  
6740 *Board regulations.*  
6741 **§ 4.1-1403. Other health and safety requirements for edible retail marijuana products and other**  
6742 **retail marijuana products deemed applicable by the Authority; health and safety regulations.**  
6743 A. *Requirements and restrictions for edible retail marijuana products and other retail marijuana*  
6744 *products deemed applicable by the Authority. In addition to all other applicable provisions of this*  
6745 *subtitle, edible retail marijuana products and other retail marijuana products deemed applicable by the*  
6746 *Authority to be sold or offered for sale by a licensee to a consumer in accordance with this subtitle:*  
6747 1. *Shall be manufactured by an approved source, as determined by § 3.2-5145.8;*  
6748 2. *Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;*  
6749 3. *Shall be manufactured in a manner that results in the cannabinoid content within the product*  
6750 *being homogeneous throughout the product or throughout each element of the product that has a*  
6751 *cannabinoid content;*  
6752 4. *Shall be manufactured in a manner that results in the amount of marijuana concentrate within the*  
6753 *product being homogeneous throughout the product or throughout each element of the product that*  
6754 *contains marijuana concentrate;*  
6755 5. *Shall have a universal symbol stamped or embossed on the packaging of each product;*  
6756 6. *Shall not contain more than five milligrams of tetrahydrocannabinol (THC) per serving of the*  
6757 *product and shall not contain more than 50 milligrams of THC per package of the product;*  
6758 7. *Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically*  
6759 *designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to*  
6760 *consumers, or (v) are specifically designed to make the product appeal particularly to persons younger*  
6761 *than 21 years of age; and*  
6762 8. *Shall not involve the addition of marijuana to a trademarked food or drink product, except when*

the trademarked product is used as a component of or ingredient in the edible retail marijuana product and the edible retail marijuana product is not advertised or described for sale as containing the trademarked product.

B. Health and safety regulations. The Board shall adopt any additional labeling, packaging, or other health and safety regulations that it deems necessary for retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection shall establish mandatory health and safety standards applicable to the cultivation of retail marijuana, the manufacture of retail marijuana products, and the packaging and labeling of retail marijuana and retail marijuana products sold by a licensee to a consumer. Such regulations shall address:

1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail marijuana products by licensees;

2. Sanitary standards for marijuana establishments, including sanitary standards for the manufacture of retail marijuana and retail marijuana products; and

3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana stores.

**§ 4.1-1404. Advertising and marketing restrictions.**

A. As used in this section, unless the context requires a different meaning, "health-related statement" means any statement related to health and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of retail marijuana or retail marijuana products and health benefits or effects on health.

B. No person shall advertise in or send any advertising matter into the Commonwealth about or concerning retail marijuana or retail marijuana products other than those that may be legally manufactured in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

C. A licensee shall not advertise (i) through any means unless at least 85 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data or (ii) on television or the radio at any time outside of regular school hours for elementary and secondary schools.

D. A licensee shall not engage in the use of pop-up digital advertisements but may list their establishment in public phone books and directories.

E. A licensee shall not display any marijuana or marijuana product pricing through any means of advertisement other than their establishment website, which shall be registered with the Authority, or an opt-in subscription-based service, provided that the licensee utilizes proper age verification techniques to confirm that the person attempting to access the website or sign up for a subscription-based service is 21 years of age or older.

F. Advertising or marketing used by or on behalf of a licensee:

1. Shall accurately and legibly identify the licensee responsible for its content by adding, at a minimum, the licensee's license number and shall include the following statement: "For use by adults 21 years of age and older";

2. Shall not be misleading, deceptive, or false;

3. Shall not appeal particularly to persons younger than 21 years of age, including by using cartoons in any way; and

4. Shall comply with any other provisions imposed by Board regulations.

G. Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in that communication or dialogue controlled by the licensee. For the purposes of this subsection, such method of age affirmation may include user confirmation, birth date disclosure, or any other similar registration method.

H. A licensee shall not give away any amount of retail marijuana or retail marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity.

I. A licensee shall not include on the label of any retail marijuana or retail marijuana product or publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.

J. The provisions of this section shall not apply to noncommercial speech.

K. The purpose of the advertising limitations set forth in this subtitle is to displace the illicit market and notify the public of the location of marijuana establishments.

**§ 4.1-1405. Outdoor advertising; limitations; variances; compliance with Title 33.2.**

A. No outdoor retail marijuana or retail marijuana products advertising shall be placed within 1,000 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of



6824 *the sign face upon which the advertisement is placed to the nearest edge of a building or structure*  
 6825 *located on the real property of (i) a public, private, or parochial school or an institution of higher*  
 6826 *education; (ii) a public or private playground or similar recreational or child-centered facility; or (iii) a*  
 6827 *substance use disorder treatment facility.*

6828 *B. However, (i) if there is no building or structure on a playground or similar recreational or*  
 6829 *child-centered facility, the measurement shall be from the nearest edge of the sign face upon which the*  
 6830 *advertisement is placed to the property line of such playground or similar recreational or child-centered*  
 6831 *facility and (ii) if a public, private, or parochial school providing grades kindergarten through 12*  
 6832 *education is located across the road from a sign, the measurement shall be from the nearest edge of the*  
 6833 *sign face upon which the advertisement is placed to the nearest edge of a building or structure located*  
 6834 *on such real property across the road.*

6835 *C. If at the time the advertisement was displayed, the advertisement was more than 1,000 feet from*  
 6836 *(i) a public, private, or parochial school or an institution of higher education; (ii) a public or private*  
 6837 *playground or similar recreational or child-centered facility; or (iii) a substance use disorder treatment*  
 6838 *facility, but the circumstances change such that the advertiser would otherwise be in violation of*  
 6839 *subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the*  
 6840 *term of any written advertising contract, but in no event more than one year from the date of the*  
 6841 *change in circumstances.*

6842 *D. Provided that such signs are in compliance with local ordinances, the distance and zoning*  
 6843 *restrictions contained in this section shall not apply to:*

6844 *1. Signs placed by licensees upon the property on which the licensed premises are located so long as*  
 6845 *such signs do not display imagery of marijuana or the use of marijuana or utilize long luminous*  
 6846 *gas-discharge tubes that contain rarefied neon or other gases; or*

6847 *2. Directional signs placed by marijuana manufacturing facility licensees or marijuana wholesaler*  
 6848 *licensees with advertising limited to trade names and brand names.*

6849 *E. The distance and zoning restrictions contained in this section shall not apply to any sign that is*  
 6850 *included in the Integrated Directional Sign Program administered by the Virginia Department of*  
 6851 *Transportation or its agents.*

6852 *F. A marijuana licensee shall not advertise at any sporting event or use any billboard advertisements*  
 6853 *in the Commonwealth.*

6854 *G. All lawfully erected outdoor retail marijuana or retail marijuana products signs shall comply with*  
 6855 *the provisions of this subtitle, Board regulations, Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and*  
 6856 *regulations adopted pursuant thereto by the Commonwealth Transportation Board, and federal laws and*  
 6857 *regulations. Further, any outdoor retail marijuana products directional sign located or to be located on*  
 6858 *highway rights of way shall also be governed by and comply with the Integrated Directional Sign*  
 6859 *Program administered by the Virginia Department of Transportation or its agents and federal laws and*  
 6860 *regulations.*

6861 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**  
 6862 **operation; penalties.**

6863 *Any person who shall operate operates any aircraft within the airspace over, above, or upon the*  
 6864 *lands or waters of this the Commonwealth, while under the influence of intoxicating liquor or of any*  
 6865 *narcotic or marijuana or any habit-forming drugs shall be is guilty of a felony and shall be confined in*  
 6866 *a state correctional facility not less than one nor more than five years, or, in the discretion of the court*  
 6867 *or jury trying the case, be confined in jail not exceeding twelve 12 months and fined not exceeding*  
 6868 *\$500, or both such fine and imprisonment.*

6869 *Any person who shall operate operates any aircraft within the airspace over, above, or upon the*  
 6870 *lands or waters of this the Commonwealth carelessly or heedlessly in willful or wanton disregard of the*  
 6871 *rights or safety of others, or without due caution and circumspection and in a manner so as to endanger*  
 6872 *any person or property, shall be is guilty of a misdemeanor.*

6873 **§ 6.2-108. Financial services for licensed marijuana establishments.**

6874 *A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as*  
 6875 *provided in § 4.1-600.*

6876 *B. A bank or credit union that provides a financial service to a licensed marijuana establishment,*  
 6877 *and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant*  
 6878 *to any state law or regulation solely for providing such a financial service or for further investing any*  
 6879 *income derived from such a financial service.*

6880 *C. Nothing in this section shall require a bank or credit union to provide financial services to a*  
 6881 *licensed marijuana establishment.*

6882 **§ 9.1-101. (For contingent expiration date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)**  
 6883 **Definitions.**

6884 *As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires*  
 6885 *a different meaning:*



"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police

6947 department, sheriff's office, or private police department.

6948 "Private police department" means any police department, other than a department that employs  
6949 police agents under the provisions of § 56-353, that employs private police officers operated by an  
6950 entity authorized by statute or an act of assembly to establish a private police department or such  
6951 entity's successor in interest, provided it complies with the requirements set forth herein. No entity is  
6952 authorized to operate a private police department or represent that it is a private police department  
6953 unless such entity has been authorized by statute or an act of assembly or such entity is the successor in  
6954 interest of an entity that has been authorized pursuant to this section, provided it complies with the  
6955 requirements set forth herein. The authority of a private police department shall be limited to real  
6956 property owned, leased, or controlled by the entity and, if approved by the local chief of police or  
6957 sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction  
6958 vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609  
6959 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter  
6960 into a memorandum of understanding with the private police department that addresses the duties and  
6961 responsibilities of the private police department and the chief law-enforcement officer in the conduct of  
6962 criminal investigations. Private police departments and private police officers shall be subject to and  
6963 comply with the Constitution of the United States; the Constitution of Virginia; the laws governing  
6964 municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708,  
6965 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the  
6966 Department designates as applicable to private police departments. Any person employed as a private  
6967 police officer pursuant to this section shall meet all requirements, including the minimum compulsory  
6968 training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is  
6969 not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement  
6970 System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within  
6971 the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall  
6972 not be deemed an employee of the Commonwealth or any locality. An authorized private police  
6973 department may use the word "police" to describe its sworn officers and may join a regional criminal  
6974 justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any  
6975 private police department in existence on January 1, 2013, that was not otherwise established by statute  
6976 or an act of assembly and whose status as a private police department was recognized by the  
6977 Department at that time is hereby validated and may continue to operate as a private police department  
6978 as may such entity's successor in interest, provided it complies with the requirements set forth herein.

6979 "School resource officer" means a certified law-enforcement officer hired by the local  
6980 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary  
6981 and secondary schools.

6982 "School security officer" means an individual who is employed by the local school board or a private  
6983 or religious school for the singular purpose of maintaining order and discipline, preventing crime,  
6984 investigating violations of the policies of the school board or the private or religious school, and  
6985 detaining students violating the law or the policies of the school board or the private or religious school  
6986 on school property, school buses, or at school-sponsored events and who is responsible solely for  
6987 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned  
6988 school.

6989 "Unapplied criminal history record information" means information pertaining to criminal offenses  
6990 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history  
6991 record of an arrested or convicted person (i) because such information is not supported by fingerprints  
6992 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission  
6993 within the content of the submitted information.

6994 **§ 9.1-101. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Definitions.**

6995 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires  
6996 a different meaning:

6997 "Administration of criminal justice" means performance of any activity directly involving the  
6998 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,  
6999 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,  
7000 storage, and dissemination of criminal history record information.

7001 "Board" means the Criminal Justice Services Board.

7002 "Conviction data" means information in the custody of any criminal justice agency relating to a  
7003 judgment of conviction, and the consequences arising therefrom, in any court.

7004 "Correctional status information" means records and data concerning each condition of a convicted  
7005 person's custodial status, including probation, confinement, work release, study release, escape, or  
7006 termination of custody through expiration of sentence, parole, pardon, or court decision.

7007 "Criminal history record information" means records and data collected by criminal justice agencies  
7008 on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,

indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The

chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Sealing" means (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

#### **§ 9.1-400. Title of chapter; definitions.**

A. This chapter shall be known and designated as the Line of Duty Act.

B. As used in this chapter, unless the context requires a different meaning:

"Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

"Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its political subdivisions, except employees designated pursuant to § 53.1-10 to investigate allegations of criminal behavior affecting the operations of the Department of Corrections, employees designated pursuant to § 66-3 to investigate allegations of criminal behavior affecting the operations of the Department of Juvenile Justice, and members of the investigations unit of the State Inspector General designated pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town, including a person with a recognized membership status with such fire company or department who is enrolled in a Fire Service Training course offered by the Virginia Department of Fire Programs or any

fire company or department training required in pursuit of qualification to become a certified firefighter; a member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; ~~any~~ a special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*; ~~any~~ a regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; ~~any~~ a commissioned forest warden appointed under the provisions of § 10.1-1135; ~~any~~ a member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; ~~any~~ a Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; ~~any~~ an employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; ~~any~~ a nonfirefighter regional hazardous materials emergency response team member; ~~any~~ a conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or ~~any~~ a full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

"Disabled person" means any individual who has been determined to be mentally or physically incapacitated so as to prevent the further performance of his duties at the time of his disability where such incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, in any position listed in the definition of deceased person in this section. "Disabled person" does not include any individual who has been determined to be no longer disabled pursuant to subdivision A 2 of § 9.1-404. "Disabled person" includes any state employee included in the definition of a deceased person who was disabled on or after January 1, 1966.

"Eligible dependent" for purposes of continued health insurance pursuant to § 9.1-401 means the natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled person's eligible spouse, provided that any such natural child is born as the result of a pregnancy that occurred prior to the time of the employee's death or disability and that any such adopted child is (i) adopted prior to the time of the employee's death or disability or (ii) adopted after the employee's death or disability if the adoption is pursuant to a preadoptive agreement entered into prior to the death or disability. Notwithstanding the foregoing, "eligible dependent" ~~shall also include~~ *includes* the natural or adopted child or children of a deceased person or disabled person born as the result of a pregnancy or adoption that occurred after the time of the employee's death or disability, but prior to July 1, 2017. Eligibility will continue until the end of the year in which the eligible dependent reaches age 26 or when the eligible dependent ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Eligible spouse" for purposes of continued health insurance pursuant to § 9.1-401 means the spouse of a deceased person or a disabled person at the time of the death or disability. Eligibility will continue until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the spouse of a deceased person, dies, remarries on or after July 1, 2017, or otherwise ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Employee" means any person who would be covered or whose spouse, dependents, or beneficiaries would be covered under the benefits of this chapter if the person became a disabled person or a deceased person.

"Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a volunteer who is a member of any fire company or department or rescue squad described in the definition of "deceased person," the county, city, or town that by ordinance or resolution recognized such fire company or department or rescue squad as an integral part of the official safety program of such locality.

"Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to § 9.1-400.1.

"Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

7193 "LODA Health Benefit Plans" means the separate health benefits plans established pursuant to  
7194 § 9.1-401.

7195 "Nonparticipating employer" means any employer that is a political subdivision of the  
7196 Commonwealth that elected to directly fund the cost of benefits provided under this chapter and not  
7197 participate in the Fund.

7198 "Participating employer" means any employer that is a state agency or is a political subdivision of  
7199 the Commonwealth that did not make an election to become a nonparticipating employer.

7200 "VRS" means the Virginia Retirement System.

7201 **§ 9.1-500. Definitions.**

7202 As used in this chapter, unless the context requires a different meaning:

7203 "Agency" means the Department of State Police, the Division of Capitol Police, the Virginia Marine  
7204 Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia  
7205 Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of  
7206 Conservation and Recreation, or the Department of Motor Vehicles; or the political subdivision or the  
7207 campus police department of any public institution of higher education of the Commonwealth employing  
7208 the law-enforcement officer.

7209 "Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent of  
7210 the Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests and  
7211 (ii) a nonprobationary officer of one of the following agencies:

7212 a. 1. The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources  
7213 Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic  
7214 Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Motor  
7215 Vehicles, or the Department of Conservation and Recreation;

7216 b. 2. The police department, bureau or force of any political subdivision or the campus police  
7217 department of any public institution of higher education of the Commonwealth where such department,  
7218 bureau or force has three or more law-enforcement officers; or

7219 c. 3. Any conservation police officer as defined in § 9.1-101.

7220 For the purposes of this chapter, "law-enforcement officer" ~~shall~~ *does* not include the sheriff's  
7221 department of any city or county.

7222 **§ 9.1-801. Public safety officer defined.**

7223 As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the  
7224 Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a  
7225 correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail  
7226 officer; a regional jail or jail farm superintendent; a member of any fire company or department or  
7227 nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or  
7228 resolution of the governing body of any county, city, or town of the Commonwealth as an integral part  
7229 of the official safety program of such county, city, or town; an arson investigator; a member of the  
7230 Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia  
7231 National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the  
7232 United States Code; ~~any~~ a special agent of the Virginia Alcoholic Beverage Control Authority *or the*  
7233 *Virginia Cannabis Control Authority*; ~~any~~ a police agent appointed under the provisions of § 56-353;  
7234 ~~any~~ a regular or special conservation police officer who receives compensation from a county, city, or  
7235 town or from the Commonwealth appointed pursuant to § 29.1-200; ~~any~~ a commissioned forest warden  
7236 appointed pursuant to § 10.1-1135; ~~any~~ a member or employee of the Virginia Marine Resources  
7237 Commission granted the power to arrest pursuant to § 28.2-900; ~~any~~ a Department of Emergency  
7238 Management hazardous materials officer; ~~any~~ a nonfirefighter regional hazardous materials emergency  
7239 response team member; ~~any~~ an investigator who is a full-time sworn member of the security division of  
7240 the Virginia Lottery; ~~any~~ a full-time sworn member of the enforcement division of the Department of  
7241 Motor Vehicles meeting the Department of Criminal Justice Services qualifications, when fulfilling  
7242 duties pursuant to § 46.2-217; ~~any~~ a campus police officer appointed under the provisions of Article 3  
7243 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and ~~any~~ a conservation officer of the Department of  
7244 Conservation and Recreation commissioned pursuant to § 10.1-115.

7245 **§ 9.1-1101. Powers and duties of the Department.**

7246 A. It shall be the responsibility of the Department to provide forensic laboratory services upon  
7247 request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical  
7248 Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police,  
7249 sheriff, or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire  
7250 department; the head of any private police department that has been designated as a criminal justice  
7251 agency by the Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in  
7252 any criminal matter. The Department shall provide such services to any federal investigatory agency  
7253 within available resources.

7254 B. The Department shall:

1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as needed;

2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; and

3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath; and

4. *Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the total available THC derived from the sum of the THC and THC-A content.*

C. The Department shall have the power and duty to:

1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes of this chapter;

2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter including, but not limited to, contracts with the United States, units of general local government or combinations thereof in Virginia or other states, and with agencies and departments of the Commonwealth; and

3. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

D. The Director may appoint and employ a deputy director and such other personnel as are needed to carry out the duties and responsibilities conferred by this chapter.

#### **§ 15.2-2820. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Bar or lounge area" means any establishment or portion of an establishment devoted to the sale and service of alcoholic beverages for consumption on the premises and where the sale or service of food or meals is incidental to the consumption of the alcoholic beverages.

"Educational facility" means any building used for instruction of enrolled students, including but not limited to any day-care center, nursery school, public or private school, institution of higher education, medical school, law school, or career and technical education school.

"Health care facility" means any institution, place, building, or agency required to be licensed under Virginia law, including but not limited to any hospital, nursing facility or nursing home, boarding home, assisted living facility, supervised living facility, or ambulatory medical and surgical center.

"Private club" means an organization, whether incorporated or not, that (i) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes, including club or member sponsored events; (ii) is operated solely for recreational, fraternal, social, patriotic, political, benevolent, or athletic purposes, and only sells alcoholic beverages incidental to its operation; (iii) has established bylaws, a constitution, or both that govern its activities; and (iv) the affairs and management of which are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting.

"Private function" means any gathering of persons for the purpose of deliberation, education, instruction, entertainment, amusement, or dining that is not intended to be open to the public and for which membership or specific invitation is a prerequisite to entry.

"Private work place" means any office or work area that is not open to the public in the normal course of business except by individual invitation.

"Proprietor" means the owner or lessee of the public place, who ultimately controls the activities within the public place. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.

"Public conveyance" or "public vehicle" means any air, land, or water vehicle used for the mass transportation of persons in intrastate travel for compensation, including but not limited to any airplane, train, bus, or boat that is not subject to federal smoking regulations.

"Public place" means any enclosed, indoor area used by the general public, including but not limited to any building owned or leased by the Commonwealth or any agency thereof or any locality, public conveyance or public vehicle, educational facility, hospital, nursing facility or nursing home, other health care facility, library, retail store of 15,000 square feet or more, auditorium, arena, theater, museum, concert hall, or other area used for a performance or an exhibit of the arts or sciences, or any meeting room.

"Recreational facility" means any enclosed, indoor area used by the general public and used as a stadium, arena, skating rink, video game facility, or senior citizen recreational facility.

7316 "Restaurant" means any place where food is prepared for service to the public on or off the premises,  
7317 or any place where food is served. Examples of such places include but are not limited to lunchrooms,  
7318 short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of  
7319 public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of  
7320 public and private schools and colleges, and kitchen areas of local correctional facilities subject to  
7321 standards adopted under § 53.1-68. "Restaurant" shall not include (i) places where packaged or canned  
7322 foods are manufactured and then distributed to grocery stores or other similar food retailers for sale to  
7323 the public, (ii) mobile points of service to the general public that are outdoors, or (iii) mobile points of  
7324 service where such service and consumption occur in a private residence or in any location that is not a  
7325 public place. "Restaurant" shall include any bar or lounge area that is part of such restaurant.

7326 "Smoke" or "smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any  
7327 kind, *including marijuana*, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling  
7328 of smoke from a pipe, cigar, or cigarette of any kind, *including marijuana*.

7329 "Theater" means any indoor facility or auditorium, open to the public, which is primarily used or  
7330 designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance,  
7331 lecture, or other similar performance.

7332 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines;**  
7333 **prepayment of local ordinances.**

7334 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or  
7335 repealed, but which shall be uniform in its application throughout the Commonwealth, designate the  
7336 traffic infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be  
7337 accepted. Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and  
7338 46.2-1242 or any parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person  
7339 charged with a traffic offense that is listed as prepayable in the Uniform Fine Schedule may prepay his  
7340 fines and costs without court appearance whether or not he was involved in an accident. The prepayable  
7341 fine amount for a violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of  
7342 posted speed limits, as authorized in § 46.2-878.3.

7343 Such infractions shall not include:

7344 1. Indictable offenses;

7345 2. [Repealed.]

7346 3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a  
7347 narcotic or habit-producing drug, or permitting another person, who is under the influence of  
7348 intoxicating liquor, *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned  
7349 by the defendant or in his custody or control;

7350 4. Reckless driving;

7351 5. Leaving the scene of an accident;

7352 6. Driving while under suspension or revocation of driving privileges;

7353 7. Driving without being licensed to drive.

7354 8. [Repealed.]

7355 B. An appearance may be made in person or in writing by mail to a clerk of court or in person  
7356 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a  
7357 waiver of trial and a plea of guilty and pay the fine and any civil penalties established for the offense  
7358 charged, with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand  
7359 trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court,  
7360 and that the record of conviction will be sent to the Commissioner of the Department of Motor  
7361 Vehicles.

7362 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall  
7363 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties  
7364 to be imposed, designating each infraction specifically. The schedule, which may from time to time be  
7365 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.  
7366 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying  
7367 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall  
7368 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance  
7369 with the provisions of this Code or any rules or regulations promulgated thereunder.

7370 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law  
7371 and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B  
7372 if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of  
7373 each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be  
7374 imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of  
7375 such order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the  
7376 local circuit court. The schedule, which from time to time may be amended, supplemented or repealed,  
7377 shall be uniform in its application throughout the circuit. Such schedule shall not be construed or



interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

**§ 16.1-260. Intake; petition; investigation.**

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement. If a petitioner is seeking to establish child support, the intake officer shall provide the petitioner information on the possible availability of medical assistance through the Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored coverage through the Department of Medical Assistance Services.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication

7439 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or  
7440 parents, guardian, or other person standing in loco parentis must agree, in writing, for the development  
7441 of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents,  
7442 guardian, or other person standing in loco parentis participate in such programs, cooperate in such  
7443 treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's  
7444 compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer  
7445 the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an  
7446 interagency interdisciplinary team approach. The team may include qualified personnel who are  
7447 reasonably available from the appropriate department of social services, community services board, local  
7448 school division, court service unit, and other appropriate and available public and private agencies and  
7449 may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the  
7450 deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then  
7451 the intake officer shall file the petition.

7452 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child  
7453 is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan  
7454 for the juvenile, which may include restitution, the performance of community service, or on a  
7455 complaint alleging that a child has committed a delinquent act other than an act that would be a felony  
7456 or a Class 1 misdemeanor if committed by an adult and with the consent of the juvenile's parent or legal  
7457 guardian, referral to a youth justice diversion program established pursuant to § 16.1-309.11, based  
7458 upon community resources and the circumstances which resulted in the complaint, (B) create an official  
7459 record of the action taken by the intake officer and file such record in the juvenile's case file, and (C)  
7460 advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the  
7461 complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent  
7462 based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241,  
7463 or in the case of a referral to a youth justice diversion program established pursuant to § 16.1-309.11,  
7464 that any subsequent report from the youth justice diversion program alleging that the juvenile failed to  
7465 comply with the youth justice diversion program's sentence within 180 days of the sentencing date, may  
7466 result in the filing of a petition with the court.

7467 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,  
7468 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has  
7469 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such  
7470 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,  
7471 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a  
7472 protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of  
7473 violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8,  
7474 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such  
7475 complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to  
7476 be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer  
7477 believes that probable cause does not exist, or that the authorization of a petition will not be in the best  
7478 interest of the family or juvenile or that the matter may be effectively dealt with by some agency other  
7479 than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a  
7480 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written  
7481 explanation of the conditions, procedures and time limits applicable to the issuance of protective orders  
7482 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant  
7483 to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the  
7484 conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to  
7485 § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

7486 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall  
7487 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be  
7488 in need of supervision have utilized or attempted to utilize treatment and services available in the  
7489 community and have exhausted all appropriate nonjudicial remedies which are available to them. When  
7490 the intake officer determines that the parties have not attempted to utilize available treatment or services  
7491 or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the  
7492 petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility,  
7493 or individual to receive treatment or services, and a petition shall not be filed. Only after the intake  
7494 officer determines that the parties have made a reasonable effort to utilize available community  
7495 treatment or services may he permit the petition to be filed.

7496 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an  
7497 adult would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely  
7498 upon a finding that no probable cause exists, the complainant shall be notified in writing at that time of  
7499 the complainant's right to apply to a magistrate for a warrant. The application for a warrant to the  
7500 magistrate shall be filed within 10 days of the issuance of the written notification. The written

notification shall indicate that the intake officer made a finding that no probable cause exists and shall provide notice that the complainant has 10 days to apply for a warrant to the magistrate. The complainant shall provide the magistrate with a copy of the written notification upon application to the magistrate. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a finding that (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final and the complainant shall not have a right to apply to a magistrate for a warrant.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4~~ Chapter 11 (§ 18.2-247 4.1-1100 et seq.) of Chapter 7 of Title 18.2 4.1;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9. Robbery pursuant to § 18.2-58;

10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

12. An act of violence by a mob pursuant to § 18.2-42.1;

13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

14. A threat pursuant to § 18.2-60.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a misdemeanor violation of § 4.1-1104, 18.2-266, 18.2-266.1, or 29.1-738 or the commission of any other alcohol-related offense, provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the

charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 *or 4.1-1104* is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 *or 4.1-1104* is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

**§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.**

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, ~~or~~ (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, *or (c) a violation of § 4.1-1104*, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological, or economic injury as a result of the violation of law.

**§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses; truancy.**

A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248; ~~18.2-248.1~~, or 18.2-250; (iv) a misdemeanor violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248; ~~18.2-248.1~~, or 18.2-250 *or a violation of § 4.1-1105*; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves a violation designated under clause (i) and the child was transporting a person 17 years of age or younger, the court shall impose the additional fine and order community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the denial

of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's license shall be delayed for a period of six months following the date he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense involves possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two years unless the offense is committed by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's license shall be delayed for a period of two years following the date he reaches the age of 16 and three months.

A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not less than 30 days following the date he reaches the age of 16 and three months.

If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three months, as may be appropriate.

A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the physical custody of the court during any period of license denial.

C. The court shall report any order issued under this section to the Department of Motor Vehicles, which shall preserve a record thereof. The report and the record shall include a statement as to whether the child was represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order of denial under subsection E.

D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such terms and conditions as the court may set forth.

The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to and from home and school when school-provided transportation is available and no restricted license shall be issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding by the court of failure to comply with school attendance and meeting requirements as provided in subsection A1, or a second or subsequent finding by

7685 the court of a refusal to take a blood test as provided in subsection A2. The issuance of the restricted  
7686 permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall  
7687 specifically enumerate the restrictions imposed and contain such information regarding the child as is  
7688 reasonably necessary to identify him. The child may operate a motor vehicle under the court order in  
7689 accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions  
7690 imposed pursuant to this section is guilty of a violation of § 46.2-301.

7691 E. Upon petition made at least 90 days after issuance of the order, the court may review and  
7692 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in  
7693 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be  
7694 reviewed and withdrawn until one year after its issuance.

7695 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection  
7696 A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's  
7697 license has been restored, the court shall or, in the event the violation resulted in the injury or death of  
7698 any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of  
7699 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal  
7700 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be  
7701 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill  
7702 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves  
7703 a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed  
7704 pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or  
7705 § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of  
7706 subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of  
7707 under § 16.1-278.8.

7708 **§ 17.1-276. Fee allowed for providing secure remote access to land records.**

7709 A. A clerk of the circuit court who provides secure remote access to land records pursuant to  
7710 § 17.1-294 may charge a fee as provided in this section. The fee shall be paid to the clerk's office and  
7711 deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses  
7712 as defined in § 17.1-295. The clerk may charge a flat clerk's fee to be assessed for each subscriber, as  
7713 defined in § 17.1-295, in an amount not to exceed \$50 per month and a separate fee per image  
7714 downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275. The clerk's  
7715 fees shall be used to cover operational expenses as defined in § 17.1-295.

7716 The Office of the Attorney General, the Division of Debt Collection, the Department of  
7717 Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department  
7718 of General Services, the Department of Conservation and Recreation, the Department of Forestry, the  
7719 Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the  
7720 Department of Rail and Public Transportation, and the State Corporation Commission shall be exempt  
7721 from paying any fee for remote access to land records. If any clerk contracts with an outside vendor to  
7722 provide remote access to land records to subscribers, such contract shall contain a provision exempting  
7723 the Office of the Attorney General, the Division of Debt Collection, the Department of Transportation,  
7724 the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of General  
7725 Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia  
7726 Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Rail  
7727 and Public Transportation, and the State Corporation Commission from paying any access or  
7728 subscription fee.

7729 B. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes  
7730 to have remote access, in accordance with the security standards established by the Virginia Information  
7731 Technologies Agency. Any such agreement between a state agency or employee thereof acting in the  
7732 employee's official capacity and the clerk or an outside vendor contracted by the clerk to provide remote  
7733 access to land records to subscribers, or such an agreement between a state agency or employee thereof  
7734 acting in the employee's official capacity and both the clerk and the outside vendor, shall not contain  
7735 any provision requiring the state agency or employee thereof acting in the employee's official capacity to  
7736 indemnify the clerk or the vendor. Any such agreement between a state agency and the clerk or an  
7737 outside vendor shall provide that the state agency is required to monitor its employees' activity under  
7738 such agreement to ensure compliance with its terms.

7739 C. The clerk may establish a program under which the clerk assesses a reasonable convenience fee  
7740 that shall not exceed \$2 per transaction for remote access to land records and a separate fee per image  
7741 downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275.

7742 D. Nothing herein shall be construed to require the use by the general public of the secure remote  
7743 access to land records made available by the clerk, and such records may continue to be accessed in  
7744 person in the clerk's office.

7745 **§ 18.2-46.1. Definitions.**

7746 As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101; *or* 18.2-248; ~~or 18.2-248.1~~ or a conspiracy to commit a felony violation of § 4.1-1101; *or* 18.2-248; ~~or 18.2-248.1~~; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

**§ 18.2-57. Assault and battery; penalty.**

A. Any person who commits a simple assault or assault and battery is guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin, the penalty upon conviction shall include a term of confinement of at least six months.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin, the person is guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months.

C. ~~In addition, if~~ *If* any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, a magistrate, a law-enforcement officer as defined in subsection F, a correctional officer as defined in § 53.1-1, a person directly involved in the care, treatment, or supervision of inmates in the custody of the Department of Corrections or an employee of a local or regional correctional facility directly involved in the care, treatment, or supervision of inmates in the custody of the facility, a person directly involved in the care, treatment, or supervision of persons in the custody of or under the supervision of the Department of Juvenile Justice, an employee or other individual who provides control, care, or treatment of sexually violent predators committed to the custody of the Department of Behavioral Health and Developmental Services, a firefighter as defined in § 65.2-102, or a volunteer firefighter or ~~any~~ *an* emergency medical services personnel member who is employed by or is a volunteer of an emergency medical services agency or as a member of a bona fide volunteer fire department or volunteer emergency medical services agency, regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or emergency medical services personnel as employees, engaged in the performance of his public duties anywhere in the Commonwealth, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. ~~In addition, if any~~ *Any* person who commits a battery against another knowing or having reason to know that such other person is a full-time or part-time employee of any public or private elementary or secondary school ~~and who~~ is engaged in the performance of his duties as such; ~~he~~ is guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory minimum sentence of confinement of six months.

E. ~~In addition, any~~ *Any* person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties in a hospital or in an emergency room on the premises of any clinic or other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

7808 F. As used in this section:

7809 "Disability" means a physical or mental impairment that substantially limits one or more of a  
7810 person's major life activities.

7811 "Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of  
7812 Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

7813 "Judge" means any justice or judge of a court of record of the Commonwealth, including a judge  
7814 designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore  
7815 under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers'  
7816 Compensation Commission, and any judge of a district court of the Commonwealth or any substitute  
7817 judge of such district court.

7818 "Law-enforcement officer" means ~~any~~ a full-time or part-time employee of a police department or  
7819 sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof  
7820 who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic, or  
7821 highway laws of the Commonwealth, ~~any~~ a conservation officer of the Department of Conservation and  
7822 Recreation commissioned pursuant to § 10.1-115, ~~any~~ a special agent of the Virginia Alcoholic Beverage  
7823 Control Authority or the Virginia Cannabis Control Authority, a conservation police ~~officers~~ officer  
7824 appointed pursuant to § 29.1-200, a full-time sworn ~~members~~ member of the enforcement division of the  
7825 Department of Motor Vehicles appointed pursuant to § 46.2-217, and ~~any~~ an employee with internal  
7826 investigations authority designated by the Department of Corrections pursuant to subdivision 11 of  
7827 § 53.1-10, and such officer also includes a jail ~~officers~~ officer in a local and or regional correctional  
7828 facilities facility, all a deputy ~~sheriffs~~ sheriff, whether assigned to law-enforcement duties, court services,  
7829 or local jail responsibilities, an auxiliary police ~~officers~~ officer appointed or provided for pursuant to  
7830 §§ 15.2-1731 and 15.2-1733, an auxiliary deputy ~~sheriffs~~ sheriff appointed pursuant to § 15.2-1603, a  
7831 police ~~officers~~ officer of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and a  
7832 fire ~~marshals~~ marshal appointed pursuant to § 27-30 when such fire ~~marshals~~ have marshal has police  
7833 powers as set out in §§ 27-34.2 and 27-34.2:1.

7834 "School security officer" means the same as that term is defined in § 9.1-101.

7835 G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any  
7836 school security officer or full-time or part-time employee of any public or private elementary or  
7837 secondary school while acting in the course and scope of his official capacity, any of the following: (i)  
7838 incidental, minor, or reasonable physical contact or other actions designed to maintain order and control;  
7839 (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a  
7840 disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and  
7841 necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and  
7842 necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain  
7843 possession of weapons or other dangerous objects or controlled substances or associated paraphernalia  
7844 that are upon the person of the student or within his control.

7845 In determining whether a person was acting within the exceptions provided in this subsection, due  
7846 deference shall be given to reasonable judgments that were made by a school security officer or  
7847 full-time or part-time employee of any public or private elementary or secondary school at the time of  
7848 the event.

7849 § 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI,"  
7850 "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.

7851 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used in  
7852 Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act  
7853 (§ 54.1-3400 et seq.).

7854 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit  
7855 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ that is not  
7856 a controlled substance subject to abuse; and:

7857 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging, or  
7858 by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any  
7859 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced  
7860 into commerce prior to the initial introduction into commerce of the controlled substance which it is  
7861 alleged to imitate; or

7862 2. Which by express or implied representations purports to act like a controlled substance as a  
7863 stimulant or depressant of the central nervous system and which is not commonly used or recognized for  
7864 use in that particular formulation for any purpose other than for such stimulant or depressant effect,  
7865 unless marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

7866 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an  
7867 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,  
7868 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal  
7869 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the



packaging of the drug and its appearance in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the public.

D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. Marijuana does not include the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus *Cannabis*. Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; or (iii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

E. The term "counterfeit controlled substance" means a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack, or distribute such drug.

F. The Department of Forensic Science shall determine the proper methods for detecting the concentration of delta-9-tetrahydrocannabinol (THC) in substances for the purposes of this title and §§ 54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider the potential conversion of delta-9-tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the total available THC derived from the sum of the THC and THC-A content.

**§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance prohibited; penalties.**

A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it shall be unlawful for any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance.

B. In determining whether any person intends to manufacture, sell, give, or distribute an imitation controlled substance, the court may consider, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet, or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet, or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet, or substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances of like chemical composition sell.

C. Except as provided in subsection C1, any person who violates this section with respect to a controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is alleged in the warrant, indictment, or information that the person has been before convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than \$500,000.

When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment, or information that he has been before convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than \$500,000.

Any person who manufactures, sells, gives, distributes, or possesses with the intent to manufacture, sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1

7931 million and imprisonment for five years to life, five years of which shall be a mandatory minimum term  
7932 of imprisonment to be served consecutively with any other sentence:

- 7933 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;  
7934 2. 500 grams or more of a mixture or substance containing a detectable amount of:  
7935 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
7936 derivatives of ecgonine or their salts have been removed;  
7937 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;  
7938 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or  
7939 d. Any compound, mixture, or preparation that contains any quantity of any of the substances  
7940 referred to in subdivisions ~~2a through 2e~~ *a, b, and c*;  
7941 3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a~~ through ~~2d 2 d~~ that  
7942 contain cocaine base; or  
7943 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or  
7944 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,  
7945 or salts of its isomers.

7946 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall  
7947 not be applicable if the court finds that:

- 7948 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;  
7949 b. The person did not use violence or credible threats of violence or possess a firearm or other  
7950 dangerous weapon in connection with the offense or induce another participant in the offense to do so;  
7951 c. The offense did not result in death or serious bodily injury to any person;  
7952 d. The person was not an organizer, leader, manager, or supervisor of others in the offense; and was  
7953 not engaged in a continuing criminal enterprise as defined in subsection I; and  
7954 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the  
7955 Commonwealth all information and evidence the person has concerning the offense or offenses that were  
7956 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no  
7957 relevant or useful other information to provide or that the Commonwealth already is aware of the  
7958 information shall not preclude a determination by the court that the defendant has complied with this  
7959 requirement.

7960 C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its  
7961 salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a  
7962 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,  
7963 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a  
7964 second conviction of such a violation, any such person may, in the discretion of the court or jury  
7965 imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years;  
7966 and be fined not more than \$500,000. When a person is convicted of a third or subsequent offense  
7967 under this subsection and it is alleged in the warrant, indictment, or information that he has been  
7968 previously convicted of two or more such offenses or of substantially similar offenses in any other  
7969 jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior  
7970 convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he  
7971 shall be sentenced to imprisonment for life or for a period not less than 10 years, three years of which  
7972 shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence  
7973 and he shall be fined not more than \$500,000.

7974 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be  
7975 ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner  
7976 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such  
7977 methamphetamine production. This restitution shall include the person's or his estate's estimated or actual  
7978 expenses associated with cleanup, removal, or repair of the affected property. If the property that is  
7979 damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is  
7980 property owned in whole or in part by the person convicted, the court shall order the person to pay to  
7981 the Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual  
7982 expenses associated with cleanup, removal, or repair of the affected property or, if actual or estimated  
7983 expenses cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of  
7984 certifying that any building that is cleaned up or repaired pursuant to this section is safe for human  
7985 occupancy according to the guidelines established pursuant to § 32.1-11.7.

7986 D. If such person proves that he gave, distributed, or possessed with intent to give or distribute a  
7987 controlled substance classified in Schedule I or II only as an accommodation to another individual who  
7988 is not an inmate in a community correctional facility, local correctional facility, or state correctional  
7989 facility as defined in § 53.1-1 or in the custody of an employee thereof; and not with intent to profit  
7990 thereby from any consideration received or expected nor to induce the recipient or intended recipient of  
7991 the controlled substance to use or become addicted to or dependent upon such controlled substance, he  
7992 shall be is guilty of a Class 5 felony.

E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription of a person authorized under this article to issue the same, which prescription has not been received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the pharmacist within one week of the time of filling the same, or if such violation consists of a request by such authorized person for the filling by a pharmacist of a prescription which has not been received in writing by the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

E1. Any person who violates this section with respect to a controlled substance classified in Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, shall be is guilty of a Class 5 felony.

E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV shall be is guilty of a Class 6 felony.

E3. Any person who proves that he gave, distributed, or possessed with the intent to give or distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility, or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, is guilty of a Class 1 misdemeanor.

F. Any person who violates this section with respect to a controlled substance classified in Schedule V or Schedule VI or an imitation controlled substance which that imitates a controlled substance classified in Schedule V or Schedule VI, shall be is guilty of a Class 1 misdemeanor.

G. Any person who violates this section with respect to an imitation controlled substance which that imitates a controlled substance classified in Schedule I, II, III, or IV shall be is guilty of a Class 6 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the defendant believed the imitation controlled substance to actually be a controlled substance.

H. Any person who manufactures, sells, gives, distributes, or possesses with the intent to manufacture, sell, give, or distribute the following:

1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
  - a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
  - b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
  - c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
  - d. Any compound, mixture, or preparation which that contains any quantity of any of the substances referred to in subdivisions a through, b, and c;
3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 which that contains cocaine base; or

4. 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or  
 5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall be is guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense; and was not engaged in a continuing criminal enterprise as defined in subsection I of this section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

H1. Any person who was the principal or one of several principal administrators, organizers, or leaders of a continuing criminal enterprise shall be is guilty of a felony if (i) the enterprise received at least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from

8054 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or  
8055 the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the  
8056 enterprise to manufacture, sell, give, distribute, or possess with the intent to manufacture, sell, give, or  
8057 distribute the following during any 12-month period of its existence:

8058 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a  
8059 detectable amount of heroin;

8060 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable  
8061 amount of:

8062 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
8063 derivatives of ecgonine or their salts have been removed;

8064 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

8065 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

8066 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances  
8067 referred to in subdivisions a ~~through~~, b, and c;

8068 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in  
8069 subdivision 2 ~~which that~~ contains cocaine base; *or*

8070 4. At least 100 kilograms but less than 250 kilograms of a mixture ~~or substance containing a~~  
8071 ~~detectable amount of marijuana; or~~

8072 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its  
8073 isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a  
8074 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

8075 A conviction under this section shall be punishable by a fine of not more than \$1 million and  
8076 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

8077 H2. Any person who was the principal or one of several principal administrators, organizers, or  
8078 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross  
8079 receipts during any 12-month period of its existence from the manufacture, importation, or distribution  
8080 of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of  
8081 isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give,  
8082 distribute, or possess with the intent to manufacture, sell, give, or distribute the following during any  
8083 12-month period of its existence:

8084 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

8085 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

8086 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
8087 derivatives of ecgonine or their salts have been removed;

8088 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

8089 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

8090 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances  
8091 referred to in subdivisions a ~~through~~, b, and c;

8092 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which that~~ contains  
8093 cocaine base; *or*

8094 4. At least 250 kilograms of a mixture ~~or substance containing a detectable amount of marijuana; or~~

8095 5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0  
8096 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,  
8097 isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1  
8098 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such  
8099 punishment shall be made to run consecutively with any other sentence. However, the court may impose  
8100 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated  
8101 with law-enforcement authorities.

8102 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he  
8103 violates any provision of this section, the punishment for which is a felony, and either (ii) such violation  
8104 is a part of a continuing series of violations of this section which are undertaken by such person in  
8105 concert with five or more other persons with respect to whom such person occupies a position of  
8106 organizer, a supervisory position, or any other position of management; and from which such person  
8107 obtains substantial income or resources or (iii) such violation is committed, with respect to  
8108 methamphetamine or other controlled substance classified in Schedule I or II, for the benefit of, at the  
8109 direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

8110 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any  
8111 two or more different substances listed below with the intent to manufacture methamphetamine,  
8112 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,  
8113 ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture  
8114 of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium,  
8115 sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium

permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or 2-propanone.

K. The term "methamphetamine precursor drug," when used in this article, means a drug or product containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts of optical isomers.

**§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it is unlawful for any person to transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of cocaine, coca leaves, or any salt, compound, derivative, or preparation thereof as described in Schedule II of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance or five or more pounds of marijuana. A violation of this section shall constitute a separate and distinct felony. Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not to exceed \$1,000,000 *\$1 million*. A second or subsequent conviction hereunder shall be punishable by a mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any other sentence.

**§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment and education programs or services; drug tests; costs and fees; violations; discharge.**

Whenever any person who has not previously been convicted of any criminal offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk of court has been provided with the fingerprint identification information or fingerprints of the person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the person be taken by a law-enforcement officer.

As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, by a similar program which is made available through the Department of Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by the Commission on VASAP.

The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay unless the person is determined by the court to be indigent.

As a condition of probation, the court shall require the accused (a) to successfully complete treatment or education program or services, (b) to remain drug and alcohol free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of court has been provided with the fingerprint identification information or fingerprints of such person, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

**§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

8177 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the  
8178 consumption or use of a controlled substance, alcohol, or any combination of such substances.

8179 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or  
8180 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of  
8181 marijuana pursuant to § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, possession of a controlled substance pursuant  
8182 to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia  
8183 pursuant to § 54.1-3466 if:

8184 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if  
8185 he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an  
8186 overdose; (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains  
8187 emergency medical attention for such individual, by contemporaneously reporting such overdose to a  
8188 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1,  
8189 a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith,  
8190 renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the  
8191 administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing  
8192 an overdose while another individual seeks or obtains emergency medical attention in accordance with  
8193 this subdivision;

8194 2. Such individual remains at the scene of the overdose or at any alternative location to which he or  
8195 the person requiring emergency medical attention has been transported until a law-enforcement officer  
8196 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the  
8197 overdose or at the alternative location, then such individual shall cooperate with law enforcement as  
8198 otherwise set forth herein;

8199 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the  
8200 overdose; and

8201 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a  
8202 result of the individual seeking or obtaining emergency medical attention or rendering emergency care or  
8203 assistance.

8204 C. The provisions of this section shall not apply to any person who seeks or obtains emergency  
8205 medical attention for himself or another individual, to a person experiencing an overdose when another  
8206 individual seeks or obtains emergency medical attention for him, or to a person who renders emergency  
8207 care or assistance to an individual experiencing an overdose while another person seeks or obtains  
8208 emergency medical attention during the execution of a search warrant or during the conduct of a lawful  
8209 search or a lawful arrest.

8210 D. This section does not establish protection from arrest or prosecution for any individual or offense  
8211 other than those listed in subsection B.

8212 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later  
8213 determined that the person arrested was immune from prosecution under this section.

8214 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

8215 No school nurse employed by a local school board, person employed by a local health department  
8216 who is assigned to the public school pursuant to an agreement between the local health department and  
8217 the school board, or other person employed by or contracted with a local school board to deliver  
8218 health-related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or  
8219 § 18.2-248, ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for  
8220 storing, dispensing, or administering cannabis oil, in accordance with a policy adopted by the local  
8221 school board, to a student who has been issued a valid written certification for the use of cannabis oil in  
8222 accordance with subsection B of § 54.1-3408.3.

8223 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing**  
8224 **facilities; hospice and hospice facilities; assisted living facilities.**

8225 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and  
8226 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted  
8227 under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for the  
8228 possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering  
8229 cannabis oil to a patient or resident who has been issued a valid written certification for the use of  
8230 cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of  
8231 Pharmacy.

8232 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;**  
8233 **Department of Agriculture and Consumer Services employees.**

8234 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or  
8235 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower,  
8236 a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of  
8237 performing required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or  
8238 § 18.2-248, ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or

industrial hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with regulations promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer Services.

B. No employee of the Department of Agriculture and Consumer Services shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp when possession of industrial hemp is necessary in the performance of his duties.

**§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing, and treatment or education.**

The trial judge or court trying the case of any person found guilty of a criminal violation of any law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances and like substances shall condition any suspended sentence by first requiring such person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by the supervising probation agency or by personnel of any program or agency approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall order the person, as a condition of any suspended sentence, to undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services, by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

**§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

A. Whenever any person who has not previously been convicted of any criminal offense under this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances, and like substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services or by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

B. The court trying the case of any person alleged to have committed any criminal offense designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the commission of the offense was motivated by or closely related to the use of drugs and determined by the court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction of such offense or, if sentence was determined by a jury, not in excess of the term of imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to commitment. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

C. The court trying a case in which commission of the criminal offense was related to the defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

**§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

A. Except as authorized in the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1, it shall be unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any drug classified in Schedule I, II, III, or IV of marijuana to any person under 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any drug classified in Schedule I, II, III, or IV of marijuana. Any person violating this provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a conviction under this section involving a Schedule I or II controlled substance or one ounce or more of marijuana shall be a mandatory minimum sentence. Two years of the sentence imposed for a conviction under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.

B. It shall be unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation controlled substance. Any person violating this provision shall be guilty of a Class 6 felony.

**§ 18.2-255.1. Distribution, sale, or display to a minor of printed material advertising instruments for use in administering a controlled substance; penalty.**

It shall be a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a minor any book, pamphlet, periodical, or other printed matter which that he knows advertises for sale any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking, administering, preparing, or growing marijuana or a controlled substance.

**§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.**

A. It shall be unlawful for any person to manufacture, sell, or distribute or possess with intent to sell, give, or distribute any controlled substance, or imitation controlled substance, or marijuana while:

1. Upon the property, including buildings and grounds, of any public or private elementary or secondary school, any institution of higher education, or any clearly marked licensed child day center as defined in § 22.1-289.02;

2. Upon public property or any property open to public use within 1,000 feet of the property described in subdivision 1;

3. On any school bus as defined in § 46.2-100;

4. Upon a designated school bus stop, or upon either public property or any property open to public use which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated recreation or community center facility or any public library; or

6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property open to public use within 1,000 feet of such an institution facility.

It is a violation of the provisions of this section if the person possessed the controlled substance, or imitation controlled substance, or marijuana on the property described in subdivisions 1 through 6, regardless of where the person intended to sell, give, or distribute the controlled substance, or imitation controlled substance, or marijuana. Nothing in this section shall prohibit the authorized distribution of controlled substances.

B. Violation of this section shall constitute a separate and distinct felony. Any person violating the provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control



Act (§ 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum term of imprisonment of one year to be served consecutively with any other sentence. However, if such person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to or dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

C. If a person commits an act violating the provisions of this section, and the same act also violates another provision of law that provides for penalties greater than those provided for by this section, then nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or the imposition of any penalties provided for thereby.

**§ 18.2-258. Certain premises deemed common nuisance; penalty.**

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of, manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession, manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance. Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant who knowingly permits, establishes, keeps, or maintains such a common nuisance is guilty of a Class 1 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

**§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment or building, or structure of any kind ~~which that~~ is (i) substantially altered from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing or distributing controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

**§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery.**

A. It ~~shall be~~ *is* unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit, misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

B. It ~~shall be~~ *is* unlawful for any person to furnish false or fraudulent information in ~~or~~, omit any information from, or willfully make a false statement in, any prescription, order, report, record, or other document required by ~~Chapter 34 the Drug Control Act~~ (§ 54.1-3400 et seq.) ~~of Title 54.1.~~

C. It ~~shall be~~ *is* unlawful for any person to use in the course of the manufacture or distribution of a controlled substance ~~or marijuana~~ a license number ~~which that~~ is fictitious, revoked, suspended, or issued to another person.

D. It ~~shall be~~ *is* unlawful for any person, for the purpose of obtaining any controlled substance ~~or marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person.

E. It ~~shall be~~ *is* unlawful for any person to make or utter any false or forged prescription or false or forged written order.

F. It ~~shall be~~ *is* unlawful for any person to affix any false or forged label to a package or receptacle containing any controlled substance.

G. This section shall not apply to officers and employees of the United States, of this Commonwealth, or of a political subdivision of this Commonwealth, acting in the course of their employment, who obtain such drugs for investigative, research, or analytical purposes, or to the agents or duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for investigative, research, or analytical purposes and who are acting in the course of their employment, provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic Act, and provided further, that such pharmaceutical manufacturer, its agents, and duly authorized representatives file with the Board such information as the Board may deem appropriate.

H. Except as otherwise provided in this subsection, any person who shall violate any provision herein ~~shall be~~ *is* guilty of a Class 6 felony.

Whenever any person who has not previously been convicted of any offense under this article or

under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court may place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs of the accused. This program may be located in the judicial circuit in which the charge is brought or in any other judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by the Department of Behavioral Health and Developmental Services. The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, evaluation, testing, and education, based upon the person's ability to pay unless the person is determined by the court to be indigent.

As a condition of supervised probation, the court shall require the accused to remain drug free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of any screening, evaluation, and education program to which the person is referred or by the supervising agency.

Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.

Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find the defendant guilty of a Class 1 misdemeanor.

#### **§ 18.2-265.1. Definition.**

As used in this article, the term "drug paraphernalia" means all equipment, products, and materials of any kind which are either designed for use or which are intended by the person charged with violating § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

1. Kits intended for use or designed for use in planting, propagating, cultivating, growing, or harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled substance can be derived;

2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing ~~marijuana~~ or controlled substances;

3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~ or any species of plant ~~which~~ *that* is a controlled substance;

4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to determine whether a controlled substance contains fentanyl or a fentanyl analog;

5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or controlled substances;

6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or designed for use in cutting controlled substances;

7. ~~Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;~~

8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances;

9. 8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of ~~marijuana~~ or controlled substances;

10. 9. Containers and other objects intended for use or designed for use in storing or concealing ~~marijuana~~ or controlled substances;

11. 10. Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body;

12. 11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, ~~hashish~~ heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette~~, that has

become too small or too short to be held in the hand;

f. Miniature cocaine spoons, and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers.

**§ 18.2-265.2. Evidence to be considered in cases under this article.**

In determining whether an object is drug paraphernalia, the court may consider, in addition to all other relevant evidence, the following:

1. Constitutionally admissible statements by the accused concerning the use of the object;

2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually known to the accused;

3. Instructions, oral or written, provided with the object concerning its use;

4. Descriptive materials accompanying the object ~~which~~ *that* explain or depict its use;

5. National and local advertising within the actual knowledge of the accused concerning its use;

6. The manner in which the object is displayed for sale;

7. Whether the accused is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business enterprise;

9. The existence and scope of legitimate uses for the object in the community;

10. Expert testimony concerning its use or the purpose for which it was designed; *and*

11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

**§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it is either designed for use or intended by such person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ *is* guilty of a Class 6 felony.

C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

**§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony violation of § 18.2-248 ~~or subdivision (a) 2 or 3 of § 18.2-248.1~~, has in his possession a firearm or knife and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~ *is* guilty of a Class 4 felony.

**§ 18.2-308.03. Fees for concealed handgun permits.**

A. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this article. The \$35 fee shall include any amount assessed by the U.S. Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the U.S. Federal Bureau of Investigation to the State Police with the fingerprints taken from any nonresident applicant. The State Police may charge a fee not to exceed \$5 to cover its costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who receives the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is received by the court as a complete application.

B. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Virginia Alcoholic Beverage

8546 Control Authority *or the Virginia Cannabis Control Authority* or as a law-enforcement officer with the  
8547 Department of State Police, the Department of Wildlife Resources, or a sheriff or police department,  
8548 bureau, or force of any political subdivision of the Commonwealth, after completing 15 years of service  
8549 or after reaching age 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of  
8550 Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement  
8551 Administration, United States Citizenship and Immigration Services, U.S. Customs and Border  
8552 Protection, Department of State Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal  
8553 Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a  
8554 law-enforcement officer with any police or sheriff's department within the United States, the District of  
8555 Columbia, or any of the territories of the United States, after completing 15 years of service; (v) as a  
8556 law-enforcement officer with any combination of the agencies listed in clauses (ii) ~~through~~, (iii), and  
8557 (iv), after completing 15 years of service; (vi) as a designated boarding team member or boarding officer  
8558 of the United States Coast Guard, after completing 15 years of service or after reaching age 55; (vii) as  
8559 a correctional officer as defined in § 53.1-1, after completing 15 years of service; or (viii) as a probation  
8560 and parole officer authorized pursuant to § 53.1-143, after completing 15 years of service.

8561 **§ 18.2-308.012. Prohibited conduct.**

8562 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol,  
8563 *marijuana*, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1  
8564 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to  
8565 rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation  
8566 of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266,  
8567 public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24.  
8568 Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly  
8569 notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to  
8570 apply for a concealed handgun permit for a period of five years.

8571 B. No person who carries a concealed handgun onto the premises of any restaurant or club as  
8572 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises  
8573 consumption has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1  
8574 may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun  
8575 onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2  
8576 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local  
8577 law-enforcement officer.

8578 **§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.**

8579 A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

8580 1. Any State Police officer retired from the Department of State Police, any officer retired from the  
8581 Division of Capitol Police, any local law-enforcement officer, auxiliary police officer, or animal control  
8582 officer retired from a police department or sheriff's office within the Commonwealth, any special agent  
8583 retired from the State Corporation Commission ~~or~~, the Virginia Alcoholic Beverage Control Authority,  
8584 *or the Virginia Cannabis Control Authority*, any employee with internal investigations authority  
8585 designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the  
8586 Department of Corrections, any conservation police officer retired from the Department of Wildlife  
8587 Resources, any conservation officer retired from the Department of Conservation and Recreation, any  
8588 Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine  
8589 Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of  
8590 Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement  
8591 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired  
8592 investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for  
8593 cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such  
8594 law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years  
8595 of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a  
8596 service-related injury, provided such officer carries with him written proof of consultation with and  
8597 favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer  
8598 of the last such agency from which the officer retired or the agency that employs the officer or, in the  
8599 case of special agents, issued by the State Corporation Commission ~~or~~, the Virginia Alcoholic Beverage  
8600 Control Authority, *or the Virginia Cannabis Control Authority*. A copy of the proof of consultation and  
8601 favorable review shall be forwarded by the chief, Commission, or Board to the Department of State  
8602 Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall  
8603 not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the  
8604 requirements of this section. An officer set forth in clause (iv) who receives written proof of  
8605 consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work  
8606 as a law-enforcement officer or upon termination of employment with the law-enforcement agency.  
8607 Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia

Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or, the Virginia Alcoholic Beverage Control Authority, or the Virginia Cannabis Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services of the United States or National Guard, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the attorney for the Commonwealth from whose office he retired or resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of consultation and favorable review shall be forwarded by the attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, Board, or attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

**§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

A. It shall be unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) or Title 54.1 to simultaneously with

8669 knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and  
8670 constitutes a separate and distinct felony.

8671 B. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified  
8672 in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and  
8673 intent possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and  
8674 constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a  
8675 mandatory minimum term of imprisonment of two years. Such punishment shall be separate and apart  
8676 from, and shall be made to run consecutively with, any punishment received for the commission of the  
8677 primary felony.

8678 C. It ~~shall be~~ *is* unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle,  
8679 or other firearm or display such weapon in a threatening manner while committing or attempting to  
8680 commit the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell,  
8681 or distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act  
8682 (§ 54.1-3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6  
8683 felony; and constitutes a separate and distinct felony and any person convicted hereunder shall be  
8684 sentenced to a mandatory minimum term of imprisonment of five years. Such punishment shall be  
8685 separate and apart from, and shall be made to run consecutively with, any punishment received for the  
8686 commission of the primary felony.

8687 **§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products,**  
8688 **alternative nicotine products, and hemp products intended for smoking by a person under 21**  
8689 **years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products,**  
8690 **and hemp products intended for smoking to persons under 21 years of age.**

8691 A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any  
8692 person ~~less younger~~ than 21 years of age, knowing or having reason to believe that such person is ~~less~~  
8693 *younger* than 21 years of age, any tobacco product, nicotine vapor product, alternative nicotine product,  
8694 or hemp product intended for smoking.

8695 Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended  
8696 for smoking may be sold from a vending machine only if the machine is (i) posted with a notice, in a  
8697 conspicuous manner and place, indicating that the purchase or possession of such products by persons  
8698 ~~under younger than~~ 21 years of age is unlawful and (ii) located in a place that is not open to the general  
8699 public and is not generally accessible to persons ~~under younger than~~ 21 years of age. An establishment  
8700 that prohibits the presence of persons ~~under younger than~~ 21 years of age unless accompanied by a  
8701 person 21 years of age or older is not open to the general public.

8702 B. No person ~~less younger~~ than 21 years of age shall attempt to purchase, purchase, or possess any  
8703 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for  
8704 smoking. The provisions of this subsection shall not be applicable to the possession of tobacco products,  
8705 nicotine vapor products, alternative nicotine products, or hemp products intended for smoking by a  
8706 person ~~less younger~~ than 21 years of age (i) making a delivery of tobacco products, nicotine vapor  
8707 products, alternative nicotine products, or hemp products intended for smoking in pursuance of his  
8708 employment or (ii) as part of a scientific study being conducted by an organization for the purpose of  
8709 medical research to further efforts in cigarette and tobacco use prevention and cessation and tobacco  
8710 product regulation, provided that such medical research has been approved by an institutional review  
8711 board pursuant to applicable federal regulations or by a research review committee pursuant to Chapter  
8712 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to purchase, attempt to  
8713 purchase, or possession by a law-enforcement officer or his agent when the same is necessary in the  
8714 performance of his duties.

8715 C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or  
8716 hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's  
8717 license or similar photo identification issued by a government agency, that the individual is at least 21  
8718 years of age. Such identification is not required from an individual whom the person has reason to  
8719 believe is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the  
8720 person demanded, was shown, and reasonably relied upon a photo identification stating that the  
8721 individual was at least 21 years of age shall be a defense to any action brought under this subsection. In  
8722 determining whether a person had reason to believe an individual is at least 21 years of age, the trier of  
8723 fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior,  
8724 and manner of the individual.

8725 This subsection shall not apply to mail order or Internet sales, provided that the person offering the  
8726 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for  
8727 smoking for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine  
8728 vapor product, alternative nicotine product, or hemp product intended for smoking verifies that the  
8729 purchaser is at least 21 years of age through a commercially available database that is regularly used by  
8730 businesses or governmental entities for the purpose of age and identity verification and (ii) uses a

method of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking will be released to the purchaser.

D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking to any active duty military personnel who are 18 years of age or older. An identification card issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

E. A violation of subsection A or C by an individual or by a separate retail establishment that involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi is punishable by a civil penalty not to exceed \$100 for a first violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for a third or subsequent violation.

A violation of subsection A or C by an individual or by a separate retail establishment that involves the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a first violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the amount of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it has trained its employees concerning the requirements of this section, the court shall suspend all of the penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so train its employees, the court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi.

A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service for a first violation of subsection B and up to 40 hours of community service for a second or subsequent violation. If the defendant fails or refuses to complete the community service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision A 9 of § 16.1-278.8.

Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of subsection A, B, or C.

F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for sale any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking to any person ~~under~~ *younger than* 21 years of age is prohibited by law. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$50. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

G. Nothing in this section shall be construed to create a private cause of action.

H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may issue a summons for any violation of this section.

I. As used in this section:

"Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Bidi" means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*) or tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as

8792 a bidi or beedie.

8793 "Hemp product *intended for smoking*" means the same as that term is defined in § 3.2-4112.

8794 "Nicotine vapor product" means any noncombustible product containing nicotine that employs a  
8795 heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means,  
8796 regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form.  
8797 "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic  
8798 pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other  
8799 form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo,  
8800 electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product  
8801 regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and  
8802 Cosmetic Act.

8803 "Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless  
8804 tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor  
8805 product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21  
8806 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

8807 "Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for  
8808 smoking in a manner similar to a cigarette or cigar.

8809 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer;**  
8810 **penalties.**

8811 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney  
8812 for the Commonwealth, witness, ~~any~~ law-enforcement officer, or animal control officer employed  
8813 pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to  
8814 cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the  
8815 Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to  
8816 § 3.2-6555, he is guilty of a Class 1 misdemeanor.

8817 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to  
8818 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~  
8819 law-enforcement officer, or ~~an~~ animal control officer employed pursuant to § 3.2-6555 lawfully engaged  
8820 in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a  
8821 Class 1 misdemeanor.

8822 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a  
8823 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement  
8824 officer, lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of  
8825 justice in any court relating to a violation of or conspiracy to violate § 18.2-248 or subdivision (a)(3),  
8826 (b) or (e) of § 18.2-248.1, or § 18.2-46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to  
8827 violate any violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

8828 D. Any person who knowingly and willfully makes any materially false statement or representation  
8829 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the  
8830 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

8831 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from  
8832 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of  
8833 this subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a  
8834 law-enforcement officer when (i) the officer applies physical force to the person; or (ii) the officer  
8835 communicates to the person that he is under arrest and (a) the officer has the legal authority and the  
8836 immediate physical ability to place the person under arrest; and (b) a reasonable person who receives  
8837 such communication knows or should know that he is not free to leave.

8838 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

8839 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,  
8840 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the  
8841 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the  
8842 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ *that* is a controlled  
8843 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or  
8844 ~~marijuana~~ is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or  
8845 attempt to deliver or conspire to deliver to any such prisoner or confined or committed person; firearms,  
8846 ~~ammunitions~~ *ammunition*, or explosives of any nature is guilty of a Class 3 felony.

8847 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

8848 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**  
8849 **authorizing interception of communications.**

8850 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in  
8851 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a  
8852 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to  
8853 a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral



communications by the Department of State Police, when such interception may reasonably be expected to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of § 18.2-248 or ~~18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, any felony violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article 2.2 (§ 18.2-46.4 et seq.), Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the observation or monitoring of the interception by a police department of a county or city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be made, and such order may be granted, in conformity with the provisions of § 19.2-68.

B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the person or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic communication system, maintain an address or a post office box, or are making the communication within the territorial jurisdiction of the court.

2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the physical location of the oral communication to be intercepted is within the territorial jurisdiction of the court.

C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where the order is entered, regardless of the physical location or the method by which the communication is captured or routed to the monitoring location.

**§ 19.2-81. Arrest without warrant authorized in certain cases.**

A. The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth;
2. Sheriffs of the various counties and cities, and their deputies;
3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;
4. The Commissioner, members, and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.2-900;
5. Regular conservation police officers appointed pursuant to § 29.1-200;
6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § 29.1-205 to make arrests;
7. Conservation officers appointed pursuant to § 10.1-115;
8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217;
9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;
10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
11. Members of the Division of Capitol Police.

B. Such officers may arrest without a warrant any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable

8915 location where a vehicle or person involved in an accident has been moved at the direction of a  
 8916 law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the motoring  
 8917 public.

8918 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any  
 8919 location any person whom the officer has probable cause to suspect of driving or operating a motor  
 8920 vehicle, watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, *or* 46.2-341.24;  
 8921 or subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the  
 8922 Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may,  
 8923 within three hours of the alleged offense, arrest without a warrant at any location any person whom the  
 8924 officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order  
 8925 issued pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

8926 E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in  
 8927 another jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout,  
 8928 facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram,  
 8929 computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a  
 8930 reasonably accurate description of such person wanted and the crime alleged.

8931 F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not  
 8932 committed in his presence when the officer receives a radio message from his department or other  
 8933 law-enforcement agency within the Commonwealth that a warrant or *capias* for such offense is on file.

8934 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in  
 8935 their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance,  
 8936 (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv)  
 8937 brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of  
 8938 § 18.2-137, when such property is located on premises used for business or commercial purposes, or a  
 8939 similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of  
 8940 the person who observed the alleged offense. The arresting officer may issue a summons to any person  
 8941 arrested under this section for a misdemeanor violation involving shoplifting.

8942 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

8943 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in  
 8944 § 19.2-81, persons for crimes involving:

- 8945 (a) 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;  
 8946 (b) 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;  
 8947 (c) 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or § 18.2-474.1;  
 8948 and

- 8949 (d) 4. Any other criminal offense ~~which~~ *that* may contribute to the disruption of the safety, welfare,  
 8950 or security of the population of a correctional institution.

8951 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

8952 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement  
 8953 officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who  
 8954 is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary  
 8955 teacher or other employee in any public school division in this Commonwealth for a felony or a Class 1  
 8956 misdemeanor or an equivalent offense in another state shall file a report of such arrest with the division  
 8957 superintendent of the employing division as soon as practicable. The contents of the report required  
 8958 pursuant to this section shall be utilized by the local school division solely to implement the provisions  
 8959 of subsection B of § 22.1-296.2 and § 22.1-315.

8960 B. Every state official or agency and every sheriff, police officer, or other local law-enforcement  
 8961 officer or conservator of the peace having the power to arrest for a felony, shall file a report, as soon as  
 8962 practicable, with the division superintendent of the school division in which the student is enrolled upon  
 8963 arresting a person who is known or discovered by the arresting official to be a student age 18 or older  
 8964 in any public school division in this Commonwealth for:

- 8965 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299  
 8966 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;  
 8967 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;  
 8968 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of  
 8969 Title 18.2;  
 8970 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;  
 8971 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,  
 8972 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;  
 8973 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4~~ *Chapter 11* (§ 18.2-247  
 8974 *4.1-1100 et seq.*) ~~of Chapter 7 of Title 18.2~~ *4.1*;  
 8975 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;  
 8976 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9. Robbery pursuant to § 18.2-58;

10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

12. An act of violence by a mob pursuant to § 18.2-42.1; or

13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

**§ 19.2-188.1. Testimony regarding identification of controlled substances.**

A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement officer shall be permitted to testify as to the results of field tests that have been approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in §§ 4.1-600 and 18.2-247.

B. In any trial for a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, any law-enforcement officer shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

In any case in which the person accused of a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, or the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science in accordance with the provisions of § ~~18.2-247~~ 9.1-1101 and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis.

**§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and blood, saliva, or tissue sample as condition of probation.**

After conviction, whether with or without jury, the court may suspend imposition of sentence or suspend the sentence in whole or part and in addition may place the defendant on probation under such conditions as the court shall determine, including monitoring by a GPS (Global Positioning System) tracking device, or other similar device, or may, as a condition of a suspended sentence, require the defendant to make at least partial restitution to the aggrieved party or parties for damages or loss caused by the offense for which convicted, or to perform community service, or both, under terms and conditions which shall be entered in writing by the court. The court may fix the period of probation for up to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned. Any period of supervised probation shall not exceed five years from the release of the defendant from any active period of incarceration. The limitation on the period of probation shall not apply to the extent that an additional period of probation is necessary (i) for the defendant to participate in a court-ordered program or (ii) if a defendant owes restitution and is still subject to restitution compliance review hearings in accordance with § 19.2-305.1. The defendant may be ordered by the court to pay the cost of the GPS tracking device or other similar device. If, however, the court suspends or modifies any sentence fixed by a jury pursuant to § 19.2-295, the court shall file a statement of the reasons for the suspension or modification in the same manner as the statement required pursuant to subsection B of § 19.2-298.01. The judge, after convicting the defendant of any offense for which a report to the Central Criminal Records Exchange is required in accordance with subsection A of § 19.2-390, shall determine whether a copy of the defendant's fingerprints or fingerprint identification information has been provided by a law-enforcement officer to the clerk of court for each such offense. In any case where fingerprints or fingerprint identification information has not been provided by a law-enforcement officer to the clerk of court, the judge shall require that fingerprints and a photograph be taken by a law-enforcement officer as a condition of probation or of the suspension of the imposition or execution of any sentence for such offense. Such fingerprints shall be submitted to the Central Criminal Records Exchange under the provisions of subsection D of § 19.2-390.

In those courts having electronic access to the Local Inmate Data System (LIDS) within the courtroom, prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether a blood, saliva, or tissue sample has been taken for DNA analysis and submitted to the DNA data bank maintained by the Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of this title. In any case in which the clerk has determined that a DNA sample or analysis is not stored in the DNA data bank, or in any case in which electronic access to LIDS is not available in the courtroom, the court shall order that the defendant appear within 30 days before the sheriff or probation officer and allow the sheriff or probation officer to take the required sample. The

9038 order shall also require that, if the defendant has not appeared and allowed the sheriff or probation  
9039 officer to take the required sample by the date stated in the order, then the sheriff or probation officer  
9040 shall report to the court the defendant's failure to appear and provide the required sample.

9041 After conviction and upon sentencing of an active participant or member of a criminal street gang,  
9042 the court may, as a condition for suspending the imposition of the sentence in whole or in part or for  
9043 placing the accused on probation, place reasonable restrictions on those persons with whom the accused  
9044 may have contact. Such restrictions may include prohibiting the accused from having contact with  
9045 anyone whom he knows to be a member of a criminal street gang, except that contact with a family or  
9046 household member, as defined in § 16.1-228, shall be permitted unless expressly prohibited by the court.

9047 Notwithstanding any other provision of law, in any case where a defendant is convicted of a  
9048 violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1,  
9049 committed on or after July 1, 2006, and some portion of the sentence is suspended, the judge shall order  
9050 that the period of suspension shall be for a length of time at least equal to the statutory maximum  
9051 period for which the defendant might originally have been sentenced to be imprisoned, and the  
9052 defendant shall be placed on probation for that period of suspension subject to revocation by the court.  
9053 The conditions of probation may include such conditions as the court shall determine, including active  
9054 supervision. Where the conviction is for a violation of clause (iii) of subsection A of § 18.2-61,  
9055 subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court shall order that at least  
9056 three years of the probation include active supervision of the defendant under a postrelease supervision  
9057 program operated by the Department of Corrections, and for at least three years of such active  
9058 supervision, the defendant shall be subject to electronic monitoring by means of a GPS (Global  
9059 Positioning System) tracking device, or other similar device.

9060 If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any  
9061 time before the sentence has been completely served, suspend the unserved portion of any such sentence,  
9062 place the person on probation in accordance with the provisions of this section, or otherwise modify the  
9063 sentence imposed.

9064 If a person has been sentenced for a felony to the Department of Corrections (the Department), the  
9065 court that heard the case, if it appears compatible with the public interest and there are circumstances in  
9066 mitigation of the offense, may, at any time before the person is transferred to the Department, or within  
9067 60 days of such transfer, suspend or otherwise modify the unserved portion of such a sentence. The  
9068 court may place the person on probation in accordance with the provisions of this section.

9069 *Notwithstanding any other provision of law or rule of court, any person who has been sentenced to*  
9070 *jail or to the Department of Corrections for a marijuana offense, except for (i) a violation of subdivision*  
9071 *(a) (3) of former § 18.2-248.1, (ii) a violation of subsection (d) of former § 18.2-248.1, or (iii) a*  
9072 *violation of former § 18.2-248.1 where the defendant gave, distributed, or possessed with intent to give*  
9073 *or distribute marijuana to a minor, may, at any time before the sentence has been completely served,*  
9074 *file a motion with the sentencing court that entered the final judgment or order for a resentencing*  
9075 *hearing. If it appears compatible with the public interest and there are circumstances in mitigation of*  
9076 *the offense, including the legalization of marijuana, such court may reduce, suspend, or otherwise*  
9077 *modify such person's sentence at any time before such person's sentence has been completely served. If*  
9078 *the petitioner claims to be indigent, the petitioner shall additionally file with the court a statement of*  
9079 *indigency and a request for the appointment of counsel on forms provided by the Supreme Court of*  
9080 *Virginia. If the petition is not summarily dismissed and the court finds that the petitioner is entitled to*  
9081 *representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) of Chapter 10 of*  
9082 *Title 19.2, the court shall appoint counsel to represent the petitioner.*

9083 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

9084 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the  
9085 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of  
9086 the final judgment order, provided substantial assistance in investigating or prosecuting another person  
9087 for (i) an act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of  
9088 § 18.2-95, or any violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5,  
9089 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2, or any  
9090 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in  
9091 the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations  
9092 as a principal in the second degree or accessory before the fact of any of the offenses listed in clause  
9093 (i). In determining whether the defendant has provided substantial assistance pursuant to the provisions  
9094 of this section, the court shall consider (a) the court's evaluation of the significance and usefulness of  
9095 the defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance  
9096 rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by  
9097 the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any  
9098 danger or risk of injury to the defendant or his family resulting from his assistance; and (e) the  
9099 timeliness of the defendant's assistance. If the motion is made more than one year after entry of the final

judgment order, the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not known to the defendant until more than one year after entry of the final judgment order, (2) information provided by the defendant within one year of entry of the final judgment order but that did not become useful to the Commonwealth until more than one year after entry of the final judgment order, or (3) information the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after entry of the final judgment order and which was promptly provided to the Commonwealth by the defendant after its usefulness was reasonably apparent.

**§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.**

A. The following property shall be subject to lawful seizure by any officer charged with enforcing the provisions of *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all other personal and real property of any kind or character, used in substantial connection with (a) the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana or possession with intent to distribute marijuana in violation of subdivisions (a)(2), (a)(3) and (c) of § 18.2-248.1 § 4.1-1103, or (c) a drug-related offense in violation of § 4.1-1117 or 18.2-474.1; (ii) everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in violation of § 18.2-248.1 4.1-1103 or for a controlled substance or marijuana in violation of § 4.1-1117 or 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to such an exchange, together with any interest or profits derived from the investment of such money or other property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the minimum prescribed punishment for the violation is a term of not less than five years.

B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.).

**§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer or have been seized in connection with violations of *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of any such substance or paraphernalia to the Department of Forensic Science, the Department of State Police, or to such police department or sheriff's office for research and training purposes and for destruction pursuant to regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of Pharmacy once these purposes have been fulfilled.

2. In the event no application is made under subdivision 1, the court shall order the destruction of all such substances or paraphernalia, which order shall state the existence and nature of the substance or paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and manner of destruction shall be made to the court by the officer to whom the order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written consent of the appropriate attorney for the Commonwealth, order destruction of same, provided that a statement under oath, reporting a description of the substances and paraphernalia destroyed and the time, place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom the order is directed.

B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 shall be disposed of as provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-386.24.

C. The amount of any specific controlled substance, or imitation controlled substance, retained by any law-enforcement agency pursuant to a court order issued under this section shall not exceed five

9161 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled  
9162 substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall  
9163 not result in the requesting agency's exceeding the limits allowed by this subsection.

9164 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or  
9165 marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an  
9166 inventory of such substance on a monthly basis, which shall include a description and weight of the  
9167 substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for  
9168 research and training purposes. A written report outlining the details of the inventory shall be made to  
9169 the chief law-enforcement officer of the agency within 10 days of the completion of the inventory, and  
9170 the agency shall detail the substances that were used for research and training pursuant to a court order  
9171 in the immediately preceding fiscal year. Destruction of such substance shall be certified to the court  
9172 along with a statement prepared under oath, reporting a description of the substance destroyed, and the  
9173 time, place, and manner of destruction.

9174 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

9175 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection  
9176 with any prosecution or investigation under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or Chapter 7  
9177 (§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds of the  
9178 substance randomly selected from the seized substance for representative purposes as evidence and  
9179 destroy the remainder of the seized substance.

9180 Before any destruction is carried out under this section, the law-enforcement agency shall cause the  
9181 material seized to be photographed with identification case numbers or other means of identification and  
9182 shall prepare a report identifying the seized material. It shall also notify the accused, or other interested  
9183 party, if known, or his attorney, at least five days in advance that the photography will take place and  
9184 that they may be present. Prior to any destruction under this section, the law-enforcement agency shall  
9185 also notify the accused or other interested party, if known, and his attorney at least seven days prior to  
9186 the destruction of the time and place the destruction will occur. Any notice required under the  
9187 provisions of this section shall be by first-class mail to the last known address of the person required to  
9188 be notified. In addition to the substance retained for representative purposes as evidence, all photographs  
9189 and records made under this section and properly identified shall be admissible in any court proceeding  
9190 for any purposes for which the seized substance itself would have been admissible.

9191 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**  
9192 **substances, etc.**

9193 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to  
9194 take into its custody or to maintain custody of substantial quantities of any controlled substances,  
9195 imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal  
9196 prosecution under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title  
9197 18.2. The court in its order may make provision for ensuring integrity of these items until further order  
9198 of the court.

9199 **§ 19.2-389. Dissemination of criminal history record information.**

9200 A. Criminal history record information shall be disseminated, whether directly or through an  
9201 intermediary, only to:

9202 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for  
9203 purposes of the administration of criminal justice and the screening of an employment application or  
9204 review of employment by a criminal justice agency with respect to its own employees or applicants, and  
9205 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all  
9206 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,  
9207 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For  
9208 purposes of this subdivision, criminal history record information includes information sent to the Central  
9209 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time  
9210 or part-time employee of the State Police, a police department or sheriff's office that is a part of or  
9211 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the  
9212 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the  
9213 Commonwealth for the purposes of the administration of criminal justice;

9214 2. Such other individuals and agencies that require criminal history record information to implement  
9215 a state or federal statute or executive order of the President of the United States or Governor that  
9216 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such  
9217 conduct, except that information concerning the arrest of an individual may not be disseminated to a  
9218 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the  
9219 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is  
9220 pending;

9221 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide  
9222 services required for the administration of criminal justice pursuant to that agreement which shall

specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations

9284 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital  
9285 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject  
9286 to the limitations set out in subsection E;

9287 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of  
9288 investigations of applicants for compensated employment in licensed assisted living facilities and  
9289 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

9290 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth  
9291 in § 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth*  
9292 *in § 4.1-622;*

9293 18. The State Board of Elections and authorized officers and employees thereof and general registrars  
9294 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to  
9295 voter registration, limited to any record of felony convictions;

9296 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who  
9297 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,  
9298 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

9299 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety  
9300 Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders  
9301 under § 18.2-51.4, 18.2-266, or 18.2-266.1;

9302 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
9303 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
9304 purpose of determining applicants' fitness for employment or for providing volunteer or contractual  
9305 services;

9306 22. The Department of Behavioral Health and Developmental Services and facilities operated by the  
9307 Department for the purpose of determining an individual's fitness for employment pursuant to  
9308 departmental instructions;

9309 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or  
9310 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such  
9311 records information on behalf of such governing boards or administrators pursuant to a written  
9312 agreement with the Department of State Police;

9313 24. Public institutions of higher education and nonprofit private institutions of higher education for  
9314 the purpose of screening individuals who are offered or accept employment;

9315 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,  
9316 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of  
9317 higher education, for the purpose of assessing or intervening with an individual whose behavior may  
9318 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal  
9319 history record information obtained pursuant to this section or otherwise use any record of an individual  
9320 beyond the purpose that such disclosure was made to the threat assessment team;

9321 26. Executive directors of community services boards or the personnel director serving the  
9322 community services board for the purpose of determining an individual's fitness for employment,  
9323 approval as a sponsored residential service provider, permission to enter into a shared living arrangement  
9324 with a person receiving medical assistance services pursuant to a waiver, or permission for any person  
9325 under contract with the community services board to serve in a direct care position on behalf of the  
9326 community services board pursuant to §§ 37.2-506 and 37.2-607;

9327 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of  
9328 determining an individual's fitness for employment, approval as a sponsored residential service provider,  
9329 permission to enter into a shared living arrangement with a person receiving medical assistance services  
9330 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to  
9331 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506 and  
9332 37.2-607;

9333 28. The Commissioner of Social Services for the purpose of locating persons who owe child support  
9334 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the  
9335 name, address, demographics and social security number of the data subject shall be released;

9336 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
9337 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the  
9338 purpose of determining if any applicant who accepts employment in any direct care position or requests  
9339 approval as a sponsored residential service provider, permission to enter into a shared living arrangement  
9340 with a person receiving medical assistance services pursuant to a waiver, or permission for any person  
9341 under contract with the provider to serve in a direct care position has been convicted of a crime that  
9342 affects his fitness to have responsibility for the safety and well-being of individuals with mental illness,  
9343 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

9344 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants  
9345 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20



9346 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

9347 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House  
9348 Committee for Courts of Justice for the purpose of determining if any person being considered for  
9349 election to any judgeship has been convicted of a crime;

9350 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
9351 determining an individual's fitness for employment in positions designated as sensitive under Department  
9352 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

9353 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under  
9354 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually  
9355 Violent Predators Act (§ 37.2-900 et seq.);

9356 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,  
9357 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary  
9358 companies, for the conduct of investigations of applications for employment or for access to facilities,  
9359 by contractors, leased laborers, and other visitors;

9360 35. Any employer of individuals whose employment requires that they enter the homes of others, for  
9361 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

9362 36. Public agencies when and as required by federal or state law to investigate (i) applicants as  
9363 providers of adult foster care and home-based services or (ii) any individual with whom the agency is  
9364 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,  
9365 subject to the restriction that the data shall not be further disseminated by the agency to any party other  
9366 than a federal or state authority or court as may be required to comply with an express requirement of  
9367 law for such further dissemination, subject to limitations set out in subsection G;

9368 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
9369 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,  
9370 or have accepted a position related to the provision of transportation services to enrollees in the  
9371 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other  
9372 program administered by the Department of Medical Assistance Services;

9373 38. The State Corporation Commission for the purpose of investigating individuals who are current  
9374 or proposed members, senior officers, directors, and principals of an applicant or person licensed under  
9375 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of  
9376 Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in  
9377 part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19,  
9378 or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such  
9379 information to the applicant or its designee;

9380 39. The Department of Professional and Occupational Regulation for the purpose of investigating  
9381 individuals for initial licensure pursuant to § 54.1-2106.1;

9382 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and  
9383 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment  
9384 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11  
9385 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

9386 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

9387 42. The State Treasurer for the purpose of determining whether a person receiving compensation for  
9388 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

9389 43. The Department of Education or its agents or designees for the purpose of screening individuals  
9390 seeking to enter into a contract with the Department of Education or its agents or designees for the  
9391 provision of child care services for which child care subsidy payments may be provided;

9392 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of  
9393 a juvenile's household when completing a predispositional or postdispositional report required by §  
9394 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

9395 45. The State Corporation Commission, for the purpose of screening applicants for insurance  
9396 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

9397 46. Administrators and board presidents of and applicants for licensure or registration as a child day  
9398 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the  
9399 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of  
9400 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034  
9401 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the  
9402 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's  
9403 representative, or a federal or state authority or court as may be required to comply with an express  
9404 requirement of law for such further dissemination; however, nothing in this subdivision shall be  
9405 construed to prohibit the Superintendent of Public Instruction's representative from issuing written  
9406 certifications regarding the results of prior background checks in accordance with subsection J of

9407 § 22.1-289.035 or § 22.1-289.039; and

9408 47. Other entities as otherwise provided by law.

9409 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records  
9410 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal  
9411 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons  
9412 designated in the order on whom a report has been made under the provisions of this chapter.

9413 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
9414 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
9415 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a  
9416 copy of conviction data covering the person named in the request to the person making the request;  
9417 however, such person on whom the data is being obtained shall consent in writing, under oath, to the  
9418 making of such request. A person receiving a copy of his own conviction data may utilize or further  
9419 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data  
9420 subject, the person making the request shall be furnished at his cost a certification to that effect.

9421 B. Use of criminal history record information disseminated to noncriminal justice agencies under this  
9422 section shall be limited to the purposes for which it was given and may not be disseminated further,  
9423 except as otherwise provided in subdivision A 46.

9424 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal  
9425 history record information for employment or licensing inquiries except as provided by law.

9426 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records  
9427 Exchange prior to dissemination of any criminal history record information on offenses required to be  
9428 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is  
9429 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases  
9430 where time is of the essence and the normal response time of the Exchange would exceed the necessary  
9431 time period. A criminal justice agency to whom a request has been made for the dissemination of  
9432 criminal history record information that is required to be reported to the Central Criminal Records  
9433 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.  
9434 Dissemination of information regarding offenses not required to be reported to the Exchange shall be  
9435 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

9436 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
9437 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange  
9438 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

9439 F. Criminal history information provided to licensed assisted living facilities and licensed adult day  
9440 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange  
9441 for any offense specified in § 63.2-1720.

9442 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be  
9443 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the  
9444 definition of barrier crime in § 19.2-392.02.

9445 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal  
9446 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the  
9447 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in  
9448 the request to the employer or prospective employer making the request, provided that the person on  
9449 whom the data is being obtained has consented in writing to the making of such request and has  
9450 presented a photo-identification to the employer or prospective employer. In the event no conviction data  
9451 is maintained on the person named in the request, the requesting employer or prospective employer shall  
9452 be furnished at his cost a certification to that effect. The criminal history record search shall be  
9453 conducted on forms provided by the Exchange.

9454 I. Nothing in this section shall preclude the dissemination of a person's criminal history record  
9455 information pursuant to the rules of court for obtaining discovery or for review by the court.

9456 **§ 19.2-389.3. (For contingent expiration dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**  
9457 **551) Marijuana possession; limits on dissemination of criminal history record information;**  
9458 **prohibited practices by employers, educational institutions, and state and local governments;**  
9459 **penalty.**

9460 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor  
9461 violation of *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged  
9462 under §§ *former* § 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to  
9463 § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection  
9464 or otherwise disclosed, provided that such records may be disseminated (i) to make the determination as  
9465 provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of  
9466 a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article  
9467 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to  
9468 § 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to

subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration.

B. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each violation.

**§ 19.2-389.3. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and 551) Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.**

A. Criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, criminal charge, or conviction, for a misdemeanor violation of *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under §§ *former* § 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with, or to be a volunteer with, the State Police or a police department or

9530 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision  
9531 thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person  
9532 who applies to be a volunteer with or an employee of an emergency medical services agency as  
9533 provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic  
9534 Science for the purpose of screening any person for full-time or part-time employment with the  
9535 Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee  
9536 who shall be an individual employed as a public safety official of the locality, that has adopted an  
9537 ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who  
9538 applies to be a volunteer with or an employee of an emergency medical services agency as provided in  
9539 § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any  
9540 employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the  
9541 purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to  
9542 any employer or prospective employer or its designee where federal law requires the employer to inquire  
9543 about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee  
9544 where the position that a person is applying for, or where access to the premises in or upon which any  
9545 part of the duties of such position is performed or is to be performed, is subject to any requirement  
9546 imposed in the interest of the national security of the United States under any security program in effect  
9547 pursuant to or administered under any contract with, or statute or regulation of, the United States or any  
9548 Executive Order of the President; (xi) to any person authorized to engage in the collection of court  
9549 costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs,  
9550 fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article  
9551 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of  
9552 Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the  
9553 Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for  
9554 Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for  
9555 full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the  
9556 Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a  
9557 local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any  
9558 employer or prospective employer or its designee that is allowed access to such sealed records in  
9559 accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted  
9560 pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with  
9561 § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of  
9562 law, or counsel for the accused, in order to comply with any constitutional and statutory duties to  
9563 provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a  
9564 criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use  
9565 in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any  
9566 local department of social services for purposes of performing any statutory duties as required under  
9567 Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as  
9568 authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for  
9569 purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12; (xxiv) to  
9570 determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or  
9571 convicted of the offense that was sealed.

9572 B. Except as provided in subsection C, agencies, officials, and employees of state and local  
9573 governments, private employers that are not subject to federal laws or regulations in the hiring process,  
9574 and educational institutions shall not, in any application, interview, or otherwise, require an applicant for  
9575 employment or admission to disclose information concerning any arrest, criminal charge, or conviction  
9576 against him when the record relating to such arrest, criminal charge, or conviction is not open for public  
9577 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any  
9578 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest,  
9579 criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is  
9580 not open for public inspection pursuant to subsection A.

9581 C. The provisions of subsection B shall not apply if:

9582 1. The person is applying for full-time employment or part-time employment with, or to be a  
9583 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered  
9584 by the Commonwealth or any political subdivision thereof;

9585 2. This Code requires the employer to make such an inquiry;

9586 3. Federal law requires the employer to make such an inquiry;

9587 4. The position, or access to the premises in or upon which any part of the duties of such position is  
9588 performed or is to be performed, is subject to any requirement imposed in the interest of the national  
9589 security of the United States under any security program in effect pursuant to or administered under any  
9590 contract with, or statute or regulation of, the United States or any Executive Order of the President; or

9591 5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to

§ 9.1-134 allow the employer to access such sealed records.

D. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such subsections, such application shall include, or such entity or person shall provide, a notice to the applicant that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection A does not have to be disclosed in the application. Such notice need not be included on any application for one or more of the purposes set forth in subsection C.

H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection A or any information from such records among law-enforcement officers and attorneys when such disclosures are made by such officers or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime.

I. A person who willfully violates subsection B, D, E, or F is guilty of a Class 1 misdemeanor for each violation.

**§ 19.2-392.02. National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.**

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6,

9653 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any  
9654 felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423,  
9655 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1,  
9656 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any  
9657 substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89,  
9658 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of  
9659 another jurisdiction; (iii) any felony violation of § 4.1-1101, ~~4.1-1114~~, 18.2-248, 18.2-248.01,  
9660 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2,  
9661 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of  
9662 another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the  
9663 laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement  
9664 to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including  
9665 any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1  
9666 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's  
9667 requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to  
9668 § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for  
9669 which registration in a sex offender and crimes against minors registry is required under the laws of the  
9670 jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii),  
9671 (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

9672 "Barrier crime information" means the following facts concerning a person who has been arrested for,  
9673 or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the  
9674 time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief  
9675 description of the barrier crime or offenses for which the person has been arrested or has been  
9676 convicted, the disposition of the charge, and any other information that may be useful in identifying  
9677 persons arrested for or convicted of a barrier crime.

9678 "Care" means the provision of care, treatment, education, training, instruction, supervision, or  
9679 recreation to children or the elderly or disabled.

9680 "Department" means the Department of State Police.

9681 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or  
9682 seeks to volunteer for a qualified entity.

9683 "Identification document" means a document made or issued by or under the authority of the United  
9684 States government, a state, a political subdivision of a state, a foreign government, political subdivision  
9685 of a foreign government, an international governmental or an international quasi-governmental  
9686 organization that, when completed with information concerning a particular individual, is of a type  
9687 intended or commonly accepted for the purpose of identification of individuals.

9688 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may  
9689 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity  
9690 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised  
9691 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or  
9692 operate a qualified entity.

9693 "Qualified entity" means a business or organization that provides care to children or the elderly or  
9694 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt  
9695 pursuant to subdivision A 7 of § 22.1-289.030.

9696 B. A qualified entity may request the Department of State Police to conduct a national criminal  
9697 background check on any provider who is employed by such entity. No qualified entity may request a  
9698 national criminal background check on a provider until such provider has:

9699 1. Been fingerprinted; and

9700 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and  
9701 date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the  
9702 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or  
9703 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime  
9704 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a  
9705 background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background  
9706 check report, to challenge the accuracy and completeness of any information contained in any such  
9707 report, and to obtain a prompt determination as to the validity of such challenge before a final  
9708 determination is made by the Department; and (v) a notice to the provider that prior to the completion  
9709 of the background check the qualified entity may choose to deny the provider unsupervised access to  
9710 children or the elderly or disabled for whom the qualified entity provides care.

9711 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a  
9712 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in  
9713 subsection B, the Department shall make a determination whether the provider has been convicted of or  
9714 is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier

crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

**§ 19.2-392.6. (For contingent effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing of offenses resulting in a deferred and dismissed disposition or conviction.**

A. If a person was charged with an offense in violation of § 4.1-305 or former § 18.2-250.1, and such offense was deferred and dismissed as provided in § 4.1-305 or 18.2-251, such offense, including any records relating to such offense, shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections C and D.

B. If a person was convicted of a violation of any of the following sections, such conviction, including any records relating to such conviction, shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections C and D: § 4.1-305, 18.2-96, 18.2-103, 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of *former* § 18.2-248.1; or former § 18.2-250.1 or 18.2-415.

C. Subject to the provisions of subsection D, any offense listed under subsection A and any conviction listed under subsection B shall be ordered to be automatically sealed if seven years have passed since the date of the dismissal or conviction and the person charged with or convicted of such offense has not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

D. No offense listed under subsection A shall be automatically sealed if, on the date of the deferral or dismissal, the person was convicted of another offense that is not eligible for automatic sealing under subsection A or B. No conviction listed under subsection B shall be automatically sealed if, on the date of the conviction, the person was convicted of another offense that is not eligible for automatic sealing under subsection A or B.

E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit court pursuant to the provisions of § 19.2-392.12.

**§ 22.1-141.3. Public School Assistance Fund and Program.**

A. *There is hereby created in the state treasury a special nonreverting fund to be known as the Public School Assistance Fund (the Fund). The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing grants to local school divisions through the Public School Assistance Program created pursuant to subsection B. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Superintendent of Public Instruction.*

B. *There is hereby created the Public School Assistance Program (the Program) for the purpose of providing grants from the Fund to school boards to be used solely for the purpose of repairing or replacing the roofs of public elementary and secondary school buildings in the local school division. The Department of Education shall administer the Program and shall establish such guidelines and*

9776 *procedures as it deems necessary for the administration of the Program, including guidelines and*  
9777 *procedures for grant applications, awards, and renewals. Any school board in the Commonwealth may*  
9778 *apply for Program grants. The Department of Education shall give priority in the award of grants to*  
9779 *school boards that demonstrate the greatest need based on the condition of existing school building*  
9780 *roofs and the ability to pay for the repair or replacement of such roofs.*

9781 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, and tobacco and nicotine**  
9782 **products.**

9783 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed  
9784 by the Board of Education.

9785 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking,  
9786 *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia  
9787 Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority* shall provide  
9788 educational materials to the Department of Education. The Department of Education shall review and  
9789 shall distribute such materials as are approved to the public schools.

9790 C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall  
9791 distribute to each local school division educational materials concerning the health and safety risks of  
9792 using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are  
9793 defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products,  
9794 nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2,  
9795 shall be provided in each public elementary and secondary school in the Commonwealth, consistent with  
9796 such educational materials.

9797 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

9798 A. School boards shall expel from school attendance any student whom such school board has  
9799 determined, in accordance with the procedures set forth in this article, to have brought a controlled  
9800 substance, *or imitation controlled substance, or marijuana as those terms are defined in § 18.2-247* onto  
9801 school property or to a school-sponsored activity. A school administrator, pursuant to school board  
9802 policy, or a school board may, however, determine, based on the facts of a particular situation, that  
9803 special circumstances exist and no disciplinary action or another disciplinary action or another term of  
9804 expulsion is appropriate. A school board may, by regulation, authorize the division superintendent or his  
9805 designee to conduct a preliminary review of such cases to determine whether a disciplinary action other  
9806 than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another  
9807 disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance  
9808 with the procedures set forth in this article. Nothing in this section shall be construed to require a  
9809 student's expulsion regardless of the facts of the particular situation.

9810 B. Each school board shall revise its standards of student conduct to incorporate the requirements of  
9811 this section no later than three months after the date on which this act becomes effective.

9812 **§ 23.1-609. Surviving spouses and children of certain individuals; tuition and fee waivers.**

9813 A. The surviving spouse and any child between the ages of 16 and 25 of an individual who was  
9814 killed in the line of duty while employed or serving as a (i) law-enforcement officer, including as a  
9815 campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8, sworn  
9816 law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, member of a rescue  
9817 squad, special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis*  
9818 *Control Authority*, state correctional officer, regional or local jail officer, regional jail or jail farm  
9819 superintendent, sheriff, or deputy sheriff; (ii) member of the Virginia National Guard while serving on  
9820 official state duty or federal duty under Title 32 of the United States Code; or (iii) member of the  
9821 Virginia Defense Force while serving on official state duty, and any individual whose spouse was killed  
9822 in the line of duty while employed or serving in any of such occupations, is entitled to a waiver of  
9823 undergraduate tuition and mandatory fees at any public institution of higher education under the  
9824 following conditions:

9825 1. The chief executive officer of the deceased individual's employer certifies that such individual was  
9826 so employed and was killed in the line of duty while serving or living in the Commonwealth; and

9827 2. The surviving spouse or child is admitted to, enrolls at, and is in attendance at such institution and  
9828 applies to such institution for the waiver. Waiver recipients who make satisfactory academic progress are  
9829 eligible for renewal of such waiver.

9830 B. Institutions that grant such waivers shall waive the amounts payable for tuition, institutional  
9831 charges and mandatory educational and auxiliary fees, and books and supplies but shall not waive user  
9832 fees such as room and board charges.

9833 C. Each public institution of higher education shall include in its catalog or equivalent publication a  
9834 statement describing the benefits available pursuant to this section.

9835 **§ 23.1-1301. Governing boards; powers.**

9836 A. The board of visitors of each baccalaureate public institution of higher education or its designee  
9837 may:



1. Make regulations and policies concerning the institution;
  2. Manage the funds of the institution and approve an annual budget;
  3. Appoint the chief executive officer of the institution;
  4. Appoint professors and fix their salaries; and
  5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.
- B. The governing board of each public institution of higher education or its designee may:
1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the same manner as all other gifts and bequests;
  2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes on any property owned by the institution;
  3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained, or controlled by the institution;
  4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers, instructors, and other employees;
  5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the regulations or institution policies required pursuant to § 23.1-1303;
  6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such regulations or policies;
  7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness and prevention of sexual crimes committed upon students;
  8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in accordance with the prohibition against hazing as defined in § 18.2-56;
  9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of such property (i) developed wholly or predominantly through the use of state general funds, exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials shall remain the property of the respective institutions and may be used and developed in any manner permitted by law;
  10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a "state public body" for purposes of subsection D of § 2.2-3708.2; and
  11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to enforce state statutes and local ordinances with respect to offenses occurring on the property of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and local ordinances with respect to offenses occurring on the property of the institution.
- § 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**
- A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth without the payment of toll while in the performance of their official duties:
1. The Commissioner of Highways;
  2. Members of the Commonwealth Transportation Board;
  3. Employees of the Department of Transportation;
  4. The Superintendent of the Department of State Police;
  5. Officers and employees of the Department of State Police;
  6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority *or the Board of Directors of the Virginia Cannabis Control Authority*;
  7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* and special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;
  8. The Commissioner of the Department of Motor Vehicles;
  9. Employees of the Department of Motor Vehicles;

9899 10. Local police officers;  
9900 11. Sheriffs and their deputies;  
9901 12. Regional jail officials;  
9902 13. Animal wardens;  
9903 14. The Director and officers of the Department of Wildlife Resources;  
9904 15. Persons operating firefighting equipment and emergency medical services vehicles as defined in  
9905 § 32.1-111.1;  
9906 16. Operators of school buses being used to transport pupils to or from schools;  
9907 17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the  
9908 driver, and used to regularly transport workers to and from their places of employment and (ii) public  
9909 transit buses;  
9910 18. Employees of the Department of Rail and Public Transportation;  
9911 19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation  
9912 Act of 1988; and  
9913 20. Law-enforcement officers of the Virginia Marine Resources Commission.  
9914 B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free  
9915 use of such facilities, in cases of emergency and circumstances of concern for public safety on the  
9916 highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual  
9917 or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of  
9918 the toll facility by permitting the temporary suspension of toll collection operations on its facilities.  
9919 1. The assessment of the threat to public safety shall be performed and the decision temporarily to  
9920 suspend toll collection operations shall be made by the Commissioner of Highways or his designee.  
9921 2. Major incidents that may require the temporary suspension of toll collection operations shall  
9922 include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of  
9923 hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions;  
9924 and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a  
9925 state of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection  
9926 operations in affected evacuation zones on routes designated as mass evacuation routes. The  
9927 Commissioner of Highways shall reinstate toll collection when the mandatory evacuation period ends.  
9928 3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable  
9929 for any incident resulting in the suspension of toll collections as provided in this subsection, the court  
9930 may assess against the person an amount equal to lost toll revenue as a part of the costs of the  
9931 proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the  
9932 Department of Transportation for deposit into the toll road fund.  
9933 C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll  
9934 bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a  
9935 misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than  
9936 those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll  
9937 ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.  
9938 D. Any vehicle operated by the holder of a valid driver's license or other document issued under  
9939 Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing  
9940 the operation of a motor vehicle upon the highways shall be allowed free use of all toll bridges, toll  
9941 roads, and other toll facilities in the Commonwealth if:  
9942 1. The vehicle is specially equipped to permit its operation by a handicapped person;  
9943 2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth  
9944 or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being  
9945 severely physically disabled and having permanent upper limb mobility or dexterity impairments that  
9946 substantially impair his ability to deposit coins in toll baskets;  
9947 3. The driver has applied for and received from the Department of Transportation a vehicle window  
9948 sticker identifying him as eligible for such free passage; and  
9949 4. Such identifying window sticker is properly displayed on the vehicle.  
9950 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the  
9951 Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by  
9952 those persons exempted from tolls pursuant to this subsection and shall accept any payments made by  
9953 such persons.  
9954 E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the  
9955 provisions of § 22.1-187.  
9956 F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use  
9957 the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or  
9958 facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation  
9959 Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the  
9960 conduct of official business:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. The Commissioner of the Department of Motor Vehicles;
7. Employees of the Department of Motor Vehicles; and
8. Sheriffs and deputy sheriffs.

However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent with the terms of the applicable comprehensive agreement between the operator and the Department. The Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant to this subsection when the mandatory evacuation period ends or upon the reinstatement of toll collections on other tolled facilities in the same affected area, whichever occurs first.

G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements of subdivisions D 1 through 4.

H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of subdivision B 1 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

**§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department if such person has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or altered documents.

B. It shall be unlawful to aid any person to obtain any driver's license, special identification card, vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special identification card, vehicle registration, certificate of title, or other document obtained in violation of the provisions of subsection A.

D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is charged and convicted of a violation of this section that involved the unlawful obtaining or possession of any document issued by the Department for the purpose of engaging in any age-limited activity, including but not limited to obtaining, possessing, or consuming alcoholic beverages or marijuana. However, if a person is charged and convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of the cancellation to the address of record maintained by the Department.

**§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card to obtain alcoholic beverages or marijuana; penalties.**

Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States Armed Forces identification card; United States passport or foreign government visa; Virginia Department of Motor Vehicles special identification card; official identification issued by any other federal, state or foreign government agency; or official student identification card of an institution of higher education to obtain alcoholic beverages ~~shall be or~~ *marijuana* is guilty of a Class 3 misdemeanor, and upon conviction of a violation of this section, the court shall revoke such convicted person's driver's license or privilege to drive a motor vehicle for a period of not less than 30 days nor more than one year.

**§ 48-17.1. Temporary injunctions against alcoholic beverage or marijuana sales.**

A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to temporarily enjoin the sale of alcohol *or marijuana* at any establishment licensed by the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such

petition shall be the operator of the establishment has allowed it to become a meeting place for persons committing serious criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement officer of the locality, supported by records of such criminal acts. The court shall, upon the presentation of evidence at a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol *or marijuana* at the establishment, if it appears to the satisfaction of the court that the threat to public safety complained of exists and is likely to continue if such injunction is not granted. The court hearing on the petition shall be held within 10 days of service upon the respondent. The respondent shall be served with notice of the time and place of the hearing and copies of all documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued by the court shall be dissolved in the event the court later finds that the threat to public safety that is the basis of the injunction has been abated by reason of a change of ownership, management, or business operations at the establishment, or other change in circumstance.

B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate an investigation into the activities at the establishment complained of and conduct an administrative hearing. After the Virginia Alcoholic Beverage Control Authority *or Virginia Cannabis Control Authority* hearing and when a final determination has been issued by the Virginia Alcoholic Beverage Control Authority *or Virginia Cannabis Control Authority*, regardless of disposition, any injunction issued hereunder shall be null, without further action by the complainant, respondent, or the court.

**§ 51.1-212. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, (iii) conservation police officer in the Department of Wildlife Resources appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 *or special agent of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1*, (v) law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) ~~any~~ parole officer appointed pursuant to § 53.1-143, and (viii) ~~any~~ commercial vehicle enforcement officer employed by the Department of State Police.

"Member" means any person included in the membership of the Retirement System as provided in this chapter.

"Normal retirement date" means a member's sixtieth birthday.

"Retirement System" means the Virginia Law Officers' Retirement System.

**§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

This section shall apply to any person who is not a qualified voter because of a felony conviction, who seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the conditions and requirements set out in this section.

Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-1101, *4.1-1114*, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, 18.2-255, 18.2-255.2, or 18.2-258.02; or (iii) convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil right to be eligible to register to vote through the process set out in this section. On such petition, the court may approve the petition for restoration to the person of his right if the court is satisfied from the evidence presented that the petitioner has completed, five or more years previously, service of any sentence and any modification of sentence including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic responsibility through community or comparable service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for the same period.

If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of that right or notice that the

Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

On receipt of the certificate of restoration of the right to register to vote from the Secretary of the Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

**§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

Signing a birth or death certificate, or signing any statement certifying that the person so signing has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation or designation, or other language that identifies the type of practice for which he is licensed. No person regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in § ~~18.2-247~~ 54.1-3401, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this subsection shall prevent a person from including in any advertisement that such person is registered with the Board of Pharmacy to issue written certifications for the use of cannabis products, as defined in § 54.1-3408.3.

**§ 54.1-3408.3. Certification for use of cannabis oil for treatment.**

A. As used in this section:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include oil from industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or tetrahydrocannabinolic acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been acquired and formulated with cannabis plant extract by a pharmaceutical processor.

"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may

10145 employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient  
10146 care through real-time interactive audio-visual technology. If a practitioner determines it is consistent  
10147 with the standard of care to dispense botanical cannabis to a minor, the written certification shall  
10148 specifically authorize such dispensing. If not specifically included on the initial written certification,  
10149 authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at  
10150 the time of dispensing.

10151 C. The written certification shall be on a form provided by the Office of the Executive Secretary of  
10152 the Supreme Court developed in consultation with the Board of Medicine. Such written certification  
10153 shall contain the name, address, and telephone number of the practitioner, the name and address of the  
10154 patient issued the written certification, the date on which the written certification was made, and the  
10155 signature or authentic electronic signature of the practitioner. Such written certification issued pursuant  
10156 to subsection B shall expire no later than one year after its issuance unless the practitioner provides in  
10157 such written certification an earlier expiration.

10158 D. No practitioner shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or*  
10159 *§ 18.2-248* ~~or 18.2-248.1~~ for the issuance of a certification for the use of cannabis products for the  
10160 treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written  
10161 certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of  
10162 Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical  
10163 condition or otherwise violating the applicable standard of care for evaluating or treating medical  
10164 conditions.

10165 E. A practitioner who issues a written certification to a patient pursuant to this section shall register  
10166 with the Board and shall hold sufficient education and training to exercise appropriate professional  
10167 judgment in the certification of patients. The Board shall not limit the number of patients to whom a  
10168 practitioner may issue a written certification. The Board may report information to the applicable  
10169 licensing board on unusual patterns of certifications issued by a practitioner.

10170 F. A patient who has been issued a written certification shall register with the Board or, if such  
10171 patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian  
10172 shall register and shall register such patient with the Board. No patient shall be required to physically  
10173 present the written certification after the initial dispensing by any pharmaceutical processor or cannabis  
10174 dispensing facility under each written certification, provided that the pharmaceutical processor or  
10175 cannabis dispensing facility maintains an electronic copy of the written certification.

10176 G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such  
10177 patient's parent or legal guardian, may designate an individual to act as his registered agent for the  
10178 purposes of receiving cannabis products pursuant to a valid written certification. Such designated  
10179 individual shall register with the Board. The Board may set a limit on the number of patients for whom  
10180 any individual is authorized to act as a registered agent.

10181 H. Upon delivery of cannabis oil by a pharmaceutical processor or cannabis dispensing facility to a  
10182 designated caregiver facility, any employee or contractor of a designated caregiver facility, who is  
10183 licensed or registered by a health regulatory board and who is authorized to possess, distribute, or  
10184 administer medications, may accept delivery of the cannabis oil on behalf of a patient or resident for  
10185 subsequent delivery to the patient or resident and may assist in the administration of the cannabis oil to  
10186 the patient or resident as necessary.

10187 I. The Board shall promulgate regulations to implement the registration process. Such regulations  
10188 shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification,  
10189 the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or an  
10190 incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for  
10191 ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a  
10192 prohibition for the patient to be issued a written certification by more than one practitioner during any  
10193 given time period.

10194 J. Information obtained under the registration process shall be confidential and shall not be subject to  
10195 the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However,  
10196 reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee  
10197 for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local  
10198 law enforcement for the purpose of investigating or prosecuting a specific individual for a specific  
10199 violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing  
10200 patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv)  
10201 a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a registered  
10202 patient, or (v) a registered patient, his registered agent, or, if such patient is a minor or an incapacitated  
10203 adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to  
10204 information related to such registered patient.

10205 **§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

10206 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first

obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling, including the potency of each botanical cannabis product and the amounts recommended by the practitioner or dispensing pharmacist, and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis oil that provide that each dispensed dose of cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processor and a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection M; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring oil, *disolate*, *isolate*, or *tetrahydrocannabinol* from industrial hemp extract and formulating such oil extract with Cannabis plant extract into allowable dosages of cannabis oil products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and registered patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing cannabis products, (b) the secure disposal of agricultural waste, and (c) a process for registering cannabis oil products.

D. The Board shall require that, after processing and before dispensing any cannabis products, a pharmaceutical processor shall make a sample available from each batch of cannabis product for testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD); total tetrahydrocannabinol (THC); terpenes; pesticide chemical residue; heavy metals; mycotoxins; moisture; and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate cannabis oil that fails any quality testing standard. Following remediation, all remediated cannabis oil shall be subject to laboratory testing and approved upon satisfaction of testing standards applied to cannabis oil generally. If the batch fails retesting, it shall be considered usable cannabis and may be processed into cannabis oil, unless the failure is related to pesticide requirements, in which case the batch shall not be considered usable cannabis and shall not be processed into cannabis oil. Stability testing shall not be required for any cannabis oil product with an expiration date assigned by the pharmaceutical processor of six months or less from the date of packaging.

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board in regulation.

F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have

10268 concurrent responsibility for preventing diversion from the dispensing area.

10269 Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation  
10270 and production areas of the pharmaceutical processor and shall provide such information to the Board.  
10271 The Board shall direct all communications related to enforcement of requirements related to cultivation  
10272 and production of cannabis oil products by the pharmaceutical processor to such designated person.

10273 G. The Board shall require the material owners of an applicant for a pharmaceutical processor or  
10274 cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive  
10275 information to be forwarded along with his fingerprints through the Central Criminal Records Exchange  
10276 to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information  
10277 regarding the applicant's material owners. The cost of fingerprinting and the criminal history record  
10278 search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results  
10279 of the criminal history background check to the Board or its designee, which shall be a governmental  
10280 entity. A pharmaceutical processor shall maintain evidence of criminal background checks for all  
10281 employees and delivery agents of the pharmaceutical processor. Criminal background checks of  
10282 employees and delivery agents may be conducted by any service sufficient to disclose any federal and  
10283 state criminal convictions.

10284 H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ  
10285 individuals who may have less than two years of experience (i) to perform cultivation-related duties  
10286 under the supervision of an individual who has received a degree in a field related to the cultivation of  
10287 plants or a certification recognized by the Board or who has at least two years of experience cultivating  
10288 plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree  
10289 in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and  
10290 (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification  
10291 as a pharmacy technician.

10292 I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to  
10293 five cannabis dispensing facilities for the dispensing of cannabis products that have been cultivated and  
10294 produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis  
10295 dispensing facility shall be located within the same health service area as the pharmaceutical processor.

10296 J. No person who has been convicted of a felony under the laws of the Commonwealth or another  
10297 jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical  
10298 processor or cannabis dispensing facility.

10299 K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for  
10300 pre-employment drug screening and regular, ongoing, random drug screening of employees.

10301 L. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility  
10302 shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees  
10303 who can be safely and competently supervised at one time; however, no pharmacist shall supervise more  
10304 than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical  
10305 processor's dispensing area or cannabis dispensing facility.

10306 M. A pharmaceutical processor may (i) acquire industrial hemp extract, *including disolate, isolate, or*  
10307 *tetrahydrocannabinol*, processed in Virginia, and in compliance with state or federal law, from a  
10308 registered industrial hemp dealer or processor *and (ii) contract with registered industrial hemp*  
10309 *processors for the cultivation and processing of marijuana and acquire marijuana cultivated or*  
10310 *processed by a registered industrial hemp processor pursuant to such contract.* A pharmaceutical  
10311 processor may *process such marijuana or* process and formulate such extract with cannabis plant extract  
10312 into an allowable dosage of cannabis ~~oil~~ *products*. Industrial hemp extract *and marijuana* acquired by a  
10313 pharmaceutical processor is subject to the same third-party testing requirements that may apply to  
10314 cannabis plant extract *or cannabis products*. Testing shall be performed by a laboratory located in  
10315 Virginia and in compliance with state law. The industrial hemp dealer or processor shall provide such  
10316 third-party testing results to the pharmaceutical processor before industrial hemp extract *or marijuana*  
10317 may be acquired.

10318 N. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act  
10319 (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the  
10320 adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this  
10321 section, the Board of Pharmacy shall publish a notice of opportunity to comment in the Virginia  
10322 Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of  
10323 opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the  
10324 proposed regulation; and (iii) the name, address, and telephone number of the agency contact person  
10325 responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the  
10326 last date prescribed in such notice for submittals of public comment. The legislative review provisions of  
10327 subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for  
10328 regulations pursuant to this section. The Board of Pharmacy shall consider and keep on file all public  
10329 comments received for any regulation adopted pursuant to this section.



O. The Board shall register all cannabis products that meet testing, labeling, and packaging standards.

**§ 54.1-3442.8. Criminal liability; exceptions.**

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis products in accordance with the provisions of this article and Board regulations or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with generally accepted cannabis industry standards in accordance with the provisions of this article and Board regulations.

**§ 58.1-3. Secrecy of information; penalties.**

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the commissioner of accounts making a settlement of accounts filed in such estate;
6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;
7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly,

10391 shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers,  
10392 regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This  
10393 section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or  
10394 corporation is licensed to do business in that locality and divulging, upon written request, the name and  
10395 address of any person, firm or corporation transacting business under a fictitious name. Additionally,  
10396 notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon  
10397 written request stating the reason for such request, the Tax Commissioner with information obtained  
10398 from local tax returns and other information pertaining to the income, sales and property of any person,  
10399 firm or corporation licensed to do business in that locality.

10400 2. This section shall not prohibit the Department from disclosing whether a person, firm, or  
10401 corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or  
10402 whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding  
10403 any other provision of law, the Department is hereby authorized to make available the names and  
10404 certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

10405 3. This section shall not prohibit the Department from disclosing information to nongovernmental  
10406 entities with which the Department has entered into a contract to provide services that assist it in the  
10407 administration of refund processing or other services related to its administration of taxes.

10408 4. This section shall not prohibit the Department from disclosing information to taxpayers regarding  
10409 whether the taxpayer's employer or another person or entity required to withhold on behalf of such  
10410 taxpayer submitted withholding records to the Department for a specific taxable year as required  
10411 pursuant to subdivision C 1 of § 58.1-478.

10412 5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or  
10413 other similar local official who collects or administers taxes for a county, city, or town from disclosing  
10414 information to nongovernmental entities with which the locality has entered into a contract to provide  
10415 services that assist it in the administration of refund processing or other non-audit services related to its  
10416 administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar  
10417 local official who collects or administers taxes for a county, city, or town shall not disclose information  
10418 to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality  
10419 and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that  
10420 such entity agrees to abide by such obligations.

10421 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax  
10422 Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director  
10423 of finance, or other similar collector of county, city, or town taxes who, for the performance of his  
10424 official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the  
10425 Commissioner of the Department of Social Services, upon entering into a written agreement, the amount  
10426 of income, filing status, number and type of dependents, whether a federal earned income tax credit as  
10427 authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as  
10428 authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration  
10429 of public assistance or social services benefits as defined in § 63.2-100 or child support services  
10430 pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the  
10431 administration of outreach and enrollment related to the federal earned income tax credit authorized in  
10432 § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in  
10433 § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the  
10434 Commonwealth of Virginia, upon written request, the names and home addresses of those persons  
10435 identified by the designated guarantor as having delinquent loans guaranteed by the designated  
10436 guarantor; (iv) provide current address information upon request to state agencies and institutions for  
10437 their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or  
10438 district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed  
10439 in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission,  
10440 after entering into a written agreement, such tax information as may be necessary to facilitate the  
10441 collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage  
10442 Control Authority *or the Virginia Cannabis Control Authority*, upon entering into a written agreement,  
10443 such tax information as may be necessary to facilitate the collection of state and local taxes and the  
10444 administration of the alcoholic beverage *or cannabis* control laws; (vii) provide to the Director of the  
10445 Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who  
10446 owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax  
10447 information as may be necessary to facilitate the location of owners and holders of unclaimed property,  
10448 as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into a  
10449 written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees  
10450 administered by the Commission; (x) provide to the Executive Director of the Potomac and  
10451 Rappahannock Transportation Commission for his confidential use such tax information as may be  
10452 necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the

10453 Commissioner of the Department of Agriculture and Consumer Services such tax information as may be  
 10454 necessary to identify those applicants for registration as a supplier of charitable gaming supplies who  
 10455 have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing  
 10456 and Community Development for its confidential use such tax information as may be necessary to  
 10457 facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270  
 10458 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and  
 10459 address information to private collectors entering into a written agreement with the Tax Commissioner,  
 10460 for their confidential use when acting on behalf of the Commonwealth or any of its political  
 10461 subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private  
 10462 collector who has used or disseminated in an unauthorized or prohibited manner any such information  
 10463 previously provided to such collector; (xiv) provide current name and address information as to the  
 10464 identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any  
 10465 person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for  
 10466 injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or  
 10467 Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering  
 10468 into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid  
 10469 wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource  
 10470 Management, upon entering into a written agreement, such tax information as may be necessary to  
 10471 identify persons receiving workers' compensation indemnity benefits who have failed to report earnings  
 10472 as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any  
 10473 other officer of any county, city, or town performing any or all of the duties of a commissioner of the  
 10474 revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list  
 10475 of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii)  
 10476 provide to the Executive Director of the Northern Virginia Transportation Commission for his  
 10477 confidential use such tax information as may be necessary to facilitate the collection of the motor  
 10478 vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the  
 10479 name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as  
 10480 subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx)  
 10481 provide to the developer or the economic development authority of a tourism project authorized by  
 10482 § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap  
 10483 financing; (xxi) provide to the Virginia Retirement System and the Department of Human Resource  
 10484 Management, after entering into a written agreement, such tax information as may be necessary to  
 10485 facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to the Department of Medical  
 10486 Assistance Services and the Department of Social Services, upon entering into a written agreement, the  
 10487 name, address, social security number, email address, dependent information provided pursuant to  
 10488 subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted  
 10489 gross income, and any additional information voluntarily provided by the taxpayer for disclosure  
 10490 pursuant to subdivisions B 1 and 2 of § 58.1-341.1, of an individual, or spouse in the case of a married  
 10491 taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying  
 10492 persons who would like to newly enroll in medical assistance; (xxiii) provide to the Commissioner of  
 10493 the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege  
 10494 card or permit under § 46.2-328.3 or an applicant for an identification privilege card under § 46.2-345.3  
 10495 reported income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a  
 10496 dependent, on an individual income tax return filed with the Commonwealth within the preceding 12  
 10497 months; and (xxiv) provide to the Virginia Health Benefit Exchange, upon entering into a written  
 10498 agreement, for taxable years starting on January 1, 2023, or as soon thereafter as practicable, as  
 10499 determined by the Department of Taxation and the Virginia Health Benefit Exchange, the name, address,  
 10500 social security number, email address, dependent information provided pursuant to subdivision B 2 of  
 10501 § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any  
 10502 additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivision B 3 of  
 10503 § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has  
 10504 voluntarily consented to such disclosure for purposes of identifying persons who do not meet the income  
 10505 eligibility requirements for medical assistance and would like to newly enroll in a qualified health plan.  
 10506 The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax  
 10507 officials of other states and of the United States for the inspection of tax returns, the making of audits,  
 10508 and the exchange of information relating to any tax administered by the Department of Taxation. Any  
 10509 person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions  
 10510 and penalties prescribed herein as though he were a tax official.

10511 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the  
 10512 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request  
 10513 stating the reason for such request, the chief executive officer of any county or city with information

10514 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of  
10515 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the  
10516 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of  
10517 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross  
10518 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a  
10519 profession or occupation administered by the Department of Professional and Occupational Regulation,  
10520 only after the Department of Professional and Occupational Regulation exhausts all other means of  
10521 obtaining such information; and (iii) provide to any representative of a condominium unit owners'  
10522 association, property owners' association or real estate cooperative association, or to the owner of  
10523 property governed by any such association, the names and addresses of parties having a security interest  
10524 in real property governed by any such association; however, such information shall be released only  
10525 upon written request stating the reason for such request, which reason shall be limited to proposing or  
10526 opposing changes to the governing documents of the association, and any information received by any  
10527 person under this subsection shall be used only for the reason stated in the written request. The treasurer  
10528 or other local assessing official may require any person requesting information pursuant to clause (iii) of  
10529 this subsection to pay the reasonable cost of providing such information. Any person to whom tax  
10530 information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties  
10531 prescribed herein as though he were a tax official.

10532 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the  
10533 treasurer or other collector of taxes for a county, city or town is authorized to provide information  
10534 relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course  
10535 of performing his duties to the commissioner of the revenue or other assessing official for such  
10536 jurisdiction for use by such commissioner or other official in performing assessments.

10537 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a  
10538 motor vehicle local license decal the year, make, and model and any other legal identification  
10539 information about the particular motor vehicle for which that local license decal is assigned.

10540 E. Notwithstanding any other provisions of law, state agencies and any other administrative or  
10541 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon  
10542 written request, the name, address, and social security number of a taxpayer, necessary for the  
10543 performance of the Commissioner's official duties regarding the administration and enforcement of laws  
10544 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax  
10545 Commissioner or his agent that may be deemed taxpayer information shall not relieve the Commissioner  
10546 of the obligations under this section.

10547 F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any  
10548 confidential tax document that he knows or has reason to know is a confidential tax document. A  
10549 confidential tax document is any correspondence, document, or tax return that is prohibited from being  
10550 divulged by subsection A, B, C, or D and includes any document containing information on the  
10551 transactions, property, income, or business of any person, firm, or corporation that is required to be filed  
10552 with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document  
10553 has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person  
10554 violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

10555 **§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

10556 A. The Department of State Police, the Department of Wildlife Resources, the Virginia Alcoholic  
10557 Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Virginia Lottery, the Marine  
10558 Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the  
10559 Department of Forestry, any sheriff, any regional jail board or authority, and any local police department  
10560 may allow any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire  
10561 department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow  
10562 any law-enforcement officer, any institution of higher learning named in § 23.1-1100 may allow any  
10563 campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1,  
10564 retiring on or after July 1, 1991, and the Department of Corrections may allow any employee with  
10565 internal investigations authority designated by the Department of Corrections pursuant to subdivision 11  
10566 of § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as  
10567 a result of a service-incurred disability or who is receiving long-term disability payments for a  
10568 service-incurred disability with no expectation of returning to the employment where he incurred the  
10569 disability to purchase the service handgun issued or previously issued to him by the agency or institution  
10570 at a price of \$1. If the previously issued weapon is no longer available, a weapon of like kind may be  
10571 substituted for that weapon. This privilege shall also extend to any former Superintendent of the  
10572 Department of State Police who leaves service after a minimum of five years. This privilege shall also  
10573 extend to any person listed in this subsection who is eligible for retirement with at least 10 years of  
10574 service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this  
10575 section to accept a position covered by the Virginia Retirement System. Other weapons issued by the

agencies listed in this subsection for personal duty use of an officer may, with approval of the agency head, be sold to the officer subject to the qualifications of this section at a fair market price determined as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular hardware or sporting goods store by a private citizen without restrictions other than the instant background check.

B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who retires with five or more years of service, but less than 10, to purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least 10 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

D. The governing board of any institution of higher learning education named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a state agency listed in subsection A, when the agency allows purchases of service handguns, and who retires after 10 years of state service, even if a portion of his service was with another state agency, may purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to him.

G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with more than 10 years of service to purchase the service handgun issued to him by the agency at a price that is equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer currently employed by the agency to purchase his service handgun, with the approval of the chief law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the agency has purchased new service handguns for its officers, and the handgun subject to the sale is no longer used by the agency or officer in the course of duty.

#### **§ 65.2-107. Post-traumatic stress disorder incurred by law-enforcement officers and firefighters.**

A. As used in this section:

"Firefighter" means any (i) salaried firefighter, including special forest wardens designated pursuant to § 10.1-1135, emergency medical services personnel, and local or state fire scene investigator and (ii) volunteer firefighter and volunteer emergency medical services personnel.

"In the line of duty" means any action that a law-enforcement officer or firefighter was obligated or authorized to perform by rule, regulation, written condition of employment service, or law.

"Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System; (ii) member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City of Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer; (ix) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special agent of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1; (x) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xi) officer of the police force established and maintained by the Norfolk Airport Authority; (xii) sworn officer of the police force established and maintained by the Virginia Port Authority; or (xiii) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education.

"Mental health professional" means a board-certified psychiatrist or a psychologist licensed pursuant to Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

"Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic

10637 stress disorder as specified in the most recent edition of the American Psychiatric Association's  
10638 Diagnostic and Statistical Manual of Mental Disorders.

10639 "Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1,  
10640 2020:

- 10641 1. Resulting in serious bodily injury or death to any person or persons;
- 10642 2. Involving a minor who has been injured, killed, abused, or exploited;
- 10643 3. Involving an immediate threat to life of the claimant or another individual;
- 10644 4. Involving mass casualties; or
- 10645 5. Responding to crime scenes for investigation.

10646 B. Post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is compensable  
10647 under this title if:

10648 1. A mental health professional examines a law-enforcement officer or firefighter and diagnoses the  
10649 law-enforcement officer or firefighter as suffering from post-traumatic stress disorder as a result of the  
10650 individual's undergoing a qualifying event;

10651 2. The post-traumatic stress disorder resulted from the law-enforcement officer's or firefighter's acting  
10652 in the line of duty and, in the case of a firefighter, such firefighter complied with federal Occupational  
10653 Safety and Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29 C.F.R. 1910.156;

10654 3. The law-enforcement officer's or firefighter's undergoing a qualifying event was a substantial  
10655 factor in causing his post-traumatic stress disorder;

10656 4. Such qualifying event, and not another event or source of stress, was the primary cause of the  
10657 post-traumatic stress disorder; and

10658 5. The post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job  
10659 transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-enforcement  
10660 officer or firefighter.

10661 Any such mental health professional shall comply with any workers' compensation guidelines for  
10662 approved medical providers, including guidelines on release of past or contemporaneous medical records.

10663 C. Notwithstanding any provision of this title, workers' compensation benefits for any  
10664 law-enforcement officer or firefighter payable pursuant to this section shall (i) include any combination  
10665 of medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary  
10666 total incapacity benefits under § 65.2-500, and temporary partial incapacity benefits under § 65.2-502  
10667 and (ii) be provided for a maximum of 52 weeks from the date of diagnosis. No medical treatment,  
10668 temporary total incapacity benefits under § 65.2-500, or temporary partial incapacity benefits under §  
10669 65.2-502 shall be awarded beyond four years from the date of the qualifying event that formed the basis  
10670 for the claim for benefits under this section. The weekly benefits received by a law-enforcement officer  
10671 or a firefighter pursuant to § 65.2-500 or 65.2-502, when combined with other benefits, including  
10672 contributory and noncontributory retirement benefits, Social Security benefits, and benefits under a  
10673 long-term or short-term disability plan, but not including payments for medical care, shall not exceed the  
10674 average weekly wage paid to such law-enforcement officer or firefighter.

10675 D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall (i)  
10676 make peer support available to such law-enforcement officers and firefighters and (ii) refer a  
10677 law-enforcement officer or firefighter seeking mental health care services to a mental health professional.

10678 E. Each fire basic training program conducted or administered by the Department of Fire Programs  
10679 or a municipal fire department in the Commonwealth shall provide, in consultation with the Department  
10680 of Behavioral Health and Developmental Services, resilience and self-care technique training for any  
10681 individual who begins basic training as a firefighter on or after July 1, 2021.

10682 **§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or**  
10683 **heart disease, cancer.**

10684 A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of  
10685 Emergency Management hazardous materials officers or (ii) any health condition or impairment of such  
10686 firefighters or Department of Emergency Management hazardous materials officers resulting in total or  
10687 partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are  
10688 covered by this title unless such presumption is overcome by a preponderance of competent evidence to  
10689 the contrary.

10690 B. Hypertension or heart disease causing the death of, or any health condition or impairment  
10691 resulting in total or partial disability of any of the following persons who have completed five years of  
10692 service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers'  
10693 Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy  
10694 sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or  
10695 deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation  
10696 police officers who are full-time sworn members of the enforcement division of the Department of  
10697 Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage  
10698 Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 *or special*

agents of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education, and (xv) salaried or volunteer emergency medical services personnel, as defined in § 32.1-111.1, when such emergency medical services personnel is operating in a locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions under this subsection, shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles having completed five years of service shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For colon, brain, or testicular cancer, the presumption shall not apply for any individual who was diagnosed with such a condition before July 1, 2020.

D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to invoke them have, if requested by the private employer, appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the private employer, appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such examinations.

E. Persons making claims under this title who rely on such presumptions shall, upon the request of private employers, appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

F. Whenever a claim for death benefits is made under this title and the presumptions of this section are invoked, any person entitled to make such claim shall, upon the request of the appropriate private employer, appointing authority or governing body that had employed the deceased, submit the body of the deceased to a postmortem examination as may be directed by the Commission. A qualified physician, selected and compensated by the person entitled to make the claim, may, at the election of such claimant, be present at such postmortem examination.

G. Volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

#### **§ 65.2-402.1. Presumption as to death or disability from infectious disease.**

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, or salaried or volunteer emergency medical services personnel; (ii) member of the State Police Officers' Retirement System; (iii) member of county, city, or town police departments; (iv) sheriff or deputy sheriff; (v) Department of Emergency Management hazardous materials officer; (vi) city sergeant or deputy city sergeant of the City of Richmond; (vii) Virginia Marine Police officer; (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (ix) Capitol Police officer; (x) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or special agent of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6 (§ 4.1-600 et seq.) of Title 4.1; (xi) for such period that the Metropolitan Washington Airports Authority



10760 voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the  
10761 police force established and maintained by the Metropolitan Washington Airports Authority; (xii) officer  
10762 of the police force established and maintained by the Norfolk Airport Authority; (xiii) conservation  
10763 officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (xiv)  
10764 sworn officer of the police force established and maintained by the Virginia Port Authority; (xv) campus  
10765 police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by  
10766 any public institution of higher education; (xvi) correctional officer as defined in § 53.1-1; or (xvii)  
10767 full-time sworn member of the enforcement division of the Department of Motor Vehicles who has a  
10768 documented occupational exposure to blood or body fluids shall be presumed to be occupational  
10769 diseases, suffered in the line of government duty, that are covered by this title unless such presumption  
10770 is overcome by a preponderance of competent evidence to the contrary. For purposes of this subsection,  
10771 an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the  
10772 person covered under this subsection gave notice, written or otherwise, of the occupational exposure to  
10773 his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed  
10774 "documented" without regard to whether the person gave notice, written or otherwise, of the  
10775 occupational exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time  
10776 sworn member of the enforcement division of the Department of Motor Vehicles, the presumption shall  
10777 not apply if such individual was diagnosed with hepatitis, meningococcal meningitis, or HIV before July  
10778 1, 2020.

10779 B. 1. COVID-19 causing the death of, or any health condition or impairment resulting in total or  
10780 partial disability of, any health care provider, as defined in § 8.01-581.1, who as part of the provider's  
10781 employment is directly involved in diagnosing or treating persons known or suspected to have  
10782 COVID-19, shall be presumed to be an occupational disease that is covered by this title unless such  
10783 presumptions are overcome by a preponderance of competent evidence to the contrary. For the purposes  
10784 of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19 and  
10785 signs and symptoms of COVID-19 that require medical treatment, as described in subdivision F 2.

10786 2. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial  
10787 disability of, any (i) firefighter, as defined in § 65.2-102; (ii) law-enforcement officer, as defined in  
10788 § 9.1-101; (iii) correctional officer, as defined in § 53.1-1; or (iv) regional jail officer shall be presumed  
10789 to be an occupational disease, suffered in the line of duty, as applicable, that is covered by this title  
10790 unless such presumption is overcome by a preponderance of competent evidence to the contrary. For the  
10791 purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for  
10792 COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that  
10793 require medical treatment.

10794 C. As used in this section:

10795 "Blood or body fluids" means blood and body fluids containing visible blood and other body fluids  
10796 to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as  
10797 established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis,  
10798 meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory,  
10799 salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which  
10800 infectious airborne or blood-borne organisms can be transmitted between persons.

10801 "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other  
10802 strain of hepatitis generally recognized by the medical community.

10803 "HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or  
10804 type II, causing immunodeficiency syndrome.

10805 "Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV,  
10806 means an exposure that occurs during the performance of job duties that places a covered employee at  
10807 risk of infection.

10808 D. Persons covered under this section who test positive for exposure to the enumerated occupational  
10809 diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to  
10810 make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical  
10811 examination to measure the progress of the condition, if any, and any other medical treatment,  
10812 prophylactic or otherwise.

10813 E. 1. Whenever any standard, medically-recognized vaccine or other form of immunization or  
10814 prophylaxis exists for the prevention of a communicable disease for which a presumption is established  
10815 under this section, if medically indicated by the given circumstances pursuant to immunization policies  
10816 established by the Advisory Committee on Immunization Practices of the United States Public Health  
10817 Service, a person subject to the provisions of this section may be required by such person's employer to  
10818 undergo the immunization or prophylaxis unless the person's physician determines in writing that the  
10819 immunization or prophylaxis would pose a significant risk to the person's health. Absent such written  
10820 declaration, failure or refusal by a person subject to the provisions of this section to undergo such  
10821 immunization or prophylaxis shall disqualify the person from any presumption established by this



section.

2. The presumptions described in subdivision B 1 shall not apply to any person offered by such person's employer a vaccine for the prevention of COVID-19 with an Emergency Use Authorization issued by the U.S. Food and Drug Administration, unless the person is immunized or the person's physician determines in writing that the immunization would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization shall disqualify the person from the presumptions described in subdivision B 1.

F. 1. The presumptions described in subsection A shall only apply if persons entitled to invoke them have, if requested by the appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions; (ii) were performed by physicians whose qualifications are as prescribed by the appointing authority or governing body employing such persons; (iii) included such appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may have prescribed; and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or HIV at the time of such examinations. The presumptions described in subsection A shall not be effective until six months following such examinations, unless such persons entitled to invoke such presumption can demonstrate a documented exposure during the six-month period.

2. The presumptions described in subdivision B 1 shall apply to any person entitled to invoke them for any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12, 2020, and prior to December 31, 2021, and;

a. Prior to July 1, 2020, the claimant received a positive diagnosis of COVID-19 from a licensed physician, nurse practitioner, or physician assistant after either (i) a presumptive positive test or a laboratory-confirmed test for COVID-19 and presenting with signs and symptoms of COVID-19 that required medical treatment, or (ii) presenting with signs and symptoms of COVID-19 that required medical treatment absent a presumptive positive test or a laboratory-confirmed test for COVID-19; or

b. On or after July 1, 2020, and prior to December 31, 2021, the claimant received a positive diagnosis of COVID-19 from a licensed physician, nurse practitioner, or physician assistant after a presumptive positive test or a laboratory-confirmed test for COVID-19 and presented with signs and symptoms of COVID-19 that required medical treatment.

3. The presumptions described in subdivision B 2 shall apply to any person entitled to invoke them for any death or disability occurring on or after July 1, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after July 1, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment.

G. Persons making claims under this title who rely on such presumption shall, upon the request of appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such appointing authorities or governing bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

2. That Article 30 (§§ 2.2-2499.5 through 2.2-2499.8) of Chapter 24 of Title 2.2, Chapter 15 (§§ 4.1-1500 through 4.1-1503) of Title 4.1, and §§ 18.2-248.1 and 18.2-251.1 of the Code of Virginia are repealed.

3. That, except as provided in the fourth, fifth, and sixth enactments of this act, the provisions of this act shall become effective on January 1, 2024.

4. That the provisions of this act amending and reenacting §§ 4.1-606, 4.1-614, 4.1-1100, and 54.1-3442.6, amending by adding sections numbered 4.1-629 and 22.1-141.3, and repealing Article 30 (§§ 2.2-2499.5 through 2.2-2499.8) of Chapter 24 of Title 2.2 and Chapter 15 (§§ 4.1-1500 through 4.1-1503) of Title 4.1 of the Code of Virginia shall become effective in due course.

5. That, subject to the provisions of the sixth enactment of this act, the provisions of (i) §§ 4.1-630 and 4.1-631 of the Code of Virginia, as created by this act, and (ii) Chapter 7 (§ 4.1-700 et seq.), Chapter 8 (§ 4.1-800 et seq.), Chapter 9 (§ 4.1-900 et seq.), Chapter 10 (§ 4.1-1000 et seq.), Chapter 12 (§ 4.1-1200 et seq.), and Chapter 14 (§ 4.1-1400 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, shall become effective on July 1, 2023.

6. That the Virginia Cannabis Control Authority (the Authority) may start accepting applications for licenses pursuant to the provisions of § 4.1-1000 of the Code of Virginia, as created by this act, on July 1, 2023, and shall, from July 1, 2023, until January 1, 2024, give preference to qualified social equity applicants, as determined by regulations promulgated by the Board of Directors of

10883 the Authority in accordance with this act. The Authority may issue any license authorized by this  
10884 act to any applicant that meets the requirements for licensure established by this act.  
10885 Notwithstanding the third enactment of this act, any applicant issued a license by the Authority  
10886 may operate in accordance with the provisions of this act prior to January 1, 2024; however, prior  
10887 to January 1, 2024, (i) no retail marijuana store licensee may sell retail marijuana, retail  
10888 marijuana products, immature marijuana plants, or marijuana seeds and (ii) no marijuana  
10889 cultivation facility licensee may sell immature marijuana plants or marijuana seeds to a consumer.  
10890 Notwithstanding any other provision of law, on or after July 1, 2023, and prior to January 1,  
10891 2024, no marijuana cultivation facility licensee, marijuana manufacturing facility licensee,  
10892 marijuana wholesaler licensee, retail marijuana store licensee, or marijuana testing facility licensee  
10893 or agent or employee thereof shall be subject to arrest or prosecution for a violation of Chapter 11  
10894 (§ 4.1-1100 et seq.) of Title 4.1 of the Code of Virginia or § 18.2-248, 18.2-248.01, 18.2-255,  
10895 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-265.3, or 18.2-308.4 of the Code of Virginia, as  
10896 amended by this act, or § 18.2-248.1 of the Code of Virginia, as repealed by this act, involving  
10897 marijuana if such violation is related to acts committed within the scope of the licensure or  
10898 employment and in accordance with the provisions of the Cannabis Control Act (§ 4.1-600 et seq.  
10899 of the Code of Virginia). From July 1, 2023, to July 1, 2028, the Authority shall (a) reserve a  
10900 license slot for a qualified social equity applicant for every license that was initially granted to a  
10901 social equity applicant and was subsequently surrendered and (b) reserve license slots for all  
10902 pharmaceutical processors that have been issued a permit by the Board of Pharmacy pursuant to  
10903 Article 4.2 (§ 54.1-3442.5 et seq. of the Code of Virginia) of the Drug Control Act and issue a  
10904 cultivation, manufacturing, wholesale, and retail license to any such pharmaceutical processor that  
10905 meets the applicable licensing requirements. The Authority shall ensure that geographic dispersion  
10906 is achieved regarding the issuance of retail marijuana store licenses and shall reassess the issuance  
10907 of retail marijuana store licenses at the following intervals to ensure that geographic dispersion is  
10908 maintained: after issuance of 100 licenses, 200 licenses, and 300 licenses. The provisions of this  
10909 enactment shall become effective in due course.

10910 7. That the provisions of this act may result in a net increase in periods of imprisonment or  
10911 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the  
10912 necessary appropriation cannot be determined for periods of imprisonment in state adult  
10913 correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I,  
10914 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of  
10915 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary  
10916 appropriation cannot be determined for periods of commitment to the custody of the Department  
10917 of Juvenile Justice.