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## SENATE BILL NO. 391

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2499.8, 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, 3.2-4113, 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 through 4.1-354, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-1100, 4.1-1101, 4.1-1105.1, 4.1-1107, 4.1-1108, 4.1-1121, 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, 19.2-392.2:1, as it shall become effective, 19.2-392.2:2, as it shall become effective, 19.2-392.3, 19.2-392.6, as it shall become effective, 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, 54.1-3401, 54.1-3408.3, 54.1-3442.8, 54.1-3446, 58.1-3, 59.1-148.3, 65.2-107, 65.2-402, and 65.2-402.1 of the Code of Virginia and the tenth enactment of Chapter 550 and the tenth enactment of Chapter 551 of the Acts of Assembly of 2021, Special Session I; to amend the Code of Virginia 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 and 4.1-630, 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 4.1-1407, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding sections numbered 19.2-392.2:3 and 19.2-392.2:4; and to repeal Article 5 (§§ 3.2-5145.1 through 3.2-5145.5) of Chapter 51 of Title 3.2 and §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia and the sixteenth enactment of Chapter 550 and the sixteenth enactment of Chapter 551 of the Acts of Assembly of 2021, Special Session I, relating to cannabis control; retail market; penalties.

Patron—Ebbin

Referred to Committee on Rehabilitation and Social Services

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

1. That §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2499.8, 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, 3.2-4113, 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 through 4.1-354, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-1100, 4.1-1101, 4.1-1105.1, 4.1-1107, 4.1-1108, 4.1-1121, 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,

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SB391

59 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,  
60 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,  
61 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,  
62 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  
63 it shall become effective, 19.2-392.02, 19.2-392.2:1, as it shall become effective, 19.2-392.2:2, as it  
64 shall become effective, 19.3-392.3, 19.2-392.6, as it shall become effective, 22.1-206, 22.1-277.08,  
65 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,  
66 54.1-3401, 54.1-3408.3, 54.1-3442.8, 54.1-3446, 58.1-3, 59.1-148.3, 65.2-107, 65.2-402, and 65.2-402.1  
67 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by  
68 adding in Chapter 51 of Title 3.2 an article numbered 6, consisting of sections numbered  
69 3.2-5145.6 through 3.2-5145.9, by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629 and  
70 4.1-630, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered  
71 4.1-700 through 4.1-1009, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106,  
72 4.1-1111, and 4.1-1113 through 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting  
73 of sections numbered 4.1-1200 through 4.1-1207, by adding in Chapter 13 of Title 4.1 sections  
74 numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1312, by adding in Title 4.1 a chapter  
75 numbered 14, consisting of sections numbered 4.1-1400 through 4.1-1407, by adding in Article 2 of  
76 Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding sections numbered 19.2-392.2:3  
77 and 19.2-392.2:4 as follows:

78 **§ 2.2-221. Position established; agencies for which responsible; additional powers and duties.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

need.

13. Work with the appropriate state agencies to ensure that regional working groups are meeting 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 (§ 4.1-100 et seq.) or the *Cannabis Control Act* (§ 4.1-600 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.

**§ 2.2-2499.8. Cannabis Equity Reinvestment Fund.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Cannabis Equity Reinvestment Fund, referred to in this section as "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:

1. Supporting persons, families, and communities historically and disproportionately targeted and affected by drug enforcement;

2. Providing scholarship opportunities and educational and vocational resources for historically marginalized persons, including persons in foster care, who have been adversely impacted by substance use individually, in their families, or in their communities;

3. Awarding grants to support workforce development, mentoring programs, job training and placement services, apprenticeships, and reentry services that serve persons and communities historically and disproportionately targeted by drug enforcement.

4. Contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-163.01; and

5. Contributing to the Virginia Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501; and

6. *Funding the staffing and administrative costs of the Cannabis Equity Reinvestment Board. Expenditures for staffing and administration shall be limited to those that are reasonable and necessary for carrying out the powers and duties of the Cannabis Equity Reinvestment Board.*

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 Director of Diversity, Equity, and Inclusion.

**§ 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.

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

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

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

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

For purposes of this subdivision:

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

"FDA" means the Federal Food and Drug Administration.

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

"NCI" means the National Cancer Institute.

"NIH" means the National Institutes of Health.

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

"Patient cost" means the cost of a medically necessary health care service that is incurred as a result of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the



treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research associated with the clinical trial, or (iii) the cost of the investigational drug or device.

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

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

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

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

Coverage under this subdivision shall apply only if:

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

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

17. Include coverage for biologically based mental illness.

For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous 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:

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

"Standard reference compendia" means:

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

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

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

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

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

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

provide coverage under the plan.

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

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

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

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

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

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

K. No contract between a provider and any plan established in accordance with this section shall include provisions that require a health care provider or health care provider group to deny covered 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.

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

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

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

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

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

701 R. The Department of Human Resource Management shall report annually, by November 30 of each  
702 year, on cost and utilization information for each of the mandated benefits set forth in subsection B,  
703 including any mandated benefit made applicable, pursuant to subdivision B 22, to any plan established  
704 pursuant to this section. The report shall be in the same detail and form as required of reports submitted  
705 pursuant to § 38.2-3419.1, with such additional information as is required to determine the financial  
706 impact, including the costs and benefits, of the particular mandated benefit.

707 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

708 The provisions of this chapter shall not apply to:

- 709 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
- 710 2. Officers and employees of the Supreme Court and the Court of Appeals;
- 711 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either  
712 house thereof is required or not;
- 713 4. Officers elected by popular vote or by the General Assembly or either house thereof;
- 714 5. Members of boards and commissions however selected;
- 715 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of  
716 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and  
717 notaries public;
- 718 7. Officers and employees of the General Assembly and persons employed to conduct temporary or  
719 special inquiries, investigations, or examinations on its behalf;
- 720 8. The presidents and teaching and research staffs of state educational institutions;
- 721 9. Commissioned officers and enlisted personnel of the National Guard;
- 722 10. Student employees at institutions of higher education and patient or inmate help in other state  
723 institutions;
- 724 11. Upon general or special authorization of the Governor, laborers, temporary employees, and  
725 employees compensated on an hourly or daily basis;
- 726 12. County, city, town, and district officers, deputies, assistants, and employees;
- 727 13. The employees of the Virginia Workers' Compensation Commission;
- 728 14. The officers and employees of the Virginia Retirement System;
- 729 15. Employees whose positions are identified by the State Council of Higher Education and the  
730 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the  
731 Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of  
732 Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The  
733 Library of Virginia, and approved by the Director of the Department of Human Resource Management  
734 as requiring specialized and professional training;
- 735 16. Employees of the Virginia Lottery;

17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing and service industries who have a human resources classification of industry worker;

18. Employees of the Virginia Commonwealth University Health System Authority;

19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy or administration. An employee serving in either one of these two positions shall be deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;

21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

22. Officers and employees of the Virginia Port Authority;

23. Employees of the Virginia College Savings Plan;

24. Directors of state facilities operated by the Department of Behavioral Health and Developmental Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees;

26. Employees of the Virginia Indigent Defense Commission;

27. Any chief of a campus police department that has been designated by the governing body of a public institution of higher education as exempt, pursuant to § 23.1-809;

28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage Control Authority; and

29. *The Chief Executive Officer, agents, officers, and employees of the Virginia Cannabis Control 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

797 six weeks after the filing deadline.

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

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

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

820 G. An officer or employee of state government who is required to declare his interest pursuant to  
821 subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a  
822 party to the transaction is a client of his firm, (iii) that he does not personally represent or provide  
823 services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in  
824 the public interest. The officer or employee shall either make his declaration orally to be recorded in  
825 written minutes for his agency or file a signed written declaration with the clerk or administrative head  
826 of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make  
827 available for public inspection such declaration for a period of five years from the date of recording or  
828 receipt. If reasonable time is not available to comply with the provisions of this subsection prior to  
829 participation in the transaction, the officer or employee shall prepare and file the required declaration by  
830 the end of the next business day.

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

834 **§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative**  
835 **investigations.**

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

840 1. Information relating to investigations of applicants for licenses and permits, and of all licensees  
841 and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, *the Virginia*  
842 *Cannabis Control Authority*, the Virginia Lottery, the Virginia Racing Commission, the Department of  
843 Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1  
844 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the  
845 Department of Criminal Justice Services.

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

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

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

857 5. Investigative notes and other correspondence and information furnished in confidence with respect  
858 to an investigation or conciliation process involving an alleged unlawful discriminatory practice under

the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this subdivision shall prevent the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

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

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

920 who was the subject of the complaint may be released only with the consent of the subject person. No  
921 personally identifiable information regarding a current or former student shall be released except as  
922 permitted by state or federal law.

923 12. Information provided in confidence and related to an investigation by the Attorney General under  
924 Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§  
925 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1  
926 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been  
927 inactive for more than six months shall, upon request, be disclosed provided such disclosure is not  
928 otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons  
929 supplying information, witnesses, or other individuals involved in the investigation.

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

932 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

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

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

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

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

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

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

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

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

973 9. Discussion or consideration by governing boards of public institutions of higher education of  
974 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or  
975 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,  
976 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and  
977 accepted by a public institution of higher education in the Commonwealth shall be subject to public  
978 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,

979 (i) "foreign government" means any government other than the United States government or the  
980 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity  
981 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of



the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

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

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

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

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

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

1043 of such investment.

1044 21. Those portions of meetings in which individual child death cases are discussed by the State Child  
1045 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which  
1046 individual child death cases are discussed by a regional or local child fatality review team established  
1047 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by  
1048 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in  
1049 which individual adult death cases are discussed by the state Adult Fatality Review Team established  
1050 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed  
1051 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of  
1052 meetings in which individual death cases are discussed by overdose fatality review teams established  
1053 pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are  
1054 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of  
1055 meetings in which individual death cases of persons with developmental disabilities are discussed by the  
1056 Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

1057 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern  
1058 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any  
1059 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern  
1060 Virginia Medical School, as the case may be, have been delegated, in which there is discussed  
1061 proprietary, business-related information pertaining to the operations of the University of Virginia  
1062 Medical Center or Eastern Virginia Medical School, as the case may be, including business development  
1063 or marketing strategies and activities with existing or future joint venturers, partners, or other parties  
1064 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case  
1065 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such  
1066 information would adversely affect the competitive position of the Medical Center or Eastern Virginia  
1067 Medical School, as the case may be.

1068 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority  
1069 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or  
1070 disposition by the Authority of real property, equipment, or technology software or hardware and related  
1071 goods or services, where disclosure would adversely affect the bargaining position or negotiating  
1072 strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the  
1073 Authority; grants and contracts for services or work to be performed by the Authority; marketing or  
1074 operational strategies plans of the Authority where disclosure of such strategies or plans would adversely  
1075 affect the competitive position of the Authority; and members of the Authority's medical and teaching  
1076 staffs and qualifications for appointments thereto.

1077 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within  
1078 the Department of Health Professions to the extent such discussions identify any practitioner who may  
1079 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1080 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein  
1081 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees  
1082 by or on behalf of individuals who have requested information about, applied for, or entered into  
1083 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.)  
1084 of Title 23.1 is discussed.

1085 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee  
1086 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in  
1087 § 56-484.12, related to the provision of wireless E-911 service.

1088 27. Those portions of disciplinary proceedings by any regulatory board within the Department of  
1089 Professional and Occupational Regulation, Department of Health Professions, or the Board of  
1090 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach  
1091 a decision or meetings of health regulatory boards or conference committees of such boards to consider  
1092 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as  
1093 requested by either of the parties.

1094 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of  
1095 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are  
1096 defined in § 33.2-1800, or any independent review panel appointed to review information and advise  
1097 the responsible public entity concerning such records.

1098 29. Discussion of the award of a public contract involving the expenditure of public funds, including  
1099 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where  
1100 discussion in an open session would adversely affect the bargaining position or negotiating strategy of  
1101 the public body.

1102 30. Discussion or consideration of grant or loan application information subject to the exclusion in  
1103 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

1104 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

1166 (§ 2.2-2351 et seq.) of Chapter 22.

1167 48. Discussion or development of grant proposals by a regional council established pursuant to  
1168 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth  
1169 and Opportunity Board.

1170 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response  
1171 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses  
1172 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)  
1173 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to  
1174 §§ 15.2-1627.5 and 63.2-1605.

1175 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership  
1176 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the  
1177 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to  
1178 subdivision 33 of § 2.2-3705.7.

1179 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic  
1180 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and  
1181 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of  
1182 § 60.2-114.

1183 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority  
1184 (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority,  
1185 of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

1186 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the  
1187 denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or  
1188 revocation of any license or permit related to casino gaming, and discussion, consideration, or review of  
1189 matters related to investigations excluded from mandatory disclosure under subdivision 1 of  
1190 § 2.2-3705.3.

1191 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007  
1192 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to  
1193 sports betting and any discussion, consideration, or review of matters related to investigations excluded  
1194 from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

1195 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a  
1196 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open  
1197 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or  
1198 motion that shall have its substance reasonably identified in the open meeting.

1199 C. Public officers improperly selected due to the failure of the public body to comply with the other  
1200 provisions of this section shall be de facto officers and, as such, their official actions are valid until they  
1201 obtain notice of the legal defect in their election.

1202 D. Nothing in this section shall be construed to prevent the holding of conferences between two or  
1203 more public bodies, or their representatives, but these conferences shall be subject to the same  
1204 procedures for holding closed meetings as are applicable to any other public body.

1205 E. This section shall not be construed to (i) require the disclosure of any contract between the  
1206 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1  
1207 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant  
1208 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body  
1209 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry  
1210 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of  
1211 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance  
1212 of such bonds.

1213 **§ 2.2-3802. Systems to which chapter inapplicable.**

1214 The provisions of this chapter shall not apply to personal information systems:

1215 1. Maintained by any court of the Commonwealth;

1216 2. Which may exist in publications of general circulation;

1217 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or  
1218 in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police  
1219 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to  
1220 be posted on the Internet pursuant to § 9.1-913;

1221 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through  
1222 16.1-225;

1223 5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth  
1224 to engage in the practice of any profession, in which case the names and addresses of persons applying  
1225 for or possessing the license may be disseminated upon written request to a person engaged in the  
1226 profession or business of offering professional educational materials or courses for the sole purpose of  
1227 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 Virginia Cannabis Control Authority*, the Virginia Workers' Compensation Commission, the State Corporation Commission, the Virginia Employment Commission, the Department of Motor Vehicles 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 the Motor Vehicle Dealer Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a health regulatory board convened pursuant to § 54.1-2400, including any panel having members of a relevant advisory board to the Board of Medicine. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 by the Virginia Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall meet the minimum qualifications set forth in subsection A. Agency employees who are not licensed to practice law in the Commonwealth, and are presiding as hearing officers in proceedings pursuant to clause (ii) shall participate in periodic training courses.

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

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

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

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

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

1. Licensing of businesses that manufacture, sell, store, recommend for use, mix, or apply pesticides;
2. Registration of pesticides for manufacture, distribution, sale, storage, or use;
3. Requiring reporting and record keeping related to licensing and registration;
4. Establishing training, testing and standards for certification of commercial applicators, registered technicians, and private applicators;
5. Revoking, suspending or denying licenses (business), registration (products), and certification or certificate (applicators or technicians);

6. Requiring licensees and certificate holders to inform the public when using pesticides in and around structures;

7. Establishing a fee structure for licensure, registration and certification to defray the costs of implementing this chapter;

8. Classifying or subclassifying certification or certificates to be issued under this chapter. Such classifications may include agricultural, forest, ornamental, aquatic, right-of-way or industrial, institutional, structural or health-related pest control;

9. Restricting or prohibiting the sale or use and disposal of any pesticide or pesticide container or residuals that: (i) undesirably persists in the environment or increases due to biological amplification or unreasonable adverse effects on the environment; or (ii) because of toxicity or inordinate hazard to man, animal, bird or plant may be contrary to the public interest; and

10. *Establishing criteria for or a list of pesticides that may be used on cannabis cultivated in compliance with Chapter 41.1 (§ 3.2-4112 et seq.) or the Cannabis Control Act (§ 4.1-600 et seq.); and*

11. Other regulations necessary or convenient to carry out the purposes of this chapter.

**§ 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 *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 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.

**§ 3.2-4116. 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 *and all other state and federal laws regulating the growing, dealing in, or processing of industrial hemp*;

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.

*Article 6.*

*Edible Marijuana Products and Edible Hemp Products.*

**§ 3.2-5145.6. Definitions.**

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

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

1412 "Edible marijuana product" means the same as that term is defined in § 4.1-600.

1413 "Food" means any article that is intended for human consumption and introduction into commerce,  
1414 whether the article is simple, mixed, or compound, and all substances or ingredients used in the  
1415 preparation thereof. "Food" does not mean "drug" as defined in § 54.1-3401.

1416 § 3.2-5145.7. **Edible marijuana products and edible hemp products; approved food; adulterated**  
1417 **food.**

1418 A. An edible marijuana product or edible hemp product is a food and is subject to the requirements  
1419 of this chapter and regulations adopted pursuant to this chapter.

1420 B. An edible marijuana product or edible hemp product that does not comply with the provisions of  
1421 § 4.1-1403 or health and safety regulations adopted pursuant thereto shall be deemed to be adulterated.

1422 § 3.2-5145.8. **Manufacturer of edible marijuana products or edible hemp products.**

1423 A manufacturer of an edible marijuana product or edible hemp product shall be an approved source  
1424 if the manufacturer operates:

1425 1. Under inspection by the Commissioner in the location in which such manufacturing occurs; and

1426 2. In compliance with the laws, regulations, or criteria that pertain to the manufacture of edible  
1427 marijuana products or edible hemp products in the location in which such manufacturing occurs.

1428 § 3.2-5145.9. **Regulations.**

1429 A. The Board is authorized to adopt regulations for the efficient enforcement of this article.

1430 B. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act  
1431 (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the  
1432 adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this  
1433 section, the Board shall publish a notice of opportunity to comment in the Virginia Register of  
1434 Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to  
1435 comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed  
1436 regulation; and (iii) the name, address, and telephone number of the agency contact person responsible  
1437 for receiving public comments. Such notice shall be made at least 60 days in advance of the last date  
1438 prescribed in such notice for submittals of public comment. The legislative review provisions of  
1439 subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for  
1440 regulations adopted pursuant to this section. The Board shall consider and keep on file all public  
1441 comments received for any regulation adopted pursuant to this section.

1442 § 4.1-100. **Definitions.**

1443 As used in this ~~title~~ subtitle, unless the context requires a different meaning:

1444 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any  
1445 fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic  
1446 ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with  
1447 formulas approved by the government of the United States.

1448 "Alcoholic Beverage Control Act" means Subtitle I (§ 4.1-100 et seq.).

1449 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic  
1450 beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption  
1451 by inhalation.

1452 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties  
1453 containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages,  
1454 and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer  
1455 and capable of being consumed by a human being. Any liquid or solid containing more than one of the  
1456 four varieties shall be considered as belonging to that variety which has the higher percentage of  
1457 alcohol, however obtained, according to the order in which they are set forth in this definition; except  
1458 that beer may be manufactured to include flavoring materials and other nonbeverage ingredients  
1459 containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished  
1460 product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for  
1461 products with an alcohol content of no more than six percent by volume; or, in the case of products  
1462 with an alcohol content of more than six percent by volume, as long as no more than one and one-half  
1463 percent of the volume of the finished product consists of alcohol derived from added flavors and other  
1464 nonbeverage ingredients containing alcohol.

1465 "Arts venue" means a commercial or nonprofit establishment that is open to the public and in which  
1466 works of art are sold or displayed.

1467 "Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this ~~title~~  
1468 ~~subtitle~~.

1469 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

1470 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms;  
1471 (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii)  
1472 offering at least one meal per day, which may but need not be breakfast, to each person to whom  
1473 overnight lodging is provided. For purposes of the licensing requirements of this ~~title~~ subtitle, "bed and



breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

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

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

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

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

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

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

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

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

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

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

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

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

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant to a prescription and other medicines and items for home and general use.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully

1535 manufactured, sold, or used.

1536 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned  
1537 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for  
1538 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
1539 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned  
1540 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing  
1541 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for  
1542 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
1543 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher  
1544 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine  
1545 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine  
1546 manufactured by the institution shall be stored on the premises of such farm winery that shall be  
1547 separate and apart from all other facilities of the institution, and (d) such farm winery is operated in  
1548 strict conformance with the requirements of this clause (ii) and Board regulations. As used in this  
1549 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of  
1550 individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a  
1551 farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the  
1552 individual members of the cooperative as long as such land is located in the Commonwealth. For  
1553 purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or  
1554 classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this  
1555 definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for  
1556 the limitation on land zoned "residential conservation," nothing in the definition of "land zoned  
1557 agricultural" shall otherwise limit or affect local zoning authority.

1558 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty  
1559 items relating to history, original and handmade arts and products, collectibles, crafts, and floral  
1560 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure  
1561 where stock is displayed and offered for sale and which has facilities to properly secure any stock of  
1562 wine or beer. Such shop may be located (i) on the premises or grounds of a government registered  
1563 national, state or local historic building or site or (ii) within the premises of a museum. The Board shall  
1564 consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be  
1565 considered a gift shop.

1566 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may  
1567 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such  
1568 persons facilities for manufacturing, fermenting and bottling such wine or beer.

1569 "Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial  
1570 marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for  
1571 consumption on the premises, and (iii) offers to the public events for the purpose of featuring and  
1572 educating the consuming public about local oysters and other seafood products.

1573 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage  
1574 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and  
1575 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually  
1576 furnished to persons.

1577 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

1578 "Grocery store" means an establishment that sells food and other items intended for human  
1579 consumption, including a variety of ingredients commonly used in the preparation of meals.

1580 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of  
1581 the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of  
1582 showing motion pictures to the public.

1583 "Hotel" means any duly licensed establishment, provided with special space and accommodation,  
1584 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has  
1585 four or more bedrooms. It shall also mean the person who operates such hotel.

1586 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order  
1587 pursuant to this ~~title~~ subtitle.

1588 "Internet wine and beer retailer" means a person who owns or operates an establishment with  
1589 adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or  
1590 telephone orders are taken and shipped directly to consumers and which establishment is not a retail  
1591 store open to the public.

1592 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to  
1593 observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

1594 "Licensed" means the holding of a valid license granted by the Authority.

1595 "Licensee" means any person to whom a license has been granted by the Authority.

1596 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol

content of 25 percent by volume.

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

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

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

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

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

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

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

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

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

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

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

"Residence" means any building or part of a building or structure where a person resides, but does 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

1658 as a management company which, as its primary function, makes available (a) vacation accommodations,  
1659 guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the  
1660 managed entities and the general public. The hotel or corporation shall have or manage a minimum of  
1661 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not  
1662 contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is  
1663 not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the  
1664 same locality. The Authority may consider the purpose, characteristics, and operation of the applicant  
1665 establishment in determining whether it shall be considered as a resort complex. All other pertinent  
1666 qualifications established by the Board for a hotel operation shall be observed by such licensee.

1667 "Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license, any  
1668 establishment provided with special space and accommodation, where, in consideration of payment,  
1669 meals or other foods prepared on the premises are regularly sold.

1670 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant  
1671 license, an established place of business (i) where meals with substantial entrees are regularly sold and  
1672 (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such  
1673 meals for consumption at tables in dining areas on the premises, and includes establishments specializing  
1674 in full course meals with a single substantial entree.

1675 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;  
1676 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic  
1677 beverages.

1678 "Sangria" means a drink consisting of red or white wine mixed with some combination of  
1679 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other  
1680 similar spirits.

1681 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the  
1682 Board has designated as a law-enforcement officer pursuant to § 4.1-105.

1683 "Special event" means an event sponsored by a duly organized nonprofit corporation or association  
1684 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

1685 "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable  
1686 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and  
1687 gin, or any one or more of the last four named ingredients, but shall not include any such liquors  
1688 completely denatured in accordance with formulas approved by the United States government.

1689 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural  
1690 sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk,  
1691 either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and  
1692 (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as  
1693 provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do  
1694 not exceed an alcohol content of 21 percent by volume.

1695 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and  
1696 not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of  
1697 wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain  
1698 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar  
1699 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice  
1700 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

1701 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for  
1702 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio  
1703 required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by  
1704 such retail licensee.

1705 **§ 4.1-101.02. Appointment, salary, and powers of Chief Executive Officer; appointment of**  
1706 **confidential assistant to the Chief Executive Officer.**

1707 A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed  
1708 by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief  
1709 Executive Officer shall not be a member of the Board; shall hold, at a minimum, a baccalaureate degree  
1710 in business or a related field of study; and shall possess a minimum of seven years of demonstrated  
1711 experience or expertise in the direct management, supervision, or control of a business or legal affairs.  
1712 The Chief Executive Officer shall receive such compensation as determined by the Board and approved  
1713 by the Governor, including any performance bonuses or incentives as the Board deems advisable. The  
1714 Chief Executive Officer shall be subject to a background check in accordance with § 4.1-101.03. The  
1715 Chief Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or  
1716 imposed upon him by law and (ii) meet performance measures or targets set by the Board and approved  
1717 by the Governor. The Chief Executive Officer may be removed from office by the Governor for cause,  
1718 including the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence,  
1719 misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or

targets as set by the Board and approved by the Governor, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

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

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

D. The Chief Executive Officer shall:

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

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

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

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

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

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

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

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

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

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

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

#### **§ 4.1-101.010. Exemption of Authority from personnel and procurement procedures; 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 things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business

shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;

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

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

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

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

12. Buy and sell any mixers;

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

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

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

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

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

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

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

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

21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may 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

1904 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal  
1905 interest in obtaining the information requested if such information is not to be used for commercial or  
1906 trade purposes;

1907 23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)  
1908 and § 4.1-111;

1909 24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and  
1910 sale of alcoholic beverages;

1911 25. Assess and collect civil penalties and civil charges for violations of this ~~title~~ subtitle and Board  
1912 regulations;

1913 26. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

1914 27. Establish minimum food sale requirements for all retail licensees;

1915 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief  
1916 Executive Officer as the Board deems appropriate;

1917 29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement  
1918 activities undertaken to enforce the provisions of this ~~title~~ subtitle;

1919 30. Establish and collect fees for all permits set forth in this ~~title~~ subtitle, including fees associated  
1920 with applications for such permits;

1921 31. Impose a requirement that a mixed beverage restaurant licensee located on the premises of and  
1922 operated by a casino gaming establishment pay for any cost incurred by the Board to enforce such  
1923 license in excess of the applicable state license fee; and

1924 32. Do all acts necessary or advisable to carry out the purposes of this ~~title~~ subtitle.

1925 **§ 4.1-104. Purchases by the Board.**

1926 The purchasing of alcoholic beverages and mixers, products used in connection with distilled spirits  
1927 intended for resale, or products licensed by the Virginia Tourism Corporation as specified in § 4.1-103  
1928 intended for resale, the making of leases, and the purchasing of real estate by the Board under the  
1929 provisions of this ~~title~~ subtitle are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et  
1930 seq.).

1931 **§ 4.1-105. Police power of members, agents and employees of Board.**

1932 Members of the Board are vested, and such agents and employees of the Board designated by it shall  
1933 be vested, with like power to enforce the provisions of (i) this ~~title~~ subtitle and the criminal laws of the  
1934 Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii)  
1935 § 3.2-4207; (iii) § 18.2-371.2; and (iv) § 58.1-1037.

1936 **§ 4.1-106. Liability of Board members; suits by and against Board.**

1937 A. No Board member may be sued civilly for doing or omitting to do any act in the performance of  
1938 his duties as prescribed by this ~~title~~ subtitle, except by the Commonwealth, and then only in the Circuit  
1939 Court of the City of Richmond. Such proceedings by the Commonwealth shall be instituted and  
1940 conducted by the Attorney General.

1941 B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of  
1942 Richmond to enforce any contract made by it or to recover damages for any breach thereof. The Board  
1943 may defend the proceedings and may institute proceedings in any court. No such proceedings shall be  
1944 taken against, or in the names of, the members of the Board.

1945 **§ 4.1-107. Counsel for members, agents and employees of Board.**

1946 If any member, agent, or employee of the Board shall be arrested, indicted or otherwise prosecuted  
1947 on any charge arising out of any act committed in the discharge of his official duties, the Board  
1948 chairman may employ special counsel approved by the Attorney General to defend such member, agent,  
1949 or employee. The compensation for special counsel employed pursuant to this section, shall, subject to  
1950 the approval of the Attorney General, be paid in the same manner as other expenses incident to the  
1951 administration of this ~~title~~ subtitle are paid.

1952 **§ 4.1-111. Regulations of Board.**

1953 A. The Board may promulgate reasonable regulations, not inconsistent with this ~~title~~ subtitle or the  
1954 general laws of the Commonwealth, which it deems necessary to carry out the provisions of this ~~title~~  
1955 subtitle and to prevent the illegal manufacture, bottling, sale, distribution, and transportation of alcoholic  
1956 beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated,  
1957 amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall  
1958 have the effect of law.

1959 B. The Board shall promulgate regulations that:

1960 1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or  
1961 consumed on any licensed premises, including a provision that mixed beverages may be sold only at  
1962 such times as wine and beer may be sold.

1963 2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served  
1964 by such licensee.

1965 3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers,



brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. 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.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct, or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

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 off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this ~~title~~ subtitle, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this ~~title~~ subtitle and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55.1-1100, but only in accordance with this ~~title~~ subtitle.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy 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; or (iv) a dwelling used for residential use.

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

C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (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; or (iv) a dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

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

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

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

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

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

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

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

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

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

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

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

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

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

**§ 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 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~~ *subtitle*, 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 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

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

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

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

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

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

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

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

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public

2273 notice before such a price increase takes effect; (ii) provide the opportunity for submission of written  
2274 comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of  
2275 receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal  
2276 comments before implementing such a price increase.

2277 **§ 4.1-119. (Effective July 1, 2022) Operation of government stores.**

2278 A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and  
2279 operate government stores for the sale of spirits, wine produced by farm wineries, low alcohol beverage  
2280 coolers produced by licensed distillers, vermouth, mixers, products used in connection with distilled  
2281 spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be  
2282 approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as  
2283 specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board  
2284 may discontinue any such store.

2285 B. With respect to the sale of wine or cider produced by farm wineries, the Board may give  
2286 preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

2287 C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and  
2288 brands of alcoholic beverages and other Board-approved products that are sold in government stores.  
2289 Differences in the cost of operating stores, and market competition and conditions may be reflected in  
2290 the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages  
2291 to federal instrumentalities (i) authorized and operating under the laws of the United States and  
2292 regulations of the United States Department of Defense and (ii) located within the boundaries of federal  
2293 enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be  
2294 greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection  
2295 shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at  
2296 government stores, which retail price may include promotional, volume, or other discounts deemed  
2297 appropriate by the Board.

2298 D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall  
2299 carry out the provisions of this ~~title~~ *subtitle* and Board regulations governing the operation of  
2300 government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of  
2301 a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low  
2302 alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises,  
2303 at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of  
2304 an event licensed by the Board and conducted for the purpose of featuring and educating the consuming  
2305 public about spirits products.

2306 Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions  
2307 of this ~~title~~ *subtitle*, Board regulations, and the terms of the agency agreement between the Authority  
2308 and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an  
2309 agreement authorized by this subsection a commission of not less than 20 percent of the retail price of  
2310 the goods sold. If the licensed distiller makes application and meets certain requirements established by  
2311 the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board  
2312 to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be  
2313 limited to the amount due to the Board in applicable taxes and markups.

2314 For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries  
2315 and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision A 6 of  
2316 § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and  
2317 flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the  
2318 receiving distillery.

2319 E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without  
2320 distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101  
2321 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

2322 F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to  
2323 subsection G sold in government stores established by the Board on a distiller's licensed premises, shall  
2324 be in closed containers, sealed and affixed with labels prescribed by the Board.

2325 G. No alcoholic beverages shall be consumed in a government store by any person unless it is part  
2326 of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm  
2327 winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a  
2328 permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of  
2329 alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in  
2330 subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic  
2331 beverages may not lawfully be sold pursuant to § 4.1-304.

2332 Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed  
2333 pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic  
2334 beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or

cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

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

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

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

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

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

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

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

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

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

2396 alcoholic beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations  
2397 into any county, city, or town, except as otherwise prohibited by this ~~title~~ subtitle.

2398 E. For the purpose of this section, when any referendum is held in any town, separate and apart from  
2399 the county in which such town or a part thereof is located, such town shall be treated as being separate  
2400 and apart from such county.

2401 **§ 4.1-124. Referendum on the sale of mixed beverages.**

2402 A. The provisions of this ~~title~~ subtitle relating to the sale of mixed beverages shall be effective in  
2403 any town, county, or supervisor's election district of a county unless a majority of the voters voting in a  
2404 referendum vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants  
2405 licensed under this ~~title~~ subtitle should be prohibited. The qualified voters of a town, county, or  
2406 supervisor's election district of a county may file a petition with the circuit court of the county asking  
2407 that a referendum be held on the question of whether the sale of mixed beverages by restaurants  
2408 licensed by the Board should be prohibited within that jurisdiction. The petition shall be signed by  
2409 qualified voters equal in number to at least 10 percent of the number registered in the town, county, or  
2410 supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever  
2411 is greater.

2412 Petition requirements for any county shall be based on the number of registered voters in the county,  
2413 including the number of registered voters in any town having a population in excess of 1,000 located  
2414 within such county. Upon the filing of a petition, and under no other circumstances, the court shall order  
2415 the election officials of the county to conduct a referendum on the question.

2416 The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of  
2417 general circulation in the town, county, or supervisor's election district once a week for three consecutive  
2418 weeks prior to the referendum.

2419 The question on the ballot shall be:

2420 "Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic  
2421 Beverage Control Authority be prohibited in \_\_\_\_\_ (name of town, county, or supervisor's election  
2422 district of county)?"

2423 The referendum shall be ordered and held and the results certified as provided in Article 5  
2424 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order  
2425 certified by the clerk of the court to be transmitted to the Board and to the governing body of the town  
2426 or county. Mixed beverages prohibited from sale by such referendum shall not be sold by restaurants  
2427 within the town, county, or supervisor's election district of a county on or after 30 days following the  
2428 entry of the order if a majority of the voters voting in the referendum have voted "Yes."

2429 The provisions of this section shall be applicable to towns having a population in excess of 1,000 to  
2430 the same extent and subject to the same conditions and limitations as are otherwise applicable to  
2431 counties under this section. Such towns shall be treated as separate local option units, and only residents  
2432 of any such town shall be eligible to vote in any referendum held pursuant to this section for any such  
2433 town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote  
2434 in any referendum held pursuant to this section for any county in which the town is located.

2435 Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be  
2436 prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41  
2437 (§ 15.2-4100 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed  
2438 beverages by restaurants licensed under this ~~title~~ subtitle should be prohibited was previously held in the  
2439 former city and a majority of the voters voting in such referendum voted "Yes."

2440 B. Once a referendum has been held, no other referendum on the same question shall be held in the  
2441 town, county, or supervisor's election district of a county for a period of 23 months.

2442 C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on  
2443 property dedicated for industrial or commercial development and controlled through the provision of  
2444 public utilities and covenanting of the land by any multijurisdictional industrial development authority,  
2445 as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority  
2446 operates under a partnership agreement between three or more counties, cities, or towns and such  
2447 jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed  
2448 beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of  
2449 one of the counties and that the governing board of the authority authorizes an establishment located  
2450 within the confines of such property to apply to the Board for such license. The appropriate license fees  
2451 shall be paid for this privilege.

2452 D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the  
2453 sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not  
2454 produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

2455 E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant  
2456 license to a restaurant located on the premises of and operated by a private club exclusively for its  
2457 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.

7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed

to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

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

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

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

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

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

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

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

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

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

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.

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 or off-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.

#### **§ 4.1-206.1. (Effective 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

2765 agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including  
2766 barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on  
2767 the farm. The licensed premises shall be limited to the portion of the farm on which agricultural  
2768 products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its  
2769 beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured,  
2770 exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local  
2771 governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm  
2772 to be included as part of the licensed premises. For purposes of this subdivision, "land zoned  
2773 agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise  
2774 permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned  
2775 agricultural" does not include land zoned "residential conservation." Except for the limitation on land  
2776 zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning  
2777 authority.

2778 Limited brewery licensees shall be treated as breweries for all purposes of this ~~title~~ subtitle except as  
2779 otherwise provided in this subdivision.

2780 5. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or  
2781 ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the  
2782 wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth  
2783 for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate  
2784 distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit  
2785 juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate  
2786 a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iii)  
2787 store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and  
2788 (iv) sell wine at retail at the place of business designated in the winery license for on-premises  
2789 consumption or in closed containers for off-premises consumption, provided that any brand of wine not  
2790 owned by the winery licensee is purchased from a wholesale wine licensee and any wine sold for  
2791 on-premises consumption is manufactured on the licensed premises.

2792 6. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21  
2793 percent or less of alcohol by volume and to sell, deliver, or ship the wine, in accordance with Board  
2794 regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured  
2795 at wholesale for the purpose of resale, or (iii) persons outside the Commonwealth. In addition, the  
2796 licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this  
2797 wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for  
2798 the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility  
2799 on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded  
2800 warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes  
2801 of this ~~title~~ subtitle, a farm winery license shall be designated either as a Class A or Class B farm  
2802 winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into  
2803 an agreement in accordance with Board regulations with a winery or farm winery licensee operating a  
2804 contract winemaking facility.

2805 Such licenses shall also authorize the licensee to sell wine at retail at the places of business  
2806 designated in the licenses, which may include no more than five additional retail establishments of the  
2807 licensee. Wine may be sold at these business places for on-premises consumption and in closed  
2808 containers for off-premises consumption, provided that any brand of wine not owned by the farm winery  
2809 licensee is purchased from a wholesale wine licensee. In addition, wine may be pre-mixed by the  
2810 licensee to be served and sold for on-premises consumption at these business places.

2811 7. Wine importer's licenses, which shall authorize persons located within or outside the  
2812 Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed  
2813 containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of  
2814 resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

2815 8. Beer importer's licenses, which shall authorize persons located within or outside the  
2816 Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed  
2817 containers, to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of  
2818 resale and to persons outside the Commonwealth for resale outside the Commonwealth.

2819 **§ 4.1-206.2. Wholesale licenses.**

2820 The Board may grant the following wholesale licenses:

2821 1. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and  
2822 shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the  
2823 license, in accordance with Board regulations, in closed containers to (i) persons licensed under this  
2824 chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered  
2825 under the laws of the United States sailing for ports of call of a foreign country or another state, and  
2826 (iii) persons outside the Commonwealth for resale outside the Commonwealth.

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

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

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

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

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

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

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in dining areas and other designated areas of such restaurant or off-premises consumption. Such license may be granted only to persons (i) who operate a restaurant and (ii) 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.

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

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

3134 patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,  
3135 and such additional locations designated by the Board in such facilities (i) in closed containers for  
3136 off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original  
3137 metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and  
3138 consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations  
3139 covered by the license. Such licenses may be granted to persons operating food concessions at exhibition  
3140 or exposition halls, convention centers, or similar facilities located in any county operating under the  
3141 urban county executive form of government or any city that is completely surrounded by such county.  
3142 For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities  
3143 conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000  
3144 square feet of floor space.

3145 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events  
3146 to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,  
3147 dining areas, and such additional locations designated by the Board in such facilities, for on-premises  
3148 consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this  
3149 subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such  
3150 licenses may be granted to persons operating concert or dinner-theater venues on property fronting  
3151 Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High  
3152 School.

3153 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or  
3154 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be  
3155 lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The  
3156 privileges of this license shall be limited to the premises of the historic cinema house regularly occupied  
3157 and utilized as such.

3158 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises  
3159 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such  
3160 licenses may be granted to persons operating a nonprofit museum exempt from taxation under §  
3161 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating  
3162 the consuming public about historic beer products. The privileges of this license shall be limited to the  
3163 premises of the museum, regularly occupied and utilized as such.

3164 C. The Board may grant the following off-premises wine and beer licenses:

3165 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store,  
3166 delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as  
3167 defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and  
3168 beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308,  
3169 to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for  
3170 on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of  
3171 wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day.  
3172 The licensee may also give samples of wine and beer in designated areas at events held by the licensee  
3173 for the purpose of featuring and educating the consuming public about the alcoholic beverages being  
3174 tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale  
3175 licensees or authorized representatives of such licensees may participate in such tastings, including the  
3176 pouring of samples. The licensee shall comply with any food inventory and sales volume requirements  
3177 established by Board regulation.

3178 2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom  
3179 wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging,  
3180 and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for  
3181 off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3182 3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed  
3183 premises for off-premises consumption confectionery that contains five percent or less alcohol by  
3184 volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such  
3185 confectionery is sold.

3186 D. The Board may grant the following banquet, special event, and tasting licenses:

3187 1. Per-day event licenses.

3188 a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or  
3189 associations in charge of special events, which shall authorize the licensee to sell or give wine and beer  
3190 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms  
3191 or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also  
3192 be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises  
3193 consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one  
3194 such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may  
3195 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.

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

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

1. Mixed beverage 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 (i) who operate a restaurant and (ii) 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.

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

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

3380 upon the licensed premises approved by the Board and other designated areas of the resort, including  
3381 outdoor areas under the control of the licensee, and (B) permit the possession and consumption of  
3382 lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in  
3383 bedrooms and private guest rooms.

3384 The granting of a license pursuant to this subdivision shall automatically authorize the licensee to  
3385 obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers  
3386 for off-premises consumption; however, the licensee shall be required to pay the local fee required for  
3387 such additional license pursuant to § 4.1-233.1.

3388 2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the  
3389 business of providing food and beverages to others for service at private gatherings or at special events,  
3390 which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption.  
3391 The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic  
3392 beverages served at gatherings and events referred to in this subdivision shall amount to at least 45  
3393 percent of the gross receipts from the sale of mixed beverages and food.

3394 3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly  
3395 engaged in the business of providing food and beverages to others for service at private gatherings or at  
3396 special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell  
3397 and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of  
3398 food cooked and prepared for service and nonalcoholic beverages served at gatherings and events  
3399 referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of  
3400 mixed beverages and food.

3401 4. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train,  
3402 boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in  
3403 the Commonwealth to passengers while in transit aboard any such common carrier, and in designated  
3404 rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its  
3405 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air  
3406 carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same  
3407 airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the  
3408 alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express  
3409 carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the  
3410 inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be  
3411 delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records  
3412 of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The  
3413 granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a  
3414 license to sell and serve wine and beer for on-premises consumption or in closed containers for  
3415 off-premises consumption; however, the licensee shall be required to pay the local fee required for such  
3416 additional license pursuant to § 4.1-233.1.

3417 5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell  
3418 mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans,  
3419 during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in  
3420 all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for  
3421 on-premises consumption. Such license may be granted to persons operating food concessions at an  
3422 outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River  
3423 and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon  
3424 authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic  
3425 beverages on the premises in all areas and locations covered by the license. The granting of a license  
3426 pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and  
3427 serve wine and beer for on-premises consumption or in closed containers for off-premises consumption;  
3428 however, the licensee shall be required to pay the local fee required for such additional license pursuant  
3429 to § 4.1-233.1.

3430 6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve  
3431 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs  
3432 shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the  
3433 restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall  
3434 the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages,  
3435 exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a  
3436 license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell  
3437 and serve wine and beer for on-premises consumption or in closed containers for off-premises  
3438 consumption; however, the licensee shall be required to pay the local fee required for such additional  
3439 license pursuant to § 4.1-233.1.

3440 7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to  
3441 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

3503 overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas  
3504 of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas"  
3505 includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more  
3506 than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor  
3507 dining areas are under the control of the licensee and approved by the Board. Such noncontiguous  
3508 designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of  
3509 § 4.1-201.

3510 10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under  
3511 § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the  
3512 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide  
3513 member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any  
3514 bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in  
3515 any way by the licensee. The privileges of this license shall be limited to the premises of the museum,  
3516 regularly occupied and utilized as such.

3517 11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the  
3518 consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof  
3519 during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly  
3520 or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the  
3521 licensee's premises designated by the Board that are regularly occupied and utilized for motor car  
3522 sporting events.

3523 12. Commercial lifestyle center licenses, which may be issued only to a commercial owners'  
3524 association governing a commercial lifestyle center, which shall authorize any retail on-premises  
3525 restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any  
3526 bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion  
3527 of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas,  
3528 seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant  
3529 location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of  
3530 such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail  
3531 on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle  
3532 center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers  
3533 with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed.  
3534 Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center  
3535 licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of  
3536 the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall  
3537 provide adequate security for the licensed premises to ensure compliance with the applicable provisions  
3538 of this ~~title~~ subtitle and Board regulations.

3539 13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve  
3540 mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such  
3541 license may be granted only to persons operating a business (i) that is primarily engaged in the sale of  
3542 meals; (ii) that is located on property owned by the United States government or an agency thereof and  
3543 used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale  
3544 of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the  
3545 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale  
3546 of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include  
3547 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas  
3548 may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such  
3549 areas are under the control of the licensee and approved by the Board. Such noncontiguous designated  
3550 areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The  
3551 granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a  
3552 license to sell and serve wine and beer for on-premises consumption or in closed containers for  
3553 off-premises consumption; however, the licensee shall be required to pay the local fee required for such  
3554 additional license pursuant to § 4.1-233.1.

3555 14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or  
3556 association operating either a performing arts facility or an art education and exhibition facility; (ii) a  
3557 nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and  
3558 objects significant in American history and culture; (iii) persons operating an agricultural event and  
3559 entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space  
3560 and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped  
3561 with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events  
3562 conducted on the premises of a museum for historic interpretation that is owned and operated by the  
3563 locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a  
3564 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.

3626 For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities  
3627 conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000  
3628 square feet of floor space.

3629 7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events  
3630 to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas,  
3631 dining areas, and such additional locations designated by the Board in such facilities, for on-premises  
3632 consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this  
3633 subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such  
3634 licenses may be granted to persons operating concert or dinner-theater venues on property fronting  
3635 Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High  
3636 School.

3637 8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or  
3638 without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be  
3639 lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The  
3640 privileges of this license shall be limited to the premises of the historic cinema house regularly occupied  
3641 and utilized as such.

3642 9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises  
3643 consumption or in closed containers for off-premises consumption in areas approved by the Board. Such  
3644 licenses may be granted to persons operating a nonprofit museum exempt from taxation under §  
3645 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating  
3646 the consuming public about historic beer products. The privileges of this license shall be limited to the  
3647 premises of the museum, regularly occupied and utilized as such.

3648 C. The Board may grant the following off-premises wine and beer licenses:

3649 1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store,  
3650 delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as  
3651 defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and  
3652 beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308,  
3653 to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for  
3654 on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of  
3655 wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day.  
3656 The licensee may also give samples of wine and beer in designated areas at events held by the licensee  
3657 for the purpose of featuring and educating the consuming public about the alcoholic beverages being  
3658 tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale  
3659 licensees or authorized representatives of such licensees may participate in such tastings, including the  
3660 pouring of samples. The licensee shall comply with any food inventory and sales volume requirements  
3661 established by Board regulation.

3662 2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom  
3663 wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging,  
3664 and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for  
3665 off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3666 3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed  
3667 premises for off-premises consumption confectionery that contains five percent or less alcohol by  
3668 volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such  
3669 confectionery is sold.

3670 D. The Board may grant the following banquet, special event, and tasting licenses:

3671 1. Per-day event licenses.

3672 a. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or  
3673 associations in charge of special events, which shall authorize the licensee to sell or give wine and beer  
3674 in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms  
3675 or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also  
3676 be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises  
3677 consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one  
3678 such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may  
3679 ship such wine, in accordance with Board regulations, in closed containers to persons located within the  
3680 Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of  
3681 each banquet or special event. For the purposes of this subdivision, when the location named in the  
3682 original application for a license is outdoors, the application may also name an alternative location in the  
3683 event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club  
3684 holding a retail wine and beer license.

3685 b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in  
3686 charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for  
3687 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.

1. 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

3995 be construed accordingly.

3996 **§ 4.1-216. Further limitations on manufacturers, bottlers, importers, brokers or wholesalers;**  
3997 **ownership interests prohibited; exceptions; prohibited trade practices.**

3998 A. As used in this section:

3999 "Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who  
4000 regularly engages in the business of bringing together sellers and purchasers of alcoholic beverages for  
4001 resale and arranges for or consummates such transactions with persons in the Commonwealth to whom  
4002 such alcoholic beverages may lawfully be sold and shipped into the Commonwealth pursuant to the  
4003 provisions of this ~~title~~ subtitle.

4004 "Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any officers  
4005 or directors of any such manufacturer, bottler, importer, broker or wholesaler.

4006 B. Except as provided in this ~~title~~ subtitle, no manufacturer, importer, bottler, broker or wholesaler of  
4007 alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial  
4008 interest, direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises  
4009 where the business of a retail licensee is conducted.

4010 1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or  
4011 wholesaler does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other  
4012 merchandise to such retail licensee and such retailer is not required by agreement or otherwise to  
4013 exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, importers,  
4014 brokers or wholesalers.

4015 2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares of  
4016 stock of which are sold to the general public on any national or local stock exchange, shall not be  
4017 deemed to be a financial interest, direct or indirect, in the business or the premises of the retail licensee.

4018 3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a  
4019 financing corporation, may participate in financing the business of a wholesale licensee in the  
4020 Commonwealth by providing debt or equity capital or both but only if done in accordance with the  
4021 provisions of this subsection.

4022 a. In order to assist a proposed new owner of an existing wholesale licensee, a financing corporation  
4023 may provide debt or equity capital, or both, if prior approval of the Board has been obtained pursuant to  
4024 subdivision 3 b of subsection B. A financing corporation which proposes to provide equity capital shall  
4025 cause the proposed new owner to form a Virginia limited partnership in which the new owner is the  
4026 general partner and the financing corporation is a limited partner. If the general partner defaults on any  
4027 financial obligation to the limited partner, which default has been specifically defined in the partnership  
4028 agreement, or, if the new owner defaults on its obligation to pay principal and interest when due to the  
4029 financing corporation as specifically defined in the loan documents, then, and only then, shall such  
4030 financing corporation be allowed to take title to the business of the wholesale licensee. Notwithstanding  
4031 any other law to the contrary and provided written notice has been given to the Board within two  
4032 business days after taking title, the wholesale licensee may be managed and operated by such financing  
4033 corporation pursuant to the existing wholesale license for a period of time not to exceed 180 days as if  
4034 the license had been issued in the name of the financing corporation. On or before the expiration of  
4035 such 180-day period, the financing corporation shall cause ownership of the wholesale licensee's  
4036 business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed  
4037 terminated. The financing corporation may not participate in financing the transfer of ownership to the  
4038 new owner or to any other subsequent owner for a period of ~~twenty~~ 20 years following the effective  
4039 date of the original financing transaction; except where a transfer takes place before the expiration of the  
4040 eighth full year following the effective date of the original financing transaction in which case the  
4041 financing corporation may finance such transfer as long as the new owner is required to return such debt  
4042 or equity capital within the originally prescribed eight-year period. The financing corporation may  
4043 exercise its right to take title to, manage and operate the business of, the wholesale licensee only once  
4044 during such eight-year period.

4045 b. In any case in which a financing corporation proposes to provide debt or equity capital in order to  
4046 assist in a change of ownership of an existing wholesale licensee, the parties to the transaction shall first  
4047 submit an application for a wholesale license in the name of the proposed new owner to the Board.

4048 The Board shall be provided with all documents that pertain to the transaction at the time of the  
4049 license application and shall ensure that the application complies with all requirements of law pertaining  
4050 to the issuance of wholesale licenses except that if the financing corporation proposes to provide equity  
4051 capital and thereby take a limited partnership interest in the applicant entity, the financing corporation  
4052 shall not be required to comply with any Virginia residency requirement applicable to the issuance of  
4053 wholesale licenses. In addition to the foregoing, the applicant entity shall certify to the Board and  
4054 provide supporting documentation that the following requirements are met prior to issuance of the  
4055 wholesale license: (i) the terms and conditions of any debt financing which the financing corporation  
4056 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

4118 not, shall sell, rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which  
4119 the business of any retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property,  
4120 services or anything of value with which the business of such retail licensee is or may be conducted, or  
4121 for any other purpose; (ii) advertising materials; and (iii) business entertainment, provided that no  
4122 transaction permitted under this section or by Board regulation shall be used to require the retail licensee  
4123 to partially or totally exclude from sale at its establishment alcoholic beverages of other manufacturers  
4124 or wholesalers.

4125 The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and  
4126 wholesalers selling alcoholic beverages to any governmental instrumentality or employee thereof selling  
4127 alcoholic beverages at retail within the exterior limits of the Commonwealth, including all territory  
4128 within these limits owned by or ceded to the United States of America.

4129 The provisions of this subsection shall not apply to any commercial lifestyle center licensee.

4130 **§ 4.1-216.1. Point-of-sale advertising materials authorized under certain conditions; civil**  
4131 **penalties.**

4132 A. As used in this section:

4133 "Alcoholic beverage advertising material" or "advertising material" means any item, other than an  
4134 illuminated device, which contains one or more references to a brand of alcoholic beverage and which is  
4135 used to promote the sale of alcoholic beverages within the interior of a licensed retail establishment and  
4136 which otherwise complies with Board regulations.

4137 "Authorized vendor" or "vendor" means any person, other than a wholesale wine or beer licensee,  
4138 that a manufacturer has authorized to engage in a business consisting in whole or in part of the sale and  
4139 distribution of any articles of tangible personal property bearing any of the manufacturer's alcoholic  
4140 beverage trademarks.

4141 "Manufacturer" means any brewery, winery, distillery, bottler, broker, importer and any person that a  
4142 brewery, winery, or distiller has authorized to sell or arrange for the sale of its products to wholesale  
4143 wine and beer licensees in Virginia or, in the case of spirits, to the Board.

4144 B. Notwithstanding the provisions of § 4.1-215 or 4.1-216 and Board regulations adopted thereunder,  
4145 a manufacturer or its authorized vendor and a wholesale wine and beer licensee may lend, buy for, or  
4146 give to a retail licensee any alcoholic beverage advertising material made of paper, cardboard, canvas,  
4147 rubber, foam, or plastic, provided the advertising materials have a wholesale value of \$40 or less per  
4148 item.

4149 C. Alcoholic beverage advertising materials, other than those authorized by subsection B to be given  
4150 to a retailer, may be displayed by a retail licensee in the interior of its licensed establishment provided:

4151 1. The wholesale value of the advertising material does not exceed \$250 per item, and

4152 2. The advertising material is not obtained from a manufacturer, its authorized vendor, or any  
4153 wholesale wine or beer licensee.

4154 A retail licensee shall retain for at least two years a record of its procurement of, including any  
4155 payments for, such advertising materials along with an invoice or sales ticket containing a description of  
4156 the item so purchased or otherwise procured.

4157 D. Except as otherwise provided in this ~~title~~ *subtitle*, a retail licensee shall not display in the interior  
4158 of its licensed establishment any alcoholic beverage advertising materials, other than those that may be  
4159 lawfully obtained and displayed in accordance with this section or Board regulation.

4160 E. Nothing in this section shall be construed to prohibit any advertising materials permitted under  
4161 Board regulations in effect on January 1, 2007.

4162 **§ 4.1-222. Conditions under which Board may refuse to grant licenses.**

4163 The Board may refuse to grant any license if it has reasonable cause to believe that:

4164 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is  
4165 an association, any member thereof, or limited partner of 10 percent or more with voting rights, or if the  
4166 applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital  
4167 stock, or if the applicant is a limited liability company, any member-manager or any member owning 10  
4168 percent or more of the membership interest of the limited liability company:

4169 a. Is not 21 years of age or older;

4170 b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude  
4171 under the laws of any state, or of the United States;

4172 c. Has been convicted, within the five years immediately preceding the date of the application for  
4173 such license, of a violation of any law applicable to the manufacture, transportation, possession, use or  
4174 sale of alcoholic beverages;

4175 d. Is not a person of good moral character and repute;

4176 e. Is not the legitimate owner of the business proposed to be licensed, or other persons have  
4177 ownership interests in the business which have not been disclosed;

4178 f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business  
4179 proposed to be licensed;

- 4180 g. Has maintained a noisy, lewd, disorderly or unsanitary establishment;  
 4181 h. Has demonstrated, either by his police record or by his record as a former licensee of the Board, a  
 4182 lack of respect for law and order;  
 4183 i. Is unable to speak, understand, read and write the English language in a reasonably satisfactory  
 4184 manner;  
 4185 j. Is a person to whom alcoholic beverages may not be sold under § 4.1-304;  
 4186 k. Has the general reputation of drinking alcoholic beverages to excess or is addicted to the use of  
 4187 narcotics;  
 4188 l. Has misrepresented a material fact in applying to the Board for a license;  
 4189 m. Has defrauded or attempted to defraud the Board, or any federal, state or local government or  
 4190 governmental agency or authority, by making or filing any report, document or tax return required by  
 4191 statute or regulation which is fraudulent or contains a false representation of a material fact; or has  
 4192 willfully deceived or attempted to deceive the Board, or any federal, state or local government, or  
 4193 governmental agency or authority, by making or maintaining business records required by statute or  
 4194 regulation which are false and fraudulent;  
 4195 n. Is violating or allowing the violation of any provision of this ~~title~~ subtitle in his establishment at  
 4196 the time his application for a license is pending;  
 4197 o. Is a police officer with police authority in the political subdivision within which the establishment  
 4198 designated in the application is located;  
 4199 p. Is physically unable to carry on the business for which the application for a license is filed or has  
 4200 been adjudicated incapacitated; or  
 4201 q. Is a member, agent or employee of the Board.
- 4202 2. The place to be occupied by the applicant:  
 4203 a. Does not conform to the requirements of the governing body of the county, city or town in which  
 4204 such place is located with respect to sanitation, health, construction or equipment, or to any similar  
 4205 requirements established by the laws of the Commonwealth or by Board regulation;  
 4206 b. Is so located that granting a license and operation thereunder by the applicant would result in  
 4207 violations of this ~~title~~ subtitle, Board regulations, or violation of the laws of the Commonwealth or local  
 4208 ordinances relating to peace and good order;  
 4209 c. Is so located with respect to any church; synagogue; hospital; public, private, or parochial school  
 4210 or an institution of higher education; public or private playground or other similar recreational facility;  
 4211 or any state, local, or federal government-operated facility, that the operation of such place under such  
 4212 license will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities  
 4213 or institutions;  
 4214 d. Is so located with respect to any residence or residential area that the operation of such place  
 4215 under such license will adversely affect real property values or substantially interfere with the usual  
 4216 quietude and tranquility of such residence or residential area; or  
 4217 e. Under a retail on-premises license is so constructed, arranged or illuminated that law-enforcement  
 4218 officers and special agents of the Board are prevented from ready access to and reasonable observation  
 4219 of any room or area within which alcoholic beverages are to be sold or consumed.
- 4220 3. The number of licenses existent in the locality is such that the granting of a license is detrimental  
 4221 to the interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall  
 4222 consider the (i) character of, population of, the number of similar licenses and the number of all licenses  
 4223 existent in the particular county, city or town and the immediate neighborhood concerned; (ii) effect  
 4224 which a new license may have on such county, city, town or neighborhood in conforming with the  
 4225 purposes of this ~~title~~ subtitle; and (iii) objections, if any, which may have been filed by a local  
 4226 governing body or local residents.
- 4227 4. There exists any law, ordinance, or regulation of the United States, the Commonwealth or any  
 4228 political subdivision thereof, which warrants refusal by the Board to grant any license.
- 4229 5. The Board is not authorized under this chapter to grant such license.
- 4230 **§ 4.1-224. Notice and hearings for refusal to grant licenses; Administrative Process Act;**  
 4231 **exceptions.**  
 4232 A. The action of the Board in granting or in refusing to grant any license shall be subject to review  
 4233 in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in  
 4234 subsections B and C. Review shall be limited to the evidential record of the proceedings provided by the  
 4235 Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from  
 4236 any order of the court.  
 4237 B. The Board may refuse a hearing on any application for the granting of any retail alcoholic  
 4238 beverage or mixed beverage license, including a banquet license, provided such:  
 4239 1. License for the applicant has been refused or revoked within a period of ~~twelve~~ 12 months;  
 4240 2. License for any premises has been refused or revoked at that location within a period of ~~twelve~~ 12

4241 months;

4242 3. Applicant, within a period of ~~twelve~~ 12 months immediately preceding, has permitted a license  
4243 granted by the Board to expire for nonpayment of license tax, and at the time of expiration of such  
4244 license, there was a pending and adjudicated charge, either before the Board or in any court, against  
4245 the licensee alleging a violation of this ~~title~~ subtitle; or

4246 4. Applicant has received a restricted license and reapplies for a lesser-restricted license at the same  
4247 location within ~~twelve~~ 12 months of the date of the issuance of the restricted license.

4248 C. If an applicant has permitted a license to expire for nonpayment of license tax, and at the time of  
4249 expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,  
4250 the Board may refuse a hearing on an application for a new license until after the date on which the  
4251 suspension period would have been executed had the license not have been permitted to expire.

4252 **§ 4.1-225. Grounds for which Board may suspend or revoke licenses.**

4253 The Board may suspend or revoke any license other than a brewery license, in which case the Board  
4254 may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

4255 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an  
4256 association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the  
4257 licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital  
4258 stock, or if the licensee is a limited liability company, any member-manager or any member owning 10  
4259 percent or more of the membership interest of the limited liability company:

4260 a. Has misrepresented a material fact in applying to the Board for such license;

4261 b. Within the five years immediately preceding the date of the hearing held in accordance with  
4262 § 4.1-227, has (i) been convicted of a violation of any law, ordinance, or regulation of the  
4263 Commonwealth, of any county, city, or town in the Commonwealth, of any state, or of the United  
4264 States, applicable to the manufacture, transportation, possession, use, or sale of alcoholic beverages; (ii)  
4265 violated any provision of Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine  
4266 Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv)  
4267 violated or failed or refused to comply with any regulation, rule, or order of the Board; or (v) failed or  
4268 refused to comply with any of the conditions or restrictions of the license granted by the Board;

4269 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude  
4270 under the laws of any state; or of the United States;

4271 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or  
4272 other persons have ownership interests in the business ~~which~~ that have not been disclosed;

4273 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business  
4274 conducted under the license granted by the Board;

4275 f. Has been intoxicated or under the influence of some self-administered drug while upon the  
4276 licensed premises;

4277 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to  
4278 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1  
4279 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

4280 h. Knowingly employs in the business conducted under such license, as agent, servant, or employee,  
4281 other than a busboy, cook, or other kitchen help, any person who has been convicted in any court of a  
4282 felony or of any crime or offense involving moral turpitude; or who has violated the laws of the  
4283 Commonwealth, of any other state, or of the United States; applicable to the manufacture, transportation,  
4284 possession, use, or sale of alcoholic beverages;

4285 i. Subsequent to the granting of his original license, has demonstrated by his police record a lack of  
4286 respect for law and order;

4287 j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person  
4288 whom he knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii)  
4289 intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter  
4290 upon such licensed premises;

4291 k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as  
4292 provided under this ~~title~~ subtitle;

4293 l. Is physically unable to carry on the business conducted under such license or has been adjudicated  
4294 incapacitated;

4295 m. Has allowed any obscene literature, pictures, or materials upon the licensed premises;

4296 n. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

4297 o. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly  
4298 allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use  
4299 marijuana, controlled substances, imitation controlled substances, drug paraphernalia, or controlled  
4300 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)  
4301 of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in  
4302 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 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;

p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that are 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; or

q. 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 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.

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city, or town in which such establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this ~~title~~ subtitle or § 18.2-258;

or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the armed forces of the United States by prices charged or otherwise.

4. The licensee, his employees, or any entertainer performing on the licensed premises has been convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed premises and the licensee allowed such conduct to occur.

5. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.

7. Any other cause authorized by this ~~title~~ subtitle.

#### **§ 4.1-227. Suspension or revocation of licenses; notice and hearings; imposition of penalties.**

A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee or 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 chapter 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 chapter 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 § 4.1-103 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.

Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food establishment permit from the Department of Health or an inspection by the Department of Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is



issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of this ~~title~~ *subtitle*; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial publication of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city, or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication. In the case of wine and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, buses, and airplanes, the posting and publishing of notice shall not be required.

Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement or administrative officer 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. Each license application fee, including annual banquet and annual mixed beverage banquet, shall be \$195, plus 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, except for banquet, tasting, or mixed beverage club events licenses, in which case the application fee shall be \$15. The application fee for banquet special event and mixed beverage special event licenses shall be \$45. Application fees shall be in addition to the state license fee required pursuant to § 4.1-231.1 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter; 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 § 4.1-212 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 wine, beer, or mixed beverages 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 from the amounts set forth in § 4.1-231.1 as it was in effect on January 1, 2022. 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.

**§ 4.1-240. 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

4487 cards, debit cards, and electronic funds transfers, for the taxes, penalties, or other fees imposed on a  
4488 licensee in accordance with this ~~title~~ subtitle. In addition, the Board may assess a service charge for the  
4489 use of a credit or debit card. The service charge shall not exceed the amount negotiated and agreed to in  
4490 a contract with the Department.

4491 B. Upon the request of a license applicant or licensee, the Board may collect and maintain a record  
4492 of the applicant's or licensee's credit card, debit card, or automated clearinghouse transfer information  
4493 and use such information for future payments of taxes, penalties, other fees, or amounts due for products  
4494 purchased from the Board. The Board may assess a service charge as provided in subsection A for any  
4495 payments made under this subsection. The Board may procure the services of a third-party vendor for  
4496 the secure storage of information collected pursuant to this subsection.

4497 **§ 4.1-300. Illegal manufacture and bottling; penalty.**

4498 A. Except as otherwise provided in §§ 4.1-200 and 4.1-201, no person shall manufacture alcoholic  
4499 beverages in the Commonwealth without being licensed under this ~~title~~ subtitle to manufacture such  
4500 alcoholic beverages. Nor shall any person, other than a brewery licensee or bottler's licensee, bottle beer  
4501 for sale.

4502 B. The presence of mash at an unlicensed distillery shall constitute manufacturing within the meaning  
4503 of this section.

4504 C. Any person convicted of a violation of this section shall be guilty of a Class 6 felony.

4505 **§ 4.1-302. Illegal sale of alcoholic beverages in general; penalty.**

4506 If any person who is not licensed sells any alcoholic beverages except as permitted by this ~~title~~  
4507 subtitle, he shall be guilty of a Class 1 misdemeanor.

4508 In the event of a second or subsequent conviction under this section, a jail sentence of no less than  
4509 ~~thirty~~ 30 days shall be imposed and in no case be suspended.

4510 **§ 4.1-303. Purchase of alcoholic beverages from person not authorized to sell; penalty.**

4511 If any person buys alcoholic beverages from any person other than the Board, a government store or  
4512 a person authorized under this ~~title~~ subtitle to sell alcoholic beverages, he shall be guilty of a Class 1  
4513 misdemeanor.

4514 **§ 4.1-310. Illegal importation, shipment and transportation of alcoholic beverages; penalty;  
4515 exception.**

4516 A. No alcoholic beverages, other than wine or beer, shall be imported, shipped, transported, or  
4517 brought into the Commonwealth, other than to distillery licensees or winery licensees, unless consigned  
4518 to the Board. However, the Board may permit such alcoholic beverages ordered by it from outside the  
4519 Commonwealth for (i) persons, for industrial purposes, (ii) the manufacture of articles allowed to be  
4520 manufactured under § 4.1-200, or (iii) hospitals, to be shipped or transported directly to such persons.  
4521 On such orders or shipments of alcohol, the Board shall charge only a reasonable permit fee.

4522 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  
4523 shall be imported, shipped, transported or brought into the Commonwealth unless it is consigned to a  
4524 wholesale wine licensee.

4525 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  
4526 shall be imported, shipped, transported or brought into the Commonwealth except to persons licensed to  
4527 sell it.

4528 D. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

4529 E. The provisions of this chapter shall not prohibit (i) any person from bringing, in his personal  
4530 possession, or through United States Customs in his accompanying baggage, into the Commonwealth not  
4531 for resale, alcoholic beverages in an amount not to exceed one gallon or four liters if any part of the  
4532 alcoholic beverages being transported is held in metric-sized containers, (ii) the shipment or  
4533 transportation into the Commonwealth of a reasonable quantity of alcoholic beverages not for resale in  
4534 the personal or household effects of a person relocating his place of residence to the Commonwealth, or  
4535 (iii) the possession or storage of alcoholic beverages on passenger boats, dining cars, buffet cars and  
4536 club cars, licensed under this ~~title~~ subtitle, or common carriers engaged in interstate or foreign  
4537 commerce.

4538 **§ 4.1-310.1. Delivery of wine or beer to retail licensee.**

4539 Except as otherwise provided in this ~~title~~ subtitle or in Board regulation, no wine or beer may be  
4540 shipped or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to  
4541 the licensed premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of  
4542 the wholesaler for not less than four hours prior to reloading on a vehicle, and (iii) recorded in the  
4543 wholesaler's inventory. Any holder of a restricted wholesale wine license issued pursuant to subdivision  
4544 3 of § 4.1-206.2 shall be exempt from the requirement set forth in clause (ii).

4545 **§ 4.1-320. Illegal advertising; penalty; exception.**

4546 A. Except in accordance with this ~~title~~ subtitle and Board regulations, no person shall advertise in or  
4547 send any advertising matter into the Commonwealth about or concerning alcoholic beverages other than  
4548 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;
  17. Conceal any sale or consumption of any alcoholic beverages;
  18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;
  19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;
  20. Knowingly employ in the licensed business any person who has the general reputation as a

prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling;

21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine or apparatus;

22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subdivision shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision; or

23. 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. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

**§ 4.1-325.2. Prohibited acts by employees of wine or beer licensees; penalty.**

A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall consume 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 subsection shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer, 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.

B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be agents of the retail wine or beer licensee.

C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection B of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be subject to the taxes imposed by this ~~title~~ subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subsection.

D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed \$500.

**§ 4.1-329. Illegal advertising materials; penalty.**

No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to, any manufacturer, as defined in § 4.1-216.1, or any wholesale licensee selling, renting, lending, buying for or giving to any person any advertising materials or decorations under circumstances prohibited by this ~~title~~ subtitle or Board regulations.

Any person found by the Board to have violated this section shall be subject to a civil penalty as provided in § 4.1-227.

**§ 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*

4856 *criminal proceeding, provided the requirements of subsection A of § 19.2-187.1 have been satisfied and*  
4857 *the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1*  
4858 *or (ii) in any civil proceeding. On motion of the accused or any party in interest, the court may require*  
4859 *the forensic scientist making the analysis to appear as a witness and be subject to cross-examination,*  
4860 *provided such motion is made within a reasonable time prior to the day on which the case is set for*  
4861 *trial.*

4862 **§ 4.1-353. Label on sealed container prima facie evidence of alcoholic content.**

4863 In any prosecution for violations of this ~~title~~ subtitle, where a sealed container is labeled as  
4864 containing an alcoholic beverage as defined herein, such labeling shall be prima facie evidence of the  
4865 alcoholic content of the container. Nothing shall preclude the introduction of other relevant evidence to  
4866 establish the alcoholic content of a container, whether sealed or not.

4867 **§ 4.1-354. No recovery for alcoholic beverages illegally sold.**

4868 No action to recover the price of any alcoholic beverages sold in contravention of this ~~title~~ subtitle  
4869 may be maintained.

4870 **§ 4.1-600. Definitions.**

4871 As used in this subtitle, unless the context requires a different meaning:

4872 "Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction  
4873 that is calculated to induce sales of retail marijuana, retail marijuana products, marijuana plants, ~~or~~  
4874 *marijuana seeds, or regulated hemp products*, including any written, printed, graphic, digital, electronic,  
4875 or other material, billboard, sign, or other outdoor display, publication, or radio or television broadcast.

4876 "Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

4877 "Board" means the Board of Directors of the Virginia Cannabis Control Authority.

4878 "Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

4879 "Child-resistant" means, with respect to packaging or a container, (i) specially designed or  
4880 constructed to be significantly difficult for a typical child under five years of age to open and not to be  
4881 significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more  
4882 than a single use or that contains multiple servings, resealable.

4883 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing,  
4884 grading, trimming, or other similar processing of marijuana for use or sale. "Cultivation" or "cultivate"  
4885 does not include manufacturing or testing.

4886 "*Edible hemp product*" means a hemp product intended to be consumed orally that is or contains an  
4887 industrial hemp extract.

4888 "Edible marijuana product" means a marijuana product intended to be consumed orally, including  
4889 marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

4890 "*Hemp product*" means the same as that term is defined in § 3.2-4112.

4891 "*Hemp product intended for smoking*" means any hemp product intended to be consumed by  
4892 inhalation.

4893 "Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no  
4894 wider than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

4895 "*Industrial hemp*" means the same as that term is defined in § 3.2-4112.

4896 "*Industrial hemp extract*" means any phytochemical that has been removed from industrial hemp.

4897 "*Industrial hemp extract*" (i) is not a hemp seed-derived ingredient that is approved by the U.S. Food  
4898 and Drug Administration or the subject of a generally recognized as safe notice for which the U.S.  
4899 Food and Drug Administration had no questions and (ii) does not include any chemically synthesized  
4900 cannabinoid.

4901 "Licensed" means the holding of a valid license granted by the Authority.

4902 "Licensee" means any person to whom a license has been granted by the Authority.

4903 "Manufacturing" or "manufacture" means the production of marijuana products *or regulated hemp*  
4904 *products* or the blending, infusing, compounding, or other preparation of marijuana ~~and~~ marijuana  
4905 products, *or regulated hemp products*, including marijuana extraction or preparation by means of  
4906 chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

4907 "Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or  
4908 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,  
4909 its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include the mature  
4910 stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant,  
4911 unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis.  
4912 "Marijuana" does not include (i) industrial hemp, ~~as defined in § 3.2-4112~~, that is possessed by a person  
4913 registered pursuant to subsection A of § 3.2-4115 or his agent ~~or~~; (ii) *industrial hemp that is possessed*  
4914 *by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant*  
4915 *to 7 C.F.R. Part 990*; (iii) a hemp product, ~~as defined in § 3.2-4112~~, other than a regulated hemp  
4916 product, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived  
4917 from industrial hemp, ~~as defined in § 3.2-4112~~, that is grown, dealt, or processed in compliance with



state or federal law; or (iv) a regulated hemp product that does not exceed the maximum tetrahydrocannabinol concentration established pursuant to § 4.1-606 and that is derived from industrial hemp that is grown, dealt, or processed in compliance with state or federal law.

"Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant is a concentrate for purposes of this subtitle.

"Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use.

"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana manufacturing facility, a marijuana wholesaler, or a retail marijuana store.

"Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label, and package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or other marijuana manufacturing facilities.

"Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana.

"Marijuana products" means (i) products that are composed of marijuana and other ingredients and are intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

"Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test marijuana, marijuana products, *regulated hemp products*, and other substances.

"Marijuana wholesaler" means a facility licensed under this subtitle 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.

"Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed marijuana establishment.

"Non-retail marijuana products" means marijuana products that are not manufactured and sold by a licensed marijuana establishment.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the cultivation, manufacture, sale, or testing of retail marijuana or retail marijuana products shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

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

*"Regulated hemp product" means a hemp product intended for smoking or edible hemp products.*

"Residence" means any building or part of a building or structure where a person resides, but does 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.

"Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana establishment.

"Retail marijuana products" means marijuana products that are manufactured and sold by a licensed marijuana establishment.

"Retail marijuana store" means a facility licensed under this subtitle 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.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale;

4979 peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, retail  
 4980 marijuana ~~or~~, retail marijuana products, *or regulated hemp products*.

4981 "Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has  
 4982 designated as a law-enforcement officer pursuant to this subtitle.

4983 "Testing" or "test" means the research and analysis of marijuana, marijuana products, *regulated hemp*  
 4984 *products*, or other substances for contaminants, safety, or potency. "Testing" or "test" does not include  
 4985 cultivation or manufacturing.

4986 **§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.**

4987 A. The General Assembly has determined that there exists in the Commonwealth a need to control  
 4988 the possession, sale, transportation, distribution, and delivery of retail marijuana ~~and~~, retail marijuana  
 4989 products, *and regulated hemp products* in the Commonwealth. Further, the General Assembly determines  
 4990 that the creation of an authority for this purpose is in the public interest, serves a public purpose, and  
 4991 will promote the health, safety, welfare, convenience, and prosperity of the people of the  
 4992 Commonwealth. To achieve this objective, there is hereby created an independent political subdivision  
 4993 of the Commonwealth, exclusive of the legislative, executive, or judicial branches of state government,  
 4994 to be known as the Virginia Cannabis Control Authority. The Authority's exercise of powers and duties  
 4995 conferred by this subtitle shall be deemed the performance of an essential governmental function and a  
 4996 matter of public necessity for which public moneys may be spent.

4997 B. The Board of Directors of the Authority is vested with control of the possession, sale,  
 4998 transportation, distribution, and delivery of retail marijuana ~~and~~, retail marijuana products, *and regulated*  
 4999 *hemp products* in the Commonwealth, with plenary power to prescribe and enforce regulations and  
 5000 conditions under which retail marijuana ~~and~~, retail marijuana products, *and regulated hemp products* are  
 5001 possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt, incompetent,  
 5002 dishonest, or unprincipled practices and to promote the health, safety, welfare, convenience, and  
 5003 prosperity of the people of the Commonwealth. The exercise of the powers granted by this subtitle shall  
 5004 be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their  
 5005 safety, health, welfare, and convenience. No part of the assets or net earnings of the Authority shall  
 5006 inure to the benefit of, or be distributable to, any private individual, except that reasonable compensation  
 5007 may be paid for services rendered to or for the Authority affecting one or more of its purposes, and  
 5008 benefits may be conferred that are in conformity with said purposes, and no private individual shall be  
 5009 entitled to share in the distribution of any of the corporate assets on dissolution of the Authority.

5010 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings;**  
 5011 **compensation and expenses; duties.**

5012 A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an  
 5013 advisory council to the Board. The purpose of the Advisory Council is to assess and monitor public  
 5014 health issues, trends, and impacts related to marijuana and marijuana legalization and make  
 5015 recommendations regarding health warnings, retail marijuana ~~and~~, retail marijuana products, *and*  
 5016 *regulated hemp products* safety and product composition, and public health awareness, programming,  
 5017 and related resource needs.

5018 B. The Advisory Council shall have a total membership of ~~24~~ 24 members that shall consist of ~~14~~ 16  
 5019 nonlegislative citizen members and ~~seven~~ eight ex officio members. Nonlegislative citizen members of  
 5020 the Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and  
 5021 geographic diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as  
 5022 follows: four to be appointed by the Senate Committee on Rules, one of whom shall be a representative  
 5023 from the Virginia Foundation for Healthy Youth, one of whom shall be a representative from the  
 5024 Virginia Chapter of the American Academy of Pediatrics, one of whom shall be a representative from the Virginia  
 5025 Pharmacists Association; six to be appointed by the Speaker of the House of Delegates, one of whom  
 5026 shall be a representative from a community services board, one of whom shall be a person or health  
 5027 care provider with expertise in substance use disorder treatment and recovery, one of whom shall be a  
 5028 person or health care provider with expertise in substance use disorder prevention, one of whom shall be  
 5029 a person with experience in disability rights advocacy, one of whom shall be a person with experience  
 5030 in veterans health care, and one of whom shall be a person with a social or health equity background;  
 5031 and ~~four~~ six to be appointed by the Governor, subject to confirmation by the General Assembly, one of  
 5032 whom shall be a representative of a local health district, one of whom shall be a person who is part of  
 5033 the cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, ~~and~~  
 5034 one of whom shall be a registered medical cannabis patient, *one of whom shall be a person with*  
 5035 *expertise in marijuana consumer safety, and one of whom shall be a marijuana toxicologist.*

5037 The Secretary of Health and Human Resources, *the Director of Diversity, Equity, and Inclusion*, the  
 5038 Commissioner of Health, the Commissioner of Behavioral Health and Developmental Services, the  
 5039 Commissioner of Agriculture and Consumer Services, the Director of the Department of Health  
 5040 Professions, the Director of the Department of Forensic Science, and the Chief Executive Officer of the

Virginia Cannabis Control Authority, or their designees, shall serve ex officio with voting privileges. Ex officio members of the Advisory Council shall serve terms coincident with their terms of office.

After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee. The Advisory Council shall select a vice-chairman from among its membership. A majority of the members shall constitute a quorum. The Advisory Council shall meet at least two times each year and shall meet at the call of the chairman or whenever the majority of the members so request.

The Advisory Council shall have the authority to create subgroups with additional stakeholders, experts, and state agency representatives.

C. Members shall receive no compensation for the performance of their duties but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

D. The Advisory Council shall have the following duties, in addition to duties that may be necessary to fulfill its purpose as described in subsection A:

1. To review multi-agency efforts to support collaboration and a unified approach on public health responses related to marijuana and marijuana legalization in the Commonwealth and to develop recommendations as necessary.

2. To monitor changes in drug use data related to marijuana and marijuana legalization in the Commonwealth and the science and medical information relevant to the potential health risks associated with such drug use, and make appropriate recommendations to the Department of Health and the Board.

3. ~~Submit~~ To submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Advisory Council no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

#### **§ 4.1-604. Powers and duties of the Board.**

The Board shall have the following powers and duties:

1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-606;

2. Control the possession, sale, transportation, and delivery of marijuana ~~and~~ marijuana products, *and regulated hemp products*;

3. Grant, suspend, and revoke licenses for the cultivation, manufacture, distribution, sale, and testing of marijuana ~~and~~ marijuana products, *and regulated hemp products* as provided by law;

4. Determine the nature, form, and capacity of all containers used for holding marijuana products *and regulated hemp products* to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;

5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

6. Establish standards and implement an online course for employees of retail marijuana stores that trains employees on how to educate consumers on the potential risks of marijuana use;

7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar document regarding the potential risks of marijuana use to be prominently displayed and made available to consumers;

8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters related to diversity, equity, and inclusion standards in the marijuana industry;

9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish to possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship plan, and an approval process and requirements for implementation of such plans; (ii) be responsible for conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned businesses and veteran-owned businesses interested in participating in the marijuana industry and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with business planning for potential marijuana establishment licensees; (iv) spread awareness of business opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana

5102 prohibition and enforcement; (v) provide technical assistance in navigating the administrative process to  
5103 potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in areas  
5104 disproportionately impacted by marijuana prohibition and enforcement as necessary;

5105 10. Establish a position for an individual with professional experience in a health related field who  
5106 shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with  
5107 the Office of the Secretary of Health and Human Resources and relevant health and human services  
5108 agencies and organizations, and perform other duties as needed.

5109 11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and the  
5110 Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana  
5111 industry by people from communities that have been disproportionately impacted by marijuana  
5112 prohibition and enforcement and to positively impact those communities;

5113 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

5114 13. Adopt, use, and alter at will a common seal;

5115 14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the  
5116 sale of products of, or services rendered by the Authority at rates to be determined by the Authority for  
5117 the purpose of providing for the payment of the expenses of the Authority;

5118 15. Make and enter into all contracts and agreements necessary or incidental to the performance of  
5119 its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including  
5120 agreements with any person or federal agency;

5121 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial  
5122 experts, investment bankers, superintendents, managers, and such other employees and special agents as  
5123 may be necessary and fix their compensation to be payable from funds made available to the Authority.  
5124 Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5  
5125 (§ 2.2-500 et seq.) of Title 2.2;

5126 17. Receive and accept from any federal or private agency, foundation, corporation, association, or  
5127 person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive  
5128 and accept from the Commonwealth or any state and any municipality, county, or other political  
5129 subdivision thereof or from any other source aid or contributions of either money, property, or other  
5130 things of value, to be held, used, and applied only for the purposes for which such grants and  
5131 contributions may be made. All federal moneys accepted under this section shall be accepted and  
5132 expended by the Authority upon such terms and conditions as are prescribed by the United States and as  
5133 are consistent with state law, and all state moneys accepted under this section shall be expended by the  
5134 Authority upon such terms and conditions as are prescribed by the Commonwealth;

5135 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its  
5136 business shall be transacted and the manner in which the powers of the Authority shall be exercised and  
5137 its duties performed. The Board may delegate or assign any duty or task to be performed by the  
5138 Authority to any officer or employee of the Authority. The Board shall remain responsible for the  
5139 performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where  
5140 appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated.  
5141 Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such  
5142 delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance  
5143 of the duties and tasks;

5144 19. Conduct or engage in any lawful business, activity, effort, or project consistent with the  
5145 Authority's purposes or necessary or convenient to exercise its powers;

5146 20. Develop policies and procedures generally applicable to the procurement of goods, services, and  
5147 construction, based upon competitive principles;

5148 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of  
5149 Title 2.2;

5150 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,  
5151 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the  
5152 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest  
5153 therein, at such annual rental and on such terms and conditions as may be determined by the Board;  
5154 lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest  
5155 therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual  
5156 rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey  
5157 any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired  
5158 or held by the Authority on such terms and conditions as may be determined by the Board; and occupy  
5159 and improve any land or building required for the purposes of this subtitle;

5160 23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be  
5161 considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying,  
5162 blending, and processing plants;

5163 24. Appoint every agent and employee required for its operations, require any or all of them to give

bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of experts and professionals;

25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers, and other documents before the Board or any agent of the Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may 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;

26. 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;

27. Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

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 subtitle;

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

31. Develop and make available on its website guidance documents regarding compliance and safe practices for persons who cultivate marijuana at home for personal use, which shall include information regarding cultivation practices that promote personal and public safety, including child protection, and discourage practices that create a nuisance;

32. Develop and make available on its website a resource that provides information regarding (i) responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana consumption, including inability to operate a motor vehicle and other types of transportation and equipment; and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment opportunities. The Board shall require that the web address for such resource be included on the label of all retail marijuana and retail marijuana product as provided in § 4.1-1402; and

33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

#### **§ 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, *and regulated hemp 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 *and regulated hemp product* preparation;

4. Establish a testing program for retail marijuana ~~and~~ retail marijuana products, *and regulated hemp 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 *and on regulated hemp products to be sold or offered for sale by a person* in accordance with the provisions of this subtitle;

7. Establish a maximum tetrahydrocannabinol level for retail marijuana products, ~~which~~ *and regulated hemp products*. Such tetrahydrocannabinol level for retail marijuana products shall not exceed

5225 (i) five milligrams per serving for edible marijuana products and where practicable an equivalent amount  
5226 for other marijuana products or (ii) 50 milligrams per package for edible marijuana products and where  
5227 practicable an equivalent amount for other marijuana products. Such regulations may include other  
5228 product and dispensing limitations on tetrahydrocannabinol;

5229 8. Establish requirements for the form, content, and retention of all records and accounts by all  
5230 licensees *and by any person selling a regulated hemp product*;

5231 9. Provide alternative methods for licensees *and any person selling a regulated hemp product* to  
5232 maintain and store business records that are subject to Board inspection, including methods for  
5233 Board-approved electronic and offsite storage;

5234 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana  
5235 stores in the community and (ii) metrics that have similarly shown an association with negative  
5236 community-level health outcomes or health disparities. In promulgating such regulations, the Board shall  
5237 coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

5238 11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer  
5239 within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at  
5240 the address on record with the Board by certified mail, return receipt requested, and by regular mail;

5241 12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to  
5242 subsection C of § 4.1-1002;

5243 13. Establish criteria by which to evaluate social equity license applicants, which shall be an  
5244 applicant who has lived or been domiciled for at least 12 months in the Commonwealth and is either (i)  
5245 an applicant with at least 66 percent ownership by a person or persons who have been convicted of or  
5246 adjudicated delinquent for any misdemeanor violation of *former* § 18.2-248.1, former § 18.2-250.1, or  
5247 subsection A of § 18.2-265.3 as it relates to marijuana, *including any such violation that was deferred*  
5248 *and dismissed*; (ii) an applicant with at least 66 percent ownership by a person or persons who ~~is the~~  
5249 ~~parent, child, sibling, or spouse of a person~~ (a) *has a family member* who has been convicted of or  
5250 adjudicated delinquent for any misdemeanor violation of *former* § 18.2-248.1, former § 18.2-250.1, or  
5251 subsection A of § 18.2-265.3 as it relates to marijuana, *including any such violation that was deferred*  
5252 *and dismissed, and (b) was a dependent of such family member at the time such offense was committed*  
5253 *or was significantly impacted, as determined by the Board, by such conviction, adjudication, or*  
5254 *disposition; or (iii) an applicant with at least 66 percent ownership by a person or persons who have*  
5255 *meet two or more of the following: (a) resided for at least three of the past five years in a jurisdiction*  
5256 *that is determined by the Board after utilizing census tract data made available by the United States*  
5257 *Census Bureau to have been disproportionately policed for marijuana crimes; (iv) an applicant with at*  
5258 *least 66 percent ownership by a person or persons who have, (b) resided for at least three of the last*  
5259 *five years in a jurisdiction determined by the Board after utilizing census tract data made available by*  
5260 *the United States Census Bureau to be economically distressed; or (v) an applicant with at least 66*  
5261 *percent ownership by a person or persons who, or (c) graduated from a historically black college or*  
5262 *university located in the Commonwealth;*

5263 14. For the purposes of establishing criteria by which to evaluate social equity license applicants,  
5264 establish standards by which to determine (i) which jurisdictions have been disproportionately policed  
5265 for marijuana crimes ~~and~~, (ii) which jurisdictions are economically distressed, *and (iii) whether a person*  
5266 *was significantly impacted by a family member's conviction, adjudication of delinquency, or deferred*  
5267 *disposition for any misdemeanor violation of former § 18.2-248.1, former § 18.2-250.1, or subsection A*  
5268 *of § 18.2-265.3 as it relates to marijuana;*

5269 15. Establish standards and requirements for (i) any preference in the licensing process for qualified  
5270 social equity applicants, (ii) what percentage of application or license fees are waived for a qualified  
5271 social equity applicant, and (iii) a low-interest business loan program for qualified social equity  
5272 applicants;

5273 16. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal  
5274 cultivation *and manufacturing* of marijuana that promote personal and public safety, including child  
5275 protection, and discourage personal cultivation practices that create a nuisance, including a nuisance  
5276 caused by odor;

5277 17. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail  
5278 marijuana ~~or~~, retail marijuana products, *or regulated hemp products*, not inconsistent with the provisions  
5279 of this chapter, so that such advertising displaces the illicit market and notifies the public of the location  
5280 of marijuana establishments. Such regulations shall be promulgated in accordance with § 4.1-1404;

5281 18. Establish restrictions on the number of licenses that a person may be granted to operate a  
5282 marijuana establishment in single locality or region; and

5283 19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have been  
5284 granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure all  
5285 licensees have an equal and meaningful opportunity to participate in the market. Such regulations may  
5286 limit the amount of products cultivated or manufactured by the pharmaceutical processor or industrial

hemp processor that such processor may offer for sale in its retail marijuana stores.

C. The Board may promulgate regulations that:

1. ~~Limit Establish classes within any license category or limit~~ the number of licenses issued by type or class to operate a marijuana establishment; however, ~~the number of licenses issued shall not exceed~~ the following limits:

a. ~~Retail marijuana stores, 400;~~

b. ~~Marijuana wholesalers, 25;~~

c. ~~Marijuana manufacturing facilities, 60; and~~

d. ~~Marijuana cultivation facilities, 450~~ *the Board may not issue more than 400 retail marijuana store licenses.*

In determining the number of licenses issued pursuant to this subdivision, the Board shall not consider any license granted pursuant to subsection C of § 4.1-805 to (i) a 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 or (ii) an industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-1003 and 4.1-1004, including method of filing a return, information required on a return, and form of payment.

3. Limit the allowable square footage of a retail marijuana store, which shall not exceed 1,500 square feet.

4. Allow certain persons to be granted or have interest in a license in more than one of the following license categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store license. Such regulations shall be drawn narrowly to limit vertical integration to small businesses and ensure that all licensees have an equal and meaningful opportunity to participate in the market.

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 shall consult with the Cannabis Public Health Advisory Council in promulgating any 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.

**§ 4.1-629. 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 order is issued. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the locality once a week for three consecutive weeks prior to the referendum.*

*The question on the ballot shall be:*

*"Shall the operation of retail marijuana stores be prohibited in \_\_\_\_\_ (name of county, city, or town)?"*

*The referendum shall be held and the results certified as provided in § 24.2-684. In addition to the certifications required by such section, the secretary of the local electoral board shall certify the results of the referendum to the Board of Directors of the Virginia Cannabis Control Authority and to the governing body of the locality.*

*B. If a majority of the qualified voters voting in such referendum vote "No" on the question of whether retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be permitted to operate within the locality 60 days after the results are certified or on January 1, 2024, whichever is later, and no subsequent referendum may be held pursuant to this section within such*

5348 locality.

5349 If a majority of the qualified voters voting in such referendum vote "Yes" on the question of whether  
5350 retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be prohibited in  
5351 the locality effective January 1 of the year immediately following the referendum. A referendum on the  
5352 same question may be held subsequent to a vote to prohibit retail marijuana stores but not earlier than  
5353 four years following the date of the previous referendum. Any subsequent referendum shall be held  
5354 pursuant to the provisions of this section.

5355 C. When any referendum is held pursuant to this section in a town, separate and apart from the  
5356 county in which such town or a part thereof is located, such town shall be treated as being separate  
5357 and apart from such county. When any referendum is held pursuant to this section in a county, any  
5358 town located within such county shall be treated as being separate and apart from such county.

5359 D. The legality of any referendum held pursuant to this section shall be subject to the inquiry,  
5360 determination, and judgment of the circuit court that ordered the referendum. The court shall proceed  
5361 upon the complaint of 15 or more qualified voters of the county, city, or town, filed within 30 days after  
5362 the date the results of the referendum are certified and setting out fully the grounds of contest. The  
5363 complaint and the proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654,  
5364 and the judgment of the court entered of record shall be a final determination of the legality of the  
5365 referendum.

5366 **§ 4.1-630. Local ordinances or resolutions regulating retail marijuana or retail marijuana**  
5367 **products.**

5368 A. No county, city, or town shall, except as provided in § 4.1-629, adopt any ordinance or resolution  
5369 that regulates or prohibits the cultivation, manufacture, possession, sale, wholesale distribution,  
5370 handling, transportation, consumption, use, advertising, or dispensing of retail marijuana or retail  
5371 marijuana products in the Commonwealth.

5372 B. However, the governing body of any county, city, or town may adopt an ordinance (i) that  
5373 prohibits the acts described in § 4.1-1108, or the acts described in § 4.1-1109, and may provide a  
5374 penalty for violation thereof and (ii) that regulates or prohibits the possession of opened retail  
5375 marijuana or retail marijuana products containers in its local public parks, playgrounds, public streets,  
5376 and any sidewalk adjoining any public street.

5377 C. Nothing in this chapter shall be construed to supersede or limit the authority of a locality to  
5378 adopt and enforce local ordinances to regulate businesses licensed pursuant to this chapter, including  
5379 local zoning and land use requirements and business license requirements; however, a locality shall not  
5380 adopt any local ordinance, zoning requirement, land use requirement, or business license requirement  
5381 that regulates marijuana establishments unless such ordinance or requirement applies with equal force  
5382 and effect to similarly situated businesses.

5383 D. Except as provided in this section, all local acts, including charter provisions and ordinances of  
5384 counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the  
5385 extent of such inconsistency.

5386 CHAPTER 7.

5387 ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

5388 **§ 4.1-700. Exemptions from licensure.**

5389 The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or  
5390 pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article  
5391 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act; (ii) a dealer, grower, or processor of industrial  
5392 hemp registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1  
5393 (§ 3.2-4112 et seq.) of Title 3.2; (iii) a manufacturer of an edible hemp product operating in  
5394 accordance with Article 6 (§ 3.2-5145.6 et seq.) Chapter 51 of Title 3.2; or (iv) a person who cultivates  
5395 marijuana at home for personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed  
5396 to (a) prevent any person described in clause (i), (ii), or (iii) from obtaining a license pursuant to this  
5397 subtitle, provided such person satisfies applicable licensing requirements; (b) prevent a licensee from  
5398 acquiring hemp products from an industrial hemp processor in accordance with the provisions of  
5399 Chapter 41.1 of Title 3.2; or (c) prevent a cultivation, manufacturing, wholesale, or retail licensee from  
5400 operating on the licensed premises of a pharmaceutical processing facility in accordance with Article  
5401 4.2 of the Drug Control Act or an industrial hemp processing facility in accordance with Chapter 41.1  
5402 of Title 3.2.

5403 **§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.**

5404 The privilege of any licensee to cultivate, manufacture, transport, sell, or test retail marijuana or  
5405 retail marijuana products shall extend to such licensee and to all agents or employees of such licensee  
5406 for the purpose of operating under such license. The licensee may be held liable for any violation of  
5407 this subtitle or any Board regulation committed by such agents or employees in connection with their  
5408 employment.

5409 **§ 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.**

A. Every licensed marijuana manufacturing facility or marijuana wholesaler shall keep complete, accurate, and separate records in accordance with Board regulations of all retail marijuana and retail marijuana products it purchased, manufactured, sold, or shipped.

B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in accordance with Board regulations of all purchases of retail marijuana products, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every licensed retail marijuana store shall also preserve all invoices showing its purchases for a period as specified by Board regulations. The licensee shall also keep an accurate account of daily sales, showing quantities of retail marijuana products sold and the total price charged by it therefor. Except as otherwise provided in subsections D and E, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation.

Notwithstanding the provisions of subsection E, electronic records of licensed retail marijuana stores may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the licensee may obtain Board approval, for good cause shown, to permit the licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Every licensed marijuana cultivation facility shall keep complete, accurate, and separate records in accordance with Board regulations of all retail marijuana and retail marijuana products it purchased, manufactured, sold, or shipped.

D. Every licensed marijuana testing facility shall keep complete, accurate, and separate records in accordance with Board regulations of all retail marijuana and retail marijuana products it developed,

5471 researched, or tested and the names and addresses of the licensees or persons who submitted the retail  
5472 marijuana or retail marijuana product to the marijuana testing facility.

5473 E. The Board and its special agents shall be allowed free access during reasonable hours to every  
5474 place in the Commonwealth and to the premises of every licensee or for the purpose of examining and  
5475 inspecting such place and all records, invoices, and accounts therein.

5476 For the purposes of a Board inspection of the records of any retail marijuana store licensees,  
5477 "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not  
5478 open to the public substantially during the same hours, "reasonable hours" means the business hours  
5479 when the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's  
5480 records are not available for inspection, the licensee shall provide the records to a special agent of the  
5481 Board within 24 hours after a request is made to inspect the records.

5482 CHAPTER 8.

5483 ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

5484 § 4.1-800. **Marijuana cultivation facility license.**

5485 A. The Board may issue marijuana cultivation facility licenses, which shall authorize the licensee to  
5486 cultivate, label, and package retail marijuana; to purchase or take possession of marijuana plants and  
5487 seeds from other marijuana cultivation facilities; to transfer possession of and sell retail marijuana,  
5488 immature marijuana plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores;  
5489 to transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other  
5490 marijuana cultivation facilities; to transfer possession of and sell retail marijuana to marijuana  
5491 manufacturing facilities; and to sell immature marijuana plants and marijuana seeds to consumers for  
5492 the purpose of cultivating marijuana at home for personal use.

5493 B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall  
5494 track the retail marijuana it cultivates from seed or immature marijuana plant to the point at which the  
5495 marijuana plant or the marijuana produced by the marijuana plant is delivered or transferred to a  
5496 marijuana testing facility, a marijuana wholesaler, another marijuana cultivation facility, a marijuana  
5497 manufacturer, a retail marijuana store, or a consumer or is disposed of or destroyed.

5498 § 4.1-801. **Marijuana manufacturing facility license.**

5499 A. The Board may issue marijuana manufacturing facility licenses, which shall authorize the licensee  
5500 to manufacture, label, and package retail marijuana and retail marijuana products; to purchase or take  
5501 possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing  
5502 facility; and to transfer possession of and sell retail marijuana and retail marijuana products to  
5503 marijuana wholesalers, retail marijuana stores, or other marijuana manufacturing facilities.

5504 B. Except as otherwise provided in this subtitle, retail marijuana products shall be prepared on a  
5505 licensed premises that is used exclusively for the manufacture and preparation of retail marijuana or  
5506 retail marijuana products and using equipment that is used exclusively for the manufacture and  
5507 preparation of retail marijuana or retail marijuana products.

5508 C. All areas within the licensed premises of a marijuana manufacturing facility in which retail  
5509 marijuana and retail marijuana products are manufactured shall meet all sanitary standards specified in  
5510 regulations adopted by the Board. A marijuana manufacturing facility that manufactures an edible  
5511 marijuana product shall comply with the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2  
5512 and any regulations adopted pursuant thereto.

5513 D. In accordance with the requirements of § 4.1-611, a marijuana manufacturing facility licensee  
5514 shall track the retail marijuana it uses in its manufacturing processes from the point the retail  
5515 marijuana is delivered or transferred to the marijuana manufacturing facility by a marijuana wholesaler  
5516 licensee to the point the retail marijuana or retail marijuana products produced using the retail  
5517 marijuana are delivered or transferred to another marijuana manufacturing facility, a marijuana testing  
5518 facility, or a marijuana wholesaler or are disposed of or destroyed.

5519 § 4.1-802. **Marijuana testing facility license.**

5520 A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to  
5521 develop, research, or test retail marijuana, retail marijuana products, regulated hemp products, and  
5522 other substances.

5523 B. A marijuana testing facility may develop, research, or test retail marijuana and retail marijuana  
5524 products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use the retail  
5525 marijuana or retail marijuana product for personal use as authorized under § 4.1-1100.

5526 C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a  
5527 marijuana testing facility from developing, researching, or testing substances that are not marijuana,  
5528 other products, or regulated hemp products for that facility or for another person.

5529 D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and  
5530 maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for  
5531 Standardization by a third-party accrediting body.

5532 E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track

all retail marijuana and retail marijuana products it receives from a licensee for testing purposes from the point at which the retail marijuana or retail marijuana products are delivered or transferred to the marijuana testing facility to the point at which the retail marijuana or retail 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 marijuana plants, or marijuana seeds using:

a. An automated dispensing or vending machine;

b. A drive-through sales window;

c. An Internet-based sales platform; or

d. A delivery service.

3. A retail marijuana store shall not be permitted to sell more than one ounce of retail marijuana or an equivalent amount of retail marijuana products as determined by regulation promulgated by the Board during a single transaction to one person.

4. A retail marijuana store shall not:

a. Give away any retail marijuana or retail marijuana products, except as otherwise permitted by this subtitle;

b. Sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to any person when at the time of such sale he knows or has reason to believe that the person attempting to purchase the retail marijuana, retail marijuana product, immature marijuana plant, or marijuana seeds is intoxicated or is attempting to purchase retail marijuana for someone younger than 21 years of age;

c. Sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds between the hours of 9:00 p.m. and 8:00 a.m.; or

d. Employ or allow to volunteer any person younger than 21 years of age.

5. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the point at which the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds are delivered or transferred to the retail marijuana store to the point at which the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds are sold to a consumer, delivered or transferred to a marijuana testing facility, or disposed of or destroyed.

6. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2.

C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance. The notice required by this subsection shall (i) be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of § 40.1-11.3.

D. Each retail marijuana store licensee shall prominently display and make available for dissemination to consumers Board-approved information regarding the potential risks of marijuana use.

E. Each retail marijuana store licensee shall provide training, established by the Board, to all employees educating them on how to discuss the potential risks of marijuana use with consumers.

F. Any retail marijuana store license granted to a 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 shall authorize the licensee to exercise any privileges set forth in subsection A at the place of business designated in the license, which, notwithstanding subsection A of § 4.1-702, may include, upon request by the licensee, up to five additional retail establishments of the licensee. Such additional retail establishments shall be located at the five cannabis dispensing facilities for which the Board of Health has issued a permit pursuant to subsection B of § 54.1-3442.6 in the health service area in which the pharmaceutical processing facility is located.

**§ 4.1-805. Multiple licenses awarded to one person prohibited.**

A. As used in this section, "interest" means an equity ownership interest or a partial equity ownership interest or any other type of financial interest, including but not limited to being an investor or serving in a management position.

B. Except as otherwise permitted by Board regulation promulgated pursuant to subdivision C 4 of § 4.1-606, no person shall be granted or have interest in a license in more than one of the following license categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, retail marijuana store license, or marijuana testing facility license.

C. Notwithstanding subsection B and any other provision of law to the contrary, any (i) 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 or (ii) industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2, provided the industrial hemp processor completed such registration prior to March 31, 2021, and has processed no less than 40,000 pounds of hemp, shall be permitted to possess one or any combination of the following licenses: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store license. However, no pharmaceutical processor or industrial hemp processor that has been issued a marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store license shall be issued a marijuana testing facility license or have any interest in a marijuana testing facility licensee. Any pharmaceutical processor or industrial hemp processor that wishes to possess a license in more than one license category pursuant to this subsection shall (a) pay a \$1 million 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 (1) the Virginia Cannabis Equity Loan Fund, (2) the Virginia Cannabis Equity Reinvestment Fund, or (3) a program, as determined by the Board, that provides job training services to persons recently incarcerated.

**§ 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 license holder 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 this chapter or a retailer of tobacco or tobacco products;

l. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act; or

m. Is physically unable to carry on the business for which the application for a license is filed or has been adjudicated incapacitated.

2. The place to be occupied by the applicant:

a. Does not conform to the requirements of the governing body of the county, city, or town in which such place is located with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulation;

b. Is so located that granting a license and operation thereunder by the applicant would result in violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local ordinances relating to peace and good order;

c. Is so located with respect to any place of religious worship; hospital; public, private, or parochial school or institution of higher education; public or private playground or other similar recreational facility; child day program; substance use disorder treatment facility; or federal, state, or local government-operated facility that the operation of such place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities, programs, or institutions;

d. Is so located with respect to any residence or residential area that the operation of such place under such license will adversely affect real property values or substantially interfere with the usual quietude and tranquility of such residence or residential area;

e. When the applicant is applying for a retail marijuana store license, is located within 1,000 feet of an existing retail marijuana store; or

f. Under a retail marijuana store license, is so constructed, arranged, or illuminated that law-enforcement officers and special agents of the Board are prevented from ready access to and

5717 reasonable observation of any room or area within which retail marijuana or retail marijuana products  
5718 are to be sold.

5719 Nothing in this subdivision 2 shall be construed to require an applicant to have secured a place or  
5720 premises until the final stage of the license approval process.

5721 3. The number of licenses existing in the locality is such that the granting of a license is detrimental  
5722 to the interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall  
5723 consider (i) the criteria established by the Board to evaluate new licensees based on the density of retail  
5724 marijuana stores in the community; (ii) the character of, population of, number of similar licenses, and  
5725 number of all licenses existent in the particular county, city, or town and the immediate neighborhood  
5726 concerned; (iii) the effect that a new license may have on such county, city, town, or neighborhood in  
5727 conforming with the purposes of this subtitle; and (iv) the objections, if any, that may have been filed by  
5728 a local governing body or local residents.

5729 4. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any  
5730 political subdivision thereof that warrants refusal by the Board to grant any license.

5731 5. The Board is not authorized under this subtitle to grant such license.

5732 **§ 4.1-810. Conditions under which the Board shall refuse to grant licenses.**

5733 The Board shall refuse to grant any license to any member or employee of the Board or to any  
5734 corporation or other business entity in which such member or employee is a stockholder or has any  
5735 other economic interest.

5736 Whenever any other elected or appointed official of the Commonwealth or any political subdivision  
5737 thereof applies for such a license or continuance thereof, he shall state on the application the official  
5738 position he holds, and whenever a corporation or other business entity in which any such official is a  
5739 stockholder or has any other economic interest applies for such a license, it shall state on the  
5740 application the full economic interests of each such official in such corporation or other business entity.

5741 **§ 4.1-811. Notice and hearings for refusal to grant licenses; Administrative Process Act;**  
5742 **exceptions.**

5743 A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial  
5744 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in  
5745 subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided  
5746 by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of  
5747 Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the  
5748 circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the  
5749 Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

5750 B. The Board may refuse a hearing on any application for the granting of any retail marijuana store  
5751 license, provided that such:

5752 1. License for the applicant has been refused or revoked within a period of 12 months;

5753 2. License for any premises has been refused or revoked at that location within a period of 12  
5754 months; or

5755 3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted by  
5756 the Board to expire for nonpayment of license fee, and at the time of expiration of such license, there  
5757 was a pending and unadjudicated charge, either before the Board or in any court, against the licensee  
5758 alleging a violation of this subtitle.

5759 C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time of  
5760 expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,  
5761 the Board may refuse a hearing on an application for a new license until after the date on which the  
5762 suspension period would have been executed had the license not have been permitted to expire.

5763 **CHAPTER 9.**

5764 **ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.**

5765 **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

5766 The Board may suspend or revoke any license if it has reasonable cause to believe that:

5767 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is  
5768 an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if  
5769 the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its  
5770 capital stock, or if the licensee is a limited liability company, any member-manager or any member  
5771 owning 10 percent or more of the membership interest of the limited liability company:

5772 a. Has misrepresented a material fact in applying to the Board for such license;

5773 b. Within the five years immediately preceding the date of the hearing held in accordance with §  
5774 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et  
5775 seq.), or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii)  
5776 violated or failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or  
5777 refused to comply with any of the conditions or restrictions of the license granted by the Board;

5778 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 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;

o. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act; or

p. Has refused to (i) remain neutral regarding any union organizing efforts by employees, including card check recognition and union access to employees; (ii) pay employees prevailing wages as determined by the U.S. Department of Labor; or (iii) classify no more than 10 percent of its workers as independent contractors and such workers are not owners in a worker-owned cooperative.

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city, or town in which such establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the Armed Forces of the United States by prices charged or otherwise.

4. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any



5840 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is  
5841 located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality,  
5842 unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for  
5843 correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered  
5844 into a payment plan approved by the same locality to settle the outstanding liability.

5845 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of  
5846 its agents or employees constituting a pattern or practice of employing unauthorized aliens on the  
5847 licensed premises in the Commonwealth.

5848 7. Any other cause authorized by this subtitle.

5849 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

5850 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the  
5851 Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or  
5852 permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily  
5853 injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises  
5854 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any  
5855 portion of public property immediately adjacent to the licensed premises, and the Board finds that there  
5856 exists a continuing threat to public safety and that summary suspension of the license or permit is  
5857 justified to protect the health, safety, or welfare of the public.

5858 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall  
5859 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of  
5860 any such act of violence. If the Board determines suspension is warranted, it shall immediately notify  
5861 the licensee of its intention to temporarily suspend his license pending the outcome of a formal  
5862 investigation. Such temporary suspension shall remain effective for a minimum of 48 hours. After the  
5863 48-hour period, the licensee may petition the Board for a restricted license pending the results of the  
5864 formal investigation and proceedings for disciplinary review. If the Board determines that a restricted  
5865 license is warranted, the Board shall have discretion to impose appropriate restrictions based on the  
5866 facts presented.

5867 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a  
5868 formal investigation. The formal investigation shall be completed within 10 days of its commencement  
5869 and the findings reported immediately to the Secretary of the Board. If, following the formal  
5870 investigation, the Secretary of the Board determines that suspension of the license is warranted, a  
5871 hearing shall be held within five days of the completion of the formal investigation. A decision shall be  
5872 rendered within 10 days of the conclusion of the hearing. If a decision is not rendered within 10 days of  
5873 the conclusion of the hearing, the order of suspension shall be vacated and the license reinstated. Any  
5874 appeal by the licensee shall be filed within 10 days of the decision and heard by the Board within 20  
5875 days of the decision. The Board shall render a decision on the appeal within 10 days of the conclusion  
5876 of the appeal hearing.

5877 D. Service of any order of suspension issued pursuant to this section shall be made by a special  
5878 agent of the Board in person and by certified mail to the licensee. The order of suspension shall take  
5879 effect immediately upon service.

5880 E. This section shall not apply to temporary permits granted under § 4.1-806.

5881 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

5882 The Board shall suspend or revoke any license if it finds that:

5883 1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession  
5884 of a gambling device, upon the premises for which the Board has granted a retail marijuana store  
5885 license.

5886 2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local  
5887 government or governmental agency or authority, by making or filing any report, document, or tax  
5888 return required by statute or regulation that is fraudulent or contains a willful or knowing false  
5889 representation of a material fact or has willfully deceived or attempted to deceive the Board, or any  
5890 federal, state, or local government or governmental agency or authority, by making or maintaining  
5891 business records required by statute or regulation that are false or fraudulent.

5892 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.**

5893 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or  
5894 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the  
5895 Administrative Process Act (§ 2.2-4000 et seq.).

5896 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee,  
5897 permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the  
5898 licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or  
5899 present employee of the licensee to any law-enforcement officer, the existence of which is known by the  
5900 Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this  
5901 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;

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 marijuana store licensee where the licensee can demonstrate that it provided to its employees marijuana 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 subtitle or Board regulations.

**§ 4.1-904. Suspension or revocation; disposition of retail marijuana or retail marijuana products on hand; termination.**

A. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by any licensee at the time the license of such person is suspended or revoked may be disposed of as follows:

1. Sold to persons in the Commonwealth licensed to sell such retail marijuana or retail marijuana products upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the Board; or

2. Provided to the Virginia State Police to be destroyed.

B. All retail marijuana or retail marijuana products owned by or in the possession of any person whose license is suspended or revoked shall be disposed of by such person in accordance with the provisions of this section within 60 days from the date of such suspension or revocation.

C. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by persons whose licenses have been terminated other than by suspension or revocation may be disposed of in accordance with subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.

D. All retail marijuana or retail marijuana products owned by or remaining in the possession of any person described in subsection A or C after the expiration of such period shall be deemed contraband and forfeited to the Commonwealth in accordance with the provisions of § 4.1-1304.

#### CHAPTER 10.

#### ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.

##### **§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.**

A. Every person intending to apply for any license authorized by this subtitle 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.

Applicants for licenses for establishments that are otherwise required to obtain an inspection by the Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a pending request for such inspection. If the applicant provides proof of inspection or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds in accordance with the provisions of this subtitle; however, the licensee shall not sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds until an inspection is completed.

B. In addition, each applicant for a license under the provisions of this subtitle shall post a notice of his application with the Board on the front door of the building, place, or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial posting of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city, or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication.

The Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership. In considering criminal history record information, the Board shall not disqualify an applicant because of 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 21 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.

B. The tax shall not apply to any sale:

1. From a marijuana establishment to another marijuana establishment.

2. Of cannabis oil for treatment under the provisions of § 54.1-3408.3 and Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

3. Of industrial hemp by a grower, processor, or dealer under the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

4. Of a hemp product or regulated hemp product.

C. All revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.

**§ 4.1-1004. Optional local marijuana tax.**

A. Any locality may by ordinance levy a three percent tax on any sale taxable under § 4.1-1003. The tax shall be in addition to any local sales tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), any food and beverage tax imposed under Article 7.1 (§ 58.1-3833 et seq.) of Chapter 38 of Title 58.1, and any excise tax imposed on meals under § 58.1-3840. Other than the taxes authorized and identified in this subsection, a locality shall not impose any other tax on a sale taxable under § 4.1-1003.

B. If a town imposes a tax under this section, any tax imposed by its surrounding county under this section shall not apply within the limits of the town.

C. Nothing in this section shall be construed to prohibit a locality from imposing any tax authorized

6086 by law on a person or property regulated under this subtitle. Nothing in this section shall be construed  
6087 to limit the authority of any locality to impose a license or privilege tax or fee on a business engaged in  
6088 whole or in part in sales taxable under § 4.1-1003 if such tax or fee is (i) based on an annual or  
6089 per-event flat fee authorized by law or (ii) is an annual license or privilege tax authorized by law, and  
6090 such tax includes sales or receipts taxable under § 4.1-1003 in its taxable measure.

6091 D. Any locality that enacts an ordinance pursuant to subsection A shall, within 30 days, notify the  
6092 Authority and any retail marijuana store in such locality of the ordinance's enactment. The ordinance  
6093 shall take effect on the first day of the second month following its enactment.

6094 E. Any tax levied under this section shall be administered and collected by the Authority in the same  
6095 manner as provided for the tax imposed under § 4.1-1003.

6096 F. All revenues remitted to the Authority under this section shall be disposed of as provided in  
6097 § 4.1-614.

6098 **§ 4.1-1005. Tax returns and payments; commissions; interest.**

6099 A. For any sale taxable under §§ 4.1-1003 and 4.1-1004, the seller shall be liable for collecting any  
6100 taxes due. All taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The  
6101 buyer shall not be liable for collecting or remitting the taxes or filing a return.

6102 B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 or  
6103 4.1-1004 shall file a return under oath with the Authority and pay any taxes due. Upon written  
6104 application by a person filing a return, the Authority may, if it determines good cause exists, grant an  
6105 extension to the end of the calendar month in which the tax is due, or for a period not exceeding 30  
6106 days. Any extension shall toll the accrual of any interest or penalties under § 4.1-1008.

6107 C. The Authority may accept payment by any commercially acceptable means, including cash, checks,  
6108 credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under  
6109 this subtitle. The Board may assess a service charge for the use of a credit or debit card.

6110 D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit  
6111 card, or automated clearinghouse transfer information and use such information for future payments of  
6112 taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any  
6113 payments made under this subsection. The Authority may procure the services of a third-party vendor  
6114 for the secure storage of information collected pursuant to this subsection.

6115 E. If any person liable for tax under §§ 4.1-1003 and 4.1-1004 sells out his business or stock of  
6116 goods or quits the business, such person shall make a final return and payment within 15 days after the  
6117 date of selling or quitting the business. Such person's successors or assigns, if any, shall withhold  
6118 sufficient of the purchase money to cover the amount of such taxes, interest, and penalties due and  
6119 unpaid until such former owner produces a receipt from the Authority showing payment or a certificate  
6120 stating that no taxes, penalties, or interest are due. If the buyer of a business or stock of goods fails to  
6121 withhold the purchase money as provided in this subsection, such buyer shall be liable for the payment  
6122 of the taxes, interest, and penalties due and unpaid on account of the operation of the business by any  
6123 former owner.

6124 F. When any person fails to timely pay the full amount of tax due under § 4.1-1003 or 4.1-1004,  
6125 interest at a rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any  
6126 taxes due under §§ 4.1-1003 and 4.1-1004 shall, if applicable, be subject to penalties as provided in  
6127 §§ 4.1-1206 and 4.1-1207.

6128 **§ 4.1-1006. Bonds.**

6129 The Authority may, when deemed necessary and advisable to do so in order to secure the collection  
6130 of the taxes levied under §§ 4.1-1003 and 4.1-1004, require any person subject to such tax to file a  
6131 bond, with such surety as it determines is necessary to secure the payment of any tax, penalty, or  
6132 interest due or that may become due from such person. In lieu of such bond, securities approved by the  
6133 Authority may be deposited with the State Treasurer, which securities shall be kept in the custody of the  
6134 State Treasurer, and shall be sold by the State Treasurer at the request of the Authority at public or  
6135 private sale if it becomes necessary to do so in order to recover any tax, interest, or penalty due the  
6136 Commonwealth. Upon any such sale, the surplus, if any, above the amounts due shall be returned to the  
6137 person who deposited the securities.

6138 **§ 4.1-1007. Refunds.**

6139 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to  
6140 § 4.1-1003 or 4.1-1004 have been paid and that the taxable items were or are (i) damaged, destroyed,  
6141 or otherwise deemed to be unsalable by reason of fire or any other providential cause before sale to the  
6142 consumer; (ii) destroyed voluntarily because the taxable items were defective and after notice to and  
6143 approval by the Authority of such destruction; or (iii) destroyed in any manner while in the possession  
6144 of a common, private, or contract carrier, the Authority shall certify such facts to the Comptroller for  
6145 approval of a refund payment from the state treasury to such extent as may be proper.

6146 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable  
6147 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

6209 of the Authority under § 4.1-1204, and any penalty imposed under § 4.1-1206 or 4.1-1207 shall be  
6210 subject to review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to  
6211 the entire evidential record of the proceedings provided by the Authority in accordance with the  
6212 Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit  
6213 court. Notwithstanding § 8.01-676.1, the final judgment or order of a circuit court shall not be  
6214 suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither  
6215 mandamus nor injunction shall lie in any such case.

6216 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or**  
6217 **older lawful; penalties.**

6218 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a  
6219 person 21 years of age or older may lawfully possess on his person or in any public place not more  
6220 than one ounce of marijuana or an equivalent amount of marijuana product as determined by regulation  
6221 promulgated by the Board.

6222 B. Any person who possesses on his person or in any public place marijuana or marijuana products  
6223 in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25. The  
6224 penalty for any violations of this section by an adult shall be prepayable according to the procedures in  
6225 § 16.1-69.40:2.

6226 C. With the exception of a licensee in the course of his duties related to such licensee's marijuana  
6227 establishment, any person who possesses on his person or in any public place (i) *more than four ounces*  
6228 *but not more than one pound of marijuana or an equivalent amount of marijuana product as determined*  
6229 *by regulation promulgated by the Board is guilty of a Class 3 misdemeanor and, for a second or*  
6230 *subsequent offense, a Class 2 misdemeanor and (ii) more than one pound of marijuana or an equivalent*  
6231 *amount of marijuana product as determined by regulation promulgated by the Board is guilty of a felony*  
6232 *punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of*  
6233 *not more than \$250,000, or both.*

6234 D. *With the exception of a licensee in the course of his duties related to such licensee's marijuana*  
6235 *establishment, any person who possesses in his residence or in any place other than a public place*  
6236 *more than four pounds of marijuana or an equivalent amount of marijuana product as determined by*  
6237 *regulation promulgated by the Board is guilty of a felony punishable by a term of imprisonment of not*  
6238 *less than one year nor more than 10 years and a fine of not more than \$250,000, or both.*

6239 E. The provisions of this section shall not apply to members of federal, state, county, city, or town  
6240 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as  
6241 handlers of dogs trained in the detection of controlled substances when possession of marijuana is  
6242 necessary for the performance of their duties.

6243 **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

6244 A. Notwithstanding the provisions of subdivision e (c) of § 18.2-248.1, a person 21 years of age or  
6245 older may cultivate up to four marijuana plants for personal use at their place of residence; however, at  
6246 no point shall a household contain more than four marijuana plants. For purposes of this section, a  
6247 "household" means those individuals, whether related or not, who live in the same house or other place  
6248 of residence.

6249 A person may only cultivate marijuana plants pursuant to this section at such person's main place of  
6250 residence.

6251 A violation of this subsection shall be punishable as follows:

6252 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a  
6253 civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a  
6254 Class 2 misdemeanor for a third and any subsequent offense;

6255 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

6256 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

6257 4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment  
6258 of not less than one year nor more than 10 years and a fine of not more than \$250,000, or both.

6259 B. A person who cultivates marijuana for personal use pursuant to this section shall:

6260 1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars,  
6261 or other optical aids;

6262 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

6263 3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or  
6264 identification number, and a notation that the marijuana plant is being grown for personal use as  
6265 authorized under this section.

6266 Any person who violates this subsection is subject to a civil penalty of no more than \$25. The  
6267 penalty for any violations of this section by an adult shall be prepayable according to the procedures in  
6268 § 16.1-69.40:2.

6269 C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner  
6270 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.

**§ 4.1-1102. 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 or possesses with intent to sell, give, or distribute 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 older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the United States or the District of Columbia, military identification card, United States passport or foreign government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any other valid government-issued identification card bearing the individual's photograph, signature, height, weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor. Notwithstanding the provisions of § 4.1-701, the Board shall not take administrative action against a licensee for the conduct of his employee who violates this subsection.

E. No person shall be convicted of both subsections A and D for the same sale.

**§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**



6332 *exceptions; penalties; forfeiture; treatment and education programs and services.*

6333 A. No person to whom retail marijuana or retail marijuana products may not lawfully be sold under  
6334 § 4.1-1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any  
6335 marijuana or marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local  
6336 law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary  
6337 in the performance of his duties. Such person may be prosecuted either in the county or city in which  
6338 the marijuana or marijuana products were possessed or consumed or in the county or city in which the  
6339 person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

6340 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no  
6341 more than \$25 and shall be ordered to enter a substance abuse treatment or education program or  
6342 both, if available, that in the opinion of the court best suits the needs of the accused.

6343 C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who  
6344 violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the  
6345 accused to enter a substance abuse treatment or education program or both, if available, that in the  
6346 opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273,  
6347 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

6348 D. Any such substance abuse treatment or education program to which a juvenile is ordered  
6349 pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral  
6350 Health and Developmental Services or (ii) a similar program available through a facility or program  
6351 operated by or under contract with the Department of Juvenile Justice or a locally operated court  
6352 services unit or a program funded through the Virginia Juvenile Community Crime Control Act (§  
6353 16.1-309.2 et seq.). Any such substance abuse treatment or education program to which a person 18  
6354 years of age or older is ordered pursuant to this section shall be provided by (a) a program licensed by  
6355 the Department of Behavioral Health and Developmental Services or (b) a program or services made  
6356 available through a community-based probation services agency established pursuant to Article 9  
6357 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an  
6358 offender is ordered to a local community-based probation services agency, the local community-based  
6359 probation services agency shall be responsible for providing for services or referring the offender to  
6360 education or treatment services as a condition of probation.

6361 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender  
6362 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21  
6363 years of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to  
6364 operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not  
6365 limited to a birth certificate or student identification card; or (iii) motor vehicle driver's license or other  
6366 document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another  
6367 jurisdiction, birth certificate, or student identification card of another person in order to establish a  
6368 false identification or false age for himself to consume, purchase, or attempt to consume or purchase  
6369 retail marijuana or retail marijuana products. Any person convicted of a violation of this subsection is  
6370 guilty of a Class 1 misdemeanor.

6371 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be  
6372 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

6373 G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or  
6374 local law-enforcement agency of a violation or suspected violation of this section shall be accorded  
6375 immunity from an administrative penalty for a violation of § 4.1-1104.

6376 **§ 4.1-1105.1. Possession of marijuana or marijuana products unlawful in certain cases; venue;**  
6377 **exceptions; penalties; treatment and education programs and services.**

6378 A. No person younger than 21 years of age shall consume or possess, or attempt to consume or  
6379 possess, any marijuana or marijuana products, except by any federal, state, or local law-enforcement  
6380 officer or his agent when possession of marijuana or marijuana products is necessary in the performance  
6381 of his duties. Such person may be prosecuted either in the county or city in which the marijuana or  
6382 marijuana products were possessed or consumed or in the county or city in which the person exhibits  
6383 evidence of physical indicia of consumption of marijuana or marijuana products.

6384 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no  
6385 more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both,  
6386 if available, that in the opinion of the court best suits the needs of the accused.

6387 C. ~~Any~~ Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who  
6388 violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the  
6389 accused to enter a substance abuse treatment or education program or both, if available, that in the  
6390 opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273,  
6391 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

6392 D. Any such substance abuse treatment or education program to which a person is ordered pursuant  
6393 to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and



Developmental Services or (ii) a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services agency, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

**§ 4.1-1106. Purchasing retail marijuana or retail marijuana products for one to whom they may not be sold; penalties; forfeiture.**

A. Any person who purchases retail marijuana or retail marijuana products for another person and at the time of such purchase knows or has reason to believe that the person for whom the retail marijuana or retail marijuana products were purchased was intoxicated is guilty of a Class 1 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.

**§ 4.1-1107. Using or consuming marijuana or marijuana products while in a motor vehicle being driven upon a public highway; penalty.**

A. For the purposes of this section:

"Open container" means any vessel containing marijuana or marijuana products, except the originally sealed manufacturer's container.

"Passenger area" means the area designed to seat the driver of any motor vehicle, any area within the reach of the driver, including an unlocked glove compartment, and the area designed to seat passengers. "Passenger area" does not include the trunk of any passenger vehicle; the area behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle or any similar vehicle; the living quarters of a motor home; or the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, including a bus, taxi, or limousine, while engaged in the transportation of such persons.

B. It is unlawful for any person to use or consume marijuana or marijuana products while driving a motor vehicle upon a public highway of the Commonwealth or while being a passenger in a motor vehicle being driven upon a public highway of the Commonwealth.

C. B. A judge or jury may make a permissive inference that a person has consumed marijuana or marijuana products in violation of this section if (i) ~~an open container is the marijuana or marijuana products~~ are located within the reach of the driver or passenger area of the motor vehicle, (ii) the marijuana or marijuana products in the open container have been at least partially removed ~~are not secured in a closed container, compartment, or vessel~~, and (iii) the appearance, conduct, speech, or other physical characteristic of such person, excluding odor, is consistent with the consumption of marijuana or marijuana products. Such person may be prosecuted either in the county or city in which the marijuana was used or consumed, or in the county or city in which the person exhibits evidence of physical indicia of use or consumption of marijuana.

~~D. C.~~ Any person who violates this section is guilty of a Class 4 misdemeanor.

**§ 4.1-1108. Consuming marijuana or marijuana products, or offering to another, in public place; penalty.**

A. No person shall consume marijuana or a marijuana product or offer marijuana or a marijuana product to another, whether accepted or not, at or in any public place.

B. Any person who violates this section is subject to a civil penalty of no more than \$25 for a first offense. A person who is convicted under this section of a second offense is subject to a \$25 civil penalty and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. A person convicted under this section of a third or subsequent offense is guilty of a Class 4 misdemeanor.

**§ 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.**

6455 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of  
6456 every description where marijuana or marijuana products are manufactured, stored, sold, dispensed,  
6457 given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed common  
6458 nuisances.

6459 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common  
6460 nuisance.

6461 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

6462 B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not  
6463 involved in the original offense, by a proceeding analogous to that provided in §§ 4.1-1304 and  
6464 4.1-1305 and upon proof of guilty knowledge, judgment may be given that such house, boathouse,  
6465 building, boat, car, or other place, or any room or part thereof, be closed. The court may, upon the  
6466 owner or lessor giving bond in the penalty of not less than \$500 and with security to be approved by  
6467 the court, conditioned that the premises shall not be used for unlawful purposes, or in violation of the  
6468 provisions of this subtitle for a period of five years, turn the same over to its owner or lessor, or  
6469 proceeding may be had in equity as provided in § 4.1-1305.

6470 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or  
6471 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and  
6472 (ii) had the right, because of such unlawful use, to enter and repossess the property.

6473 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

6474 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,  
6475 dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its  
6476 original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a  
6477 law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing or  
6478 distributing marijuana; and (iii) the object of a valid search warrant shall be considered a fortified drug  
6479 house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

6480 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

6481 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or  
6482 any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and  
6483 decorum of any hearing held and conducted by the Board, any Board member, or any agent authorized  
6484 by the Board to hold and conduct such hearing.

6485 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6486 **§ 4.1-1116. Illegal advertising; penalty; exception.**

6487 A. Except in accordance with this title and Board regulations, no person shall advertise in or send  
6488 any advertising matter into the Commonwealth about or concerning marijuana other than such that may  
6489 legally be manufactured or sold without a license.

6490 B. Marijuana cultivation facility licensees, marijuana manufacturing facility licensees, marijuana  
6491 wholesaler licensees, and retail marijuana store licensees may engage in the display of outdoor retail  
6492 marijuana or retail marijuana products advertising on lawfully erected signs, provided that such display  
6493 is done in accordance with § 4.1-1405 and Board regulations.

6494 C. Except as provided in subsection D, any person convicted of a violation of this section is guilty of  
6495 a Class 1 misdemeanor.

6496 D. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising,  
6497 the Board shall give the advertiser written notice to take corrective action to either bring the  
6498 advertisement into compliance with this title and Board regulations or to remove such advertisement. If  
6499 corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

6500 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

6501 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional  
6502 correctional facility or any person committed to the Department of Juvenile Justice in any juvenile  
6503 correctional center any marijuana or marijuana products.

6504 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6505 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

6506 A. No person shall separate plant resin by butane extraction or another method that utilizes a  
6507 substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within  
6508 the curtilage of any residential structure.

6509 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

6510 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

6511 No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another  
6512 in doing, or attempting to do, any of the things prohibited by this subtitle.

6513 On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may  
6514 find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as  
6515 if the defendant were solely guilty of such violation.

6516 **§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

Any violation under this subtitle that is subject to a civil penalty is a civil offense and, *except in the case of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be proceeded against pursuant to § 16.1-260*, shall be charged by summons. A summons for a violation under this subtitle that is subject to a civil penalty may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in a form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

#### CHAPTER 12.

#### PROHIBITED PRACTICES BY LICENSEES.

##### **§ 4.1-1200. *Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.***

A. No licensee or any agent or employee of such licensee shall:

1. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products of a kind other than that which such license or this subtitle authorizes him to cultivate, manufacture, transport, sell, or test;

2. Sell retail marijuana or retail marijuana products to any person other than a person to whom such license or this subtitle authorizes him to sell;

3. Cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products that such license or this subtitle authorizes him to sell, but in any place or in any manner other than such license or this subtitle authorizes him to cultivate, manufacture, transport, sell, or test;

4. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products when forbidden by this subtitle;

5. Keep or allow to be kept, other than in his residence and for his personal use, any retail marijuana or retail marijuana products other than that which he is authorized to cultivate, manufacture, transport, sell, or test by such license or by this subtitle;

6. Keep any retail marijuana or retail marijuana product other than in the container in which it was purchased by him; or

7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee at a retail marijuana store.

B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

##### **§ 4.1-1201. *Prohibited acts by employees of retail marijuana store licensees; civil penalty.***

A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or employee shall consume any retail marijuana or retail marijuana products while on duty and in a position that is involved in the selling of retail marijuana or retail marijuana products to consumers.

B. No retail marijuana store licensee or his agent or employee shall make any gift of any retail marijuana or retail marijuana products.

C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed \$500.

##### **§ 4.1-1202. *Sale of; purchase for resale; retail marijuana or retail marijuana products from a person without a license; penalty.***

Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for resale or sell any retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds purchased from anyone other than a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler licensee.

Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

##### **§ 4.1-1203. *Prohibiting transfer of retail marijuana or retail marijuana products by licensees; penalty.***

A. No retail marijuana store licensee shall transfer any retail marijuana or retail marijuana products from one licensed place of business to another licensed place of business, whether or not such places of business are under the same ownership.

B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

##### **§ 4.1-1204. *Illegal advertising materials; civil penalty.***

No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any licensee selling, renting, lending, buying for, or giving to any person any advertising materials or decorations under circumstances prohibited by this title or Board regulations.

Any person found by the Board to have violated this section shall be subject to a civil penalty as authorized in § 4.1-903.

##### **§ 4.1-1205. *Solicitation by persons interested in manufacture, etc., of retail marijuana or retail 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

6578 conditions as the Board may prescribe, solicit either directly or indirectly (i) a retail marijuana store  
6579 licensee; (ii) any agent or employee of such licensee; or (iii) any person connected with the licensee in  
6580 any capacity whatsoever in his licensed business to sell or offer for sale the retail marijuana or retail  
6581 marijuana products in which such person may be so interested.

6582 The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate  
6583 the sale of the retail marijuana or retail marijuana products that were the subject matter of the  
6584 unlawful solicitation or promotion. In addition, the Board may suspend or terminate the sale of all retail  
6585 marijuana or retail marijuana products manufactured or distributed by either the employer or principal  
6586 of such solicitor, the broker, or by the owner of the brand unlawfully solicited or promoted. The Board  
6587 may impose a civil penalty not to exceed \$250,000 in lieu of such suspension or termination of sales, or  
6588 both.

6589 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

6590 B. No retail marijuana store licensee or any agent or employee of such licensee, or any person  
6591 connected with the licensee in any capacity whatsoever in his licensed business shall, either directly or  
6592 indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

6593 The Board may suspend or revoke the license granted to such licensee or may impose a civil penalty  
6594 not to exceed \$25,000 in lieu of such suspension or any portion thereof, or both.

6595 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

6596 **§ 4.1-1206. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or**  
6597 **to allow examination and inspection; penalty.**

6598 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003 or 4.1-1004; (ii)  
6599 deliver, keep, and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board  
6600 regulation; or (iii) allow such records, invoices, and accounts or his place of business to be examined  
6601 and inspected in accordance with § 4.1-703. Any person convicted of a violation of this subsection is  
6602 guilty of a Class 1 misdemeanor.

6603 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority  
6604 may suspend or revoke any license of such licensee that was issued by the Authority.

6605 **§ 4.1-1207. Nonpayment of marijuana tax; penalties.**

6606 A. No person shall make a sale taxable under § 4.1-1003 or 4.1-1004 without paying all applicable  
6607 taxes due under §§ 4.1-1003 and 4.1-1004. No retail marijuana store licensee shall purchase, receive,  
6608 transport, store, or sell any retail marijuana or retail marijuana products on which such retailer has  
6609 reason to know such tax has not been paid and may not be paid. Any person convicted of a violation of  
6610 this subsection is guilty of a Class 1 misdemeanor.

6611 B. Any person who fails to file a return required for a tax due under § 4.1-1003 or 4.1-1004 is  
6612 subject to a civil penalty to be added to the tax in the amount of five percent of the proper tax due if  
6613 the failure is for not more than 30 days, with an additional five percent for each additional 30 days, or  
6614 fraction thereof, during which the failure continues. Such civil penalty shall not exceed 25 percent in the  
6615 aggregate.

6616 C. In the case of a false or fraudulent return, where willful intent exists to defraud the  
6617 Commonwealth of any tax due on retail marijuana or retail marijuana products, a civil penalty of 50  
6618 percent of the amount of the proper tax due shall be assessed. Such penalty shall be in addition to any  
6619 penalty imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the  
6620 Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the  
6621 actual amount.

6622 D. If any check tendered for any amount due under § 4.1-1003 or 4.1-1004 or this section is not  
6623 paid by the bank on which it is drawn, and the person that tendered the check fails to pay the Authority  
6624 the amount due within five days after the Authority gives it notice that such check was returned unpaid,  
6625 the person that tendered the check is guilty of a violation of § 18.2-182.1.

6626 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same  
6627 manner as if they were a part of the tax imposed.

6628 **§ 4.1-1300. Enjoining nuisances.**

6629 A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney for  
6630 the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in  
6631 § 4.1-1113 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common  
6632 nuisance.

6633 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the  
6634 knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or  
6635 marijuana products are cultivated, manufactured, stored, sold, dispensed, given away, or used in such  
6636 house, building, or other place described in § 4.1-1113 contrary to the laws of the Commonwealth, an  
6637 injunction shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and  
6638 restrain the owners and tenants and their agents and employees, and any person connected with such  
6639 house, building, or other place, and all persons whomsoever from cultivating, manufacturing, storing,

selling, dispensing, giving away, or using marijuana or marijuana products on such premises. The injunction shall also restrain all persons from removing any marijuana or marijuana products then on such premises until the further order of the court. If the court is satisfied that the material allegations of the bill are true, although the premises complained of may not then be unlawfully used, it shall continue the injunction against such place for a period of time as the court deems proper. The injunction may be dissolved if a proper case is shown for dissolution.

**§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.**

A. All apparatus and materials for the cultivation or manufacture of marijuana or marijuana products, all marijuana or marijuana products and materials used in their manufacture, all containers in which marijuana or marijuana products may be found, that are kept, stored, possessed, or in any manner used in violation of the provisions of this subtitle, and any dangerous weapons as described in § 18.2-308 that may be used or that may be found upon the person, or in any vehicle that such person is using, to aid such person in the unlawful cultivation, manufacture, transportation, or sale of marijuana or marijuana products, or found in the possession of such person, or any horse, mule, or other beast of burden or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the immediate vicinity of any place where marijuana or marijuana products are being unlawfully manufactured and where such animal or vehicle is being used to aid in the unlawful manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

B. Proceedings for the confiscation of the property in subsection A shall be in accordance with § 4.1-1304 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.

**§ 4.1-1303. Search warrants.**

A. If complaint on oath is made that marijuana or marijuana products are being cultivated, 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 marijuana or marijuana products. 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 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 marijuana or marijuana products 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.

**§ 4.1-1304. 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 subtitle shall be as provided in this section.

B. Production of seized property. Whenever any article declared contraband under the provisions of this 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 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 any item for any offense involving its forfeiture where it is impracticable to remove such item to a place of safe storage from the place where seized, the seizing officer may destroy such item only as necessary to prevent use of all or any part thereof. 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 item 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 item was set up for use, or had been used in the unlawful cultivation or manufacture of marijuana, and that it was impracticable to remove such apparatus to a place of safe storage.

In case of seizure of any quantity of marijuana or marijuana products 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 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

6701 destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness  
6702 have no doubt whatever that the marijuana or marijuana products were intended for use in the unlawful  
6703 cultivation or manufacture of marijuana or marijuana products or were intended for use in violation of  
6704 this subtitle.

6705 C. Hearing and determination. Upon the return of the warrant as provided in this section, the court  
6706 shall fix a time not less than 10 days, unless waived by the accused in writing, and not more than 30  
6707 days thereafter, for the hearing on such return to determine whether or not the articles seized, or any  
6708 part thereof, were used or in any manner kept, stored, or possessed in violation of this subtitle.

6709 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the  
6710 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall  
6711 turn them over to the Board. Any person claiming an interest in any of the articles seized may appear  
6712 at the hearing and file a written claim setting forth particularly the character and extent of his interest.  
6713 The court shall certify the warrant and the articles seized along with any claim filed to the circuit court  
6714 to hear and determine the validity of such claim.

6715 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized  
6716 to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder  
6717 shall not be a bar to any prosecution under any other provision of this subtitle.

6718 D. Disposition of forfeited articles. Any articles forfeited to the Commonwealth and turned over to  
6719 the Board in accordance with this section shall be destroyed or sold by the Board as it deems proper.  
6720 The net proceeds from such sales shall be paid into the Literary Fund.

6721 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board  
6722 in accordance with this section are usable, should not be destroyed, and cannot be sold or whose sale  
6723 would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall  
6724 prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took  
6725 place. A record shall be made showing the nature of the foodstuffs and amount given, to whom given,  
6726 and the date when given and shall be kept in the offices of the Board.

6727 **§ 4.1-1305. Search and seizure of conveyances or vehicles used in violation of law; arrests.**

6728 A. When any officer charged with the enforcement of the cannabis control laws of the  
6729 Commonwealth has reason to believe that retail marijuana or retail marijuana products illegally  
6730 acquired, or being illegally transported, are in any conveyance or vehicle of any kind, either on land or  
6731 on water, except a conveyance or vehicle owned or operated by a railroad, express, sleeping, or parlor  
6732 car or a steamboat company, other than barges, tugs, or small craft, he shall obtain a search warrant  
6733 and search such conveyance or vehicle. If illegally acquired retail marijuana or retail marijuana  
6734 products or retail marijuana or retail marijuana products being illegally transported in amounts in  
6735 excess of two and one-half ounces of retail marijuana, 16 ounces of solid retail marijuana product, or  
6736 72 ounces of liquid retail marijuana product, the officer shall seize the retail marijuana or retail  
6737 marijuana product, seize and take possession of such conveyance or vehicle, and deliver them to the  
6738 chief law-enforcement officer of the locality in which such seizure was made, taking his receipt therefor  
6739 in duplicate.

6740 B. The officer making such seizure shall forthwith report in writing such seizure and arrest to the  
6741 attorney for the Commonwealth for the county or city in which the seizure and arrest were made.

6742 **§ 4.1-1306. Contraband retail marijuana or retail marijuana products.**

6743 Retail marijuana or retail marijuana products seized pursuant to § 4.1-1305 shall be deemed  
6744 contraband and disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or  
6745 other indicia of permission issued by the Board authorizing the transportation of retail marijuana or  
6746 retail marijuana products within the Commonwealth when other Board regulations applicable to such  
6747 transportation have been complied with shall not be cause for deeming such retail marijuana or retail  
6748 marijuana products contraband.

6749 **§ 4.1-1307. Punishment for violations of title or regulations; bond.**

6750 A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification  
6751 as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted  
6752 of violating any Board regulation is guilty of a Class 1 misdemeanor.

6753 B. In addition to the penalties imposed by this subtitle for violations, any court before whom any  
6754 person is convicted of a violation of any provision of this subtitle may require such defendant to execute  
6755 bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with  
6756 the condition that the defendant will not violate any of the provisions of this subtitle for the term of one  
6757 year. If any such bond is required and is not given, the defendant shall be committed to jail until it is  
6758 given, or until he is discharged by the court, provided that he shall not be confined for a period longer  
6759 than six months. If any such bond required by a court is not given during the term of the court by  
6760 which conviction is had, it may be given before any judge or before the clerk of such court.

6761 C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing  
6762 to continue the license of any person convicted of a violation of any provision of this 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.

**§ 4.1-1308. 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 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.

**§ 4.1-1309. Previous convictions.**

In any indictment, information, or warrant charging any person with a violation of any provision of this 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 subtitle.

**§ 4.1-1310. 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 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.

**§ 4.1-1311. Label on sealed container prima facie evidence of marijuana content.**

In any prosecution for violations of this subtitle, where a sealed container is labeled as containing retail marijuana or retail marijuana products, such labeling shall be prima facie evidence of the marijuana content of the container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana content of a container, whether sealed or not.

**§ 4.1-1312. No recovery for retail marijuana or retail marijuana products illegally sold.**

No action to recover the price of any retail marijuana or retail marijuana products sold in contravention of this subtitle may be maintained.

**CHAPTER 14.**

**CANNABIS AND REGULATED HEMP PRODUCT CONTROL, TESTING, AND ADVERTISING.**

**§ 4.1-1400. Board to establish regulations for marijuana and regulated hemp product testing.**

The Board shall establish a testing program for marijuana, marijuana products, and regulated hemp products. Except as otherwise provided in this subtitle or otherwise provided by law, the program shall require a licensee, prior to selling or distributing retail marijuana or a retail marijuana product to a consumer or to another licensee, or any persons, prior to selling a regulated hemp product, to submit a representative sample of the retail marijuana, retail marijuana product, or regulated hemp product, not to exceed 10 percent of the total harvest or batch, to a licensed marijuana testing facility for testing to ensure that the retail marijuana, retail marijuana product, or regulated hemp product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required and to ensure correct labeling. The Board shall adopt regulations (i) establishing a testing program pursuant to this section; (ii) establishing acceptable testing and research practices, including regulations relating to testing practices, methods, and standards; quality control analysis; equipment certification and calibration; marijuana testing facility recordkeeping, documentation, and business practices; disposal of used, unused, and waste retail marijuana, retail marijuana products, and regulated hemp products; and reporting of test results; (iii) identifying the types of contaminants that are injurious to health for which retail marijuana, retail marijuana products, and regulated hemp products shall be tested under this subtitle; and (iv) establishing the maximum level of allowable contamination for each contaminant.

**§ 4.1-1401. Mandatory testing; scope; recordkeeping; notification; additional testing not required; required destruction; random testing.**

A. A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer or to another licensee under this subtitle and a person may not sell a regulated hemp product unless a representative sample of the retail marijuana, retail marijuana product, or regulated hemp product has been tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and that mandatory testing has demonstrated that (i) the retail marijuana, retail marijuana product, or regulated hemp product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required and (ii) the labeling on the retail marijuana, retail marijuana product, or regulated hemp product is correct.

B. Mandatory testing of retail marijuana, retail marijuana products, and regulated hemp products under this section shall include testing for:

1. Residual solvents, poisons, and toxins;



- 6824 2. Harmful chemicals;  
6825 3. Dangerous molds and mildew;  
6826 4. Harmful microbes, including but not limited to *Escherichia coli* and *Salmonella*;  
6827 5. Pesticides, fungicides, and insecticides; and  
6828 6. Tetrahydrocannabinol (THC) potency, homogeneity, and cannabinoid profiles to ensure correct  
6829 labeling.

6830 Testing shall be performed on the final form in which the retail marijuana, retail marijuana product,  
6831 or regulated hemp product will be consumed.

6832 C. A licensee shall maintain a record of all mandatory testing that includes a description of the  
6833 retail marijuana or retail marijuana product provided to the marijuana testing facility, the identity of  
6834 the marijuana testing facility, and the results of the mandatory test. A person who sells a regulated  
6835 hemp product shall maintain a record of all mandatory testing that includes a description of the  
6836 regulated hemp product that person sells, the identity of the marijuana testing facility, and the results of  
6837 the mandatory test.

6838 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested retail  
6839 marijuana, retail marijuana product, or regulated hemp product exceeds the maximum level of allowable  
6840 tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for  
6841 which testing is required, the marijuana testing facility shall immediately quarantine, document, and  
6842 properly destroy the retail marijuana, retail marijuana product, or regulated hemp product and within  
6843 seven days of completing the test shall notify the Board of the test results.

6844 A marijuana testing facility is not required to notify the Board of the results of any test:

6845 1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee or  
6846 conducted on a regulated hemp product at the direction of any person pursuant to this section that  
6847 demonstrates that the retail marijuana or retail marijuana product does not exceed the maximum level  
6848 of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to  
6849 health and for which testing is required;

6850 2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee or  
6851 conducted on a regulated hemp product at the direction of any person for research and development  
6852 purposes only, so long as the licensee or person notifies the marijuana testing facility prior to the  
6853 performance of the test that the testing is for research and development purposes only; or

6854 3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is  
6855 not a licensee.

6856 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee  
6857 retail marijuana or a retail marijuana product or a person may sell a regulated hemp product that the  
6858 licensee or person has not submitted for testing in accordance with this subtitle and regulations adopted  
6859 pursuant to this subtitle if the following conditions are met:

6860 1. The retail marijuana or retail marijuana product has previously undergone testing in accordance  
6861 with this subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee or  
6862 the regulated hemp product has previously undergone testing in accordance with this subtitle and  
6863 regulations adopted pursuant to this subtitle at the direction of another person and that testing  
6864 demonstrated that the retail marijuana, retail marijuana product, or regulated hemp product does not  
6865 exceed the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any  
6866 contaminant that is injurious to health and for which testing is required;

6867 2. The mandatory testing process and the test results for the retail marijuana, retail marijuana  
6868 product, or regulated hemp product are documented in accordance with the requirements of this subtitle  
6869 and all applicable regulations adopted pursuant to this subtitle;

6870 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the  
6871 retail marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana  
6872 product to another licensee or to a consumer can be easily identified; and

6873 4. The retail marijuana, retail marijuana product, or regulated hemp product has not undergone any  
6874 further processing, manufacturing, or alteration subsequent to the performance of the prior testing under  
6875 subsection A.

6876 F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail  
6877 marijuana products and any person shall be required to destroy any batch of a regulated hemp product  
6878 whose testing samples indicate noncompliance with the health and safety standards required by this  
6879 subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures  
6880 can bring the retail marijuana, retail marijuana products, or regulated hemp products into compliance  
6881 with such required health and safety standards.

6882 G. A licensee shall comply with all requests for samples of retail marijuana and retail marijuana  
6883 products and a person shall comply with all requests for samples of regulated hemp products for the  
6884 purpose of random testing by a state-owned laboratory or state-approved private laboratory.

6885 **§ 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 or regulated hemp products to be sold or offered for sale by a person in accordance with the provisions of this subtitle shall be labeled with the following information:

1. Identification of the type of retail marijuana, retail marijuana product, or regulated hemp 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, manufactured, and offered for sale, as applicable;

3. A statement of the net weight of the retail marijuana, retail marijuana product, or regulated hemp product;

4. Information concerning (i) pharmacologically active ingredients, including tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content; (ii) the THC and other cannabinoid amount in milligrams per serving, the total servings per package, and the THC and other cannabinoid amount in milligrams for the total package; and (iii) the potency of the THC and other cannabinoid content;

5. Information on gases, solvents, and chemicals used in marijuana extraction or the processing of a regulated hemp product, if applicable;

6. Instructions on usage;

7. For retail marijuana products and regulated hemp product, (i) a list of ingredients and possible allergens and (ii) a recommended use by date or expiration date;

8. For edible marijuana products and edible hemp products, a nutritional fact panel;

9. The following statement, prominently displayed in bold print and in a clear and legible fashion: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA. MARIJUANA IS FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT \_\_\_\_\_ (website maintained by the Board pursuant to § 4.1-604) FOR MORE INFORMATION.";

10. A universal symbol stamped or embossed on the packaging of any retail marijuana and retail marijuana products; and

11. Any other information required by Board regulations.

B. 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 and regulated hemp products to be sold or offered for sale by a person in accordance with the provisions of this subtitle shall be packaged in the following manner:

1. Retail marijuana, retail marijuana products, and regulated hemp products shall be prepackaged in child-resistant, tamper-evident, and resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-resistant, tamper-evident, and resealable packaging that is opaque;

2. Packaging for multiserving liquid marijuana products shall include an integral measurement component; and

3. Packaging shall comply with any other requirements imposed by Board regulations.

C. 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 not:

1. Be labeled or packaged in violation of a federal trademark law or regulation;

2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of age;

3. Be labeled or packaged in a manner that obscures identifying information on the label;

4. Be labeled or packaged using a false or misleading label;

5. Be sold or offered for sale using a label or packaging that depicts a human, an animal, a vehicle, or fruit; and

6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by Board regulations.

**§ 4.1-1403. Other health and safety requirements for edible marijuana products, edible hemp products, and other retail marijuana products deemed applicable by the Authority; health and safety regulations.**

A. Requirements and restrictions for edible marijuana products, edible hemp products, and other retail marijuana products deemed applicable by the Authority. In addition to all other applicable provisions of this subtitle, edible marijuana products and other retail marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a consumer and edible hemp products deemed applicable by the Authority to be sold or offered for sale by a person in accordance with this subtitle:

1. Shall be manufactured by an approved source, as determined by § 3.2-5145.8;

- 6947 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;
- 6948 3. Shall be manufactured in a manner that results in the cannabinoid content within the product
- 6949 being homogeneous throughout the product or throughout each element of the product that has a
- 6950 cannabinoid content;
- 6951 4. Shall be manufactured in a manner that results in the amount of marijuana concentrate or
- 6952 industrial hemp extract, as appropriate, within the product being homogeneous throughout the product
- 6953 or throughout each element of the product that contains marijuana concentrate or industrial hemp
- 6954 extract, as appropriate;
- 6955 5. Shall have a universal symbol stamped or embossed on the packaging of each product;
- 6956 6. Shall not contain more than five milligrams of tetrahydrocannabinol (THC) per serving of the
- 6957 product and shall not contain more than 50 milligrams of THC per package of the product, except for
- 6958 edible hemp products, which shall not exceed the maximum tetrahydrocannabinol level established for a
- 6959 regulated hemp product pursuant to § 4.1-606;
- 6960 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically
- 6961 designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to
- 6962 consumers, or (v) are specifically designed to make the product appeal particularly to persons younger
- 6963 than 21 years of age; and
- 6964 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when
- 6965 the trademarked product is used as a component of or ingredient in the edible marijuana product and
- 6966 the edible marijuana product is not advertised or described for sale as containing the trademarked
- 6967 product.
- 6968 B. Health and safety regulations. The Board shall adopt any additional labeling, packaging, or other
- 6969 health and safety regulations that it deems necessary for retail marijuana and retail marijuana products
- 6970 to be sold or offered for sale by a licensee to a consumer in accordance with this subtitle or regulated
- 6971 hemp products to be sold or offered for sale by a person in accordance with this subtitle. Regulations
- 6972 adopted pursuant to this subsection shall establish mandatory health and safety standards applicable to
- 6973 the cultivation of retail marijuana, the manufacture of retail marijuana products, the processing of
- 6974 regulated hemp products, the packaging and labeling of retail marijuana and retail marijuana products
- 6975 sold by a licensee to a consumer, and the packaging and labeling of regulated hemp products sold by a
- 6976 person to any other person. Such regulations shall address:
- 6977 1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail
- 6978 marijuana products by licensees;
- 6979 2. Sanitary standards for marijuana establishments, including sanitary standards for the manufacture
- 6980 of retail marijuana, retail marijuana products, and regulated hemp products; and
- 6981 3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana
- 6982 stores.
- 6983 **§ 4.1-1404. Advertising and marketing restrictions.**
- 6984 A. As used in this section, unless the context requires a different meaning, "health-related statement"
- 6985 means any statement related to health and includes statements of a curative or therapeutic nature that,
- 6986 expressly or by implication, suggest a relationship between the consumption of retail marijuana or retail
- 6987 marijuana products and health benefits or effects on health.
- 6988 B. No person shall advertise in or send any advertising matter into the Commonwealth about or
- 6989 concerning retail marijuana or retail marijuana products other than those that may be legally
- 6990 manufactured in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the
- 6991 Drug Control Act.
- 6992 C. A licensee shall not advertise (i) through any means unless at least 85 percent of the audience is
- 6993 reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience
- 6994 composition data or (ii) on television or the radio at any time outside of regular school hours for
- 6995 elementary and secondary schools.
- 6996 D. A licensee shall not engage in the use of pop-up digital advertisements but may list their
- 6997 establishment in public phone books and directories.
- 6998 E. A licensee shall not display any retail marijuana or retail marijuana product pricing through any
- 6999 means of advertisement other than their establishment website, which shall be registered with the
- 7000 Authority, or an opt-in subscription-based service, provided that the licensee utilizes proper age
- 7001 verification techniques to confirm that the person attempting to access the website or sign up for a
- 7002 subscription-based service is 21 years of age or older.
- 7003 F. Advertising or marketing used by or on behalf of a licensee:
- 7004 1. Shall accurately and legibly identify the licensee responsible for its content by adding, at a
- 7005 minimum, the licensee's license number and shall include the following statement: "For use by adults 21
- 7006 years of age and older";
- 7007 2. Shall not be misleading, deceptive, or false;
- 7008 3. Shall not appeal particularly to persons younger than 21 years of age, including by using

7009 cartoons in any way; and

7010 4. Shall comply with any other provisions imposed by Board regulations.

7011 G. Any advertising or marketing involving direct, individualized communication or dialogue  
7012 controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21  
7013 years of age or older before engaging in that communication or dialogue controlled by the licensee. For  
7014 the purposes of this subsection, such method of age affirmation may include user confirmation, birth  
7015 date disclosure, or any other similar registration method.

7016 H. A licensee shall not give away any amount of retail marijuana or retail marijuana products, or  
7017 any marijuana accessories, as part of a business promotion or other commercial activity.

7018 I. A licensee shall not include on the label of any retail marijuana or retail marijuana product or  
7019 publish or disseminate advertising or marketing containing any health-related statement that is untrue in  
7020 any particular manner or tends to create a misleading impression as to the effects on health of  
7021 marijuana consumption.

7022 J. The provisions of this section shall not apply to noncommercial speech.

7023 K. The purpose of the advertising limitations set forth in this subtitle is to displace the illicit market  
7024 and notify the public of the location of marijuana establishments.

7025 **§ 4.1-1405. Outdoor advertising; limitations; variances; compliance with Title 33.2.**

7026 A. No outdoor retail marijuana or retail marijuana products advertising shall be placed within 1,000  
7027 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of  
7028 the sign face upon which the advertisement is placed to the nearest edge of a building or structure  
7029 located on the real property of (i) a public, private, or parochial school or an institution of higher  
7030 education; (ii) a public or private playground or similar recreational or child-centered facility; or (iii) a  
7031 substance use disorder treatment facility.

7032 B. However, (i) if there is no building or structure on a playground or similar recreational or  
7033 child-centered facility, the measurement shall be from the nearest edge of the sign face upon which the  
7034 advertisement is placed to the property line of such playground or similar recreational or child-centered  
7035 facility and (ii) if a public, private, or parochial school providing grades kindergarten through 12  
7036 education is located across the road from a sign, the measurement shall be from the nearest edge of the  
7037 sign face upon which the advertisement is placed to the nearest edge of a building or structure located  
7038 on such real property across the road.

7039 C. If at the time the advertisement was displayed, the advertisement was more than 1,000 feet from  
7040 (i) a public, private, or parochial school or an institution of higher education; (ii) a public or private  
7041 playground or similar recreational or child-centered facility; or (iii) a substance use disorder treatment  
7042 facility, but the circumstances change such that the advertiser would otherwise be in violation of  
7043 subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the  
7044 term of any written advertising contract, but in no event more than one year from the date of the  
7045 change in circumstances.

7046 D. Provided that such signs are in compliance with local ordinances, the distance and zoning  
7047 restrictions contained in this section shall not apply to:

7048 1. Signs placed by licensees upon the property on which the licensed premises are located so long as  
7049 such signs do not display imagery of marijuana or the use of marijuana or utilize long luminous  
7050 gas-discharge tubes that contain rarefied neon or other gases; or

7051 2. Directional signs placed by marijuana manufacturing facility licensees or marijuana wholesaler  
7052 licensees with advertising limited to trade names and brand names.

7053 E. The distance and zoning restrictions contained in this section shall not apply to any sign that is  
7054 included in the Integrated Directional Sign Program administered by the Virginia Department of  
7055 Transportation or its agents.

7056 F. A marijuana licensee shall not advertise at any sporting event or use any billboard advertisements  
7057 in the Commonwealth.

7058 G. All lawfully erected outdoor retail marijuana or retail marijuana products signs shall comply with  
7059 the provisions of this subtitle, Board regulations, Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and  
7060 regulations adopted pursuant thereto by the Commonwealth Transportation Board, and federal laws and  
7061 regulations. Further, any outdoor retail marijuana products directional sign located or to be located on  
7062 highway rights of way shall also be governed by and comply with the Integrated Directional Sign  
7063 Program administered by the Virginia Department of Transportation or its agents and federal laws and  
7064 regulations.

7065 **§ 4.1-1406. Regulated hemp products; violations; penalties.**

7066 For any violation of a requirement of this chapter or Chapter 6 of this subtitle, or of any regulation  
7067 promulgated thereunder, pertaining to a regulated hemp product, the Authority may assess a penalty not  
7068 to exceed (i) \$100 for a first violation, (ii) \$200 for a second violation, and (iii) \$500 for a third or  
7069 subsequent violation. All penalties collected by the Authority pursuant to this section shall be deposited

7070 *in the state treasury.*

7071 **§ 4.1-1407. Hemp product not retail marijuana or retail marijuana product.**

7072 *A regulated hemp product that is tested, labeled, packaged, and advertised in accordance with the*  
 7073 *provisions pertaining to a regulated hemp product in this chapter or Chapter 6 of this subtitle, or in*  
 7074 *any regulation promulgated thereunder, shall not be subject to the requirements in this subtitle or*  
 7075 *regulations adopted thereunder that pertain only to retail marijuana or retail marijuana products.*

7076 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs or**  
 7077 **marijuana; reckless operation; penalties.**

7078 *Any person who shall operate operates any aircraft within the airspace over, above, or upon the*  
 7079 *lands or waters of this the Commonwealth, while under the influence of intoxicating liquor or of any*  
 7080 *narcotic or marijuana or any habit-forming drugs shall be is guilty of a felony and shall be confined in*  
 7081 *a state correctional facility not less than one nor more than five years; or, in the discretion of the court*  
 7082 *or jury trying the case, be confined in jail not exceeding twelve 12 months and fined not exceeding*  
 7083 *\$500, or both such fine and imprisonment.*

7084 *Any person who shall operate operates any aircraft within the airspace over, above, or upon the*  
 7085 *lands or waters of this the Commonwealth carelessly or heedlessly in willful or wanton disregard of the*  
 7086 *rights or safety of others, or without due caution and circumspection and in a manner so as to endanger*  
 7087 *any person or property, shall be is guilty of a misdemeanor.*

7088 **§ 6.2-108. Financial services for licensed marijuana establishments.**

7089 *A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as*  
 7090 *provided in § 4.1-600.*

7091 *B. A bank or credit union that provides a financial service to a licensed marijuana establishment,*  
 7092 *and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant*  
 7093 *to any state law or regulation solely for providing such a financial service or for further investing any*  
 7094 *income derived from such a financial service.*

7095 *C. Nothing in this section shall require a bank or credit union to provide financial services to a*  
 7096 *licensed marijuana establishment.*

7097 **§ 9.1-101. (For contingent expiration date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)**  
 7098 **Definitions.**

7099 *As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires*  
 7100 *a different meaning:*

7101 *"Administration of criminal justice" means performance of any activity directly involving the*  
 7102 *detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,*  
 7103 *correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,*  
 7104 *storage, and dissemination of criminal history record information.*

7105 *"Board" means the Criminal Justice Services Board.*

7106 *"Conviction data" means information in the custody of any criminal justice agency relating to a*  
 7107 *judgment of conviction, and the consequences arising therefrom, in any court.*

7108 *"Correctional status information" means records and data concerning each condition of a convicted*  
 7109 *person's custodial status, including probation, confinement, work release, study release, escape, or*  
 7110 *termination of custody through expiration of sentence, parole, pardon, or court decision.*

7111 *"Criminal history record information" means records and data collected by criminal justice agencies*  
 7112 *on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,*  
 7113 *indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall*  
 7114 *not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title*  
 7115 *16.1, criminal justice intelligence information, criminal justice investigative information, or correctional*  
 7116 *status information.*

7117 *"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof*  
 7118 *which as its principal function performs the administration of criminal justice and any other agency or*  
 7119 *subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for*  
 7120 *the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which,*  
 7121 *within the context of its criminal justice activities, employs special conservators of the peace appointed*  
 7122 *under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency*  
 7123 *requires its officers or special conservators to meet compulsory training standards established by the*  
 7124 *Criminal Justice Services Board and submits reports of compliance with the training standards and (b)*  
 7125 *the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only*  
 7126 *to the extent that the private corporation or agency so designated as a criminal justice agency performs*  
 7127 *criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities*  
 7128 *otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil*  
 7129 *Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).*

7130 *"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to*  
 7131 *§ 18.2-271.2.*

7132 "Criminal justice agency" includes the Department of Criminal Justice Services.

7133 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

7134 "Criminal justice agency" includes the Virginia State Crime Commission.

7135 "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.

7138 "Department" means the Department of Criminal Justice Services.

7139 "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.

7143 "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.

7163 "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

7193 interest, provided it complies with the requirements set forth herein.

7194 "School resource officer" means a certified law-enforcement officer hired by the local  
7195 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary  
7196 and secondary schools.

7197 "School security officer" means an individual who is employed by the local school board or a private  
7198 or religious school for the singular purpose of maintaining order and discipline, preventing crime,  
7199 investigating violations of the policies of the school board or the private or religious school, and  
7200 detaining students violating the law or the policies of the school board or the private or religious school  
7201 on school property, school buses, or at school-sponsored events and who is responsible solely for  
7202 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned  
7203 school.

7204 "Unapplied criminal history record information" means information pertaining to criminal offenses  
7205 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history  
7206 record of an arrested or convicted person (i) because such information is not supported by fingerprints  
7207 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission  
7208 within the content of the submitted information.

7209 **§ 9.1-101. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Definitions.**

7210 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires  
7211 a different meaning:

7212 "Administration of criminal justice" means performance of any activity directly involving the  
7213 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,  
7214 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,  
7215 storage, and dissemination of criminal history record information.

7216 "Board" means the Criminal Justice Services Board.

7217 "Conviction data" means information in the custody of any criminal justice agency relating to a  
7218 judgment of conviction, and the consequences arising therefrom, in any court.

7219 "Correctional status information" means records and data concerning each condition of a convicted  
7220 person's custodial status, including probation, confinement, work release, study release, escape, or  
7221 termination of custody through expiration of sentence, parole, pardon, or court decision.

7222 "Criminal history record information" means records and data collected by criminal justice agencies  
7223 on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,  
7224 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall  
7225 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title  
7226 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional  
7227 status information.

7228 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof  
7229 which as its principal function performs the administration of criminal justice and any other agency or  
7230 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for  
7231 the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which,  
7232 within the context of its criminal justice activities, employs special conservators of the peace appointed  
7233 under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency  
7234 requires its officers or special conservators to meet compulsory training standards established by the  
7235 Criminal Justice Services Board and submits reports of compliance with the training standards and (b)  
7236 the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only  
7237 to the extent that the private corporation or agency so designated as a criminal justice agency performs  
7238 criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities  
7239 otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil  
7240 Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

7241 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to  
7242 § 18.2-271.2.

7243 "Criminal justice agency" includes the Department of Criminal Justice Services.

7244 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

7245 "Criminal justice agency" includes the Virginia State Crime Commission.

7246 "Criminal justice information system" means a system including the equipment, facilities, procedures,  
7247 agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of  
7248 criminal history record information. The operations of the system may be performed manually or by  
7249 using electronic computers or other automated data processing equipment.

7250 "Department" means the Department of Criminal Justice Services.

7251 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic  
7252 means. The term shall not include access to the information by officers or employees of a criminal  
7253 justice agency maintaining the information who have both a need and right to know the information.

7254 "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



7316 Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in  
7317 accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations  
7318 adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting  
7319 dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is  
7320 authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

7321 "Unapplied criminal history record information" means information pertaining to criminal offenses  
7322 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history  
7323 record of an arrested or convicted person (i) because such information is not supported by fingerprints  
7324 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission  
7325 within the content of the submitted information.

7326 **§ 9.1-400. Title of chapter; definitions.**

7327 A. This chapter shall be known and designated as the Line of Duty Act.

7328 B. As used in this chapter, unless the context requires a different meaning:

7329 "Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under  
7330 the will of a deceased person if testate, or as his heirs at law if intestate.

7331 "Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of  
7332 duty as the direct or proximate result of the performance of his duty, including the presumptions under  
7333 §§ 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  
7334 statute, as a law-enforcement officer of the Commonwealth or any of its political subdivisions, except  
7335 employees designated pursuant to § 53.1-10 to investigate allegations of criminal behavior affecting the  
7336 operations of the Department of Corrections, employees designated pursuant to § 66-3 to investigate  
7337 allegations of criminal behavior affecting the operations of the Department of Juvenile Justice, and  
7338 members of the investigations unit of the State Inspector General designated pursuant to § 2.2-311 to  
7339 investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; a  
7340 correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a  
7341 sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police  
7342 chaplain; a member of any fire company or department or emergency medical services agency that has  
7343 been recognized by an ordinance or a resolution of the governing body of any county, city, or town of  
7344 the Commonwealth as an integral part of the official safety program of such county, city, or town,  
7345 including a person with a recognized membership status with such fire company or department who is  
7346 enrolled in a Fire Service Training course offered by the Virginia Department of Fire Programs or any  
7347 fire company or department training required in pursuit of qualification to become a certified firefighter;  
7348 a member of any fire company providing fire protection services for facilities of the Virginia National  
7349 Guard or the Virginia Air National Guard; a member of the Virginia National Guard or the Virginia  
7350 Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense  
7351 Force on official state duty or federal duty under Title 32 of the United States Code; ~~any~~ a special agent  
7352 of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*; ~~any~~ a  
7353 regular or special conservation police officer who receives compensation from a county, city, or town or  
7354 from the Commonwealth appointed pursuant to the provisions of § 29.1-200; ~~any~~ a commissioned forest  
7355 warden appointed under the provisions of § 10.1-1135; ~~any~~ a member or employee of the Virginia  
7356 Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; ~~any~~ a Department of  
7357 Emergency Management hazardous materials officer; any other employee of the Department of  
7358 Emergency Management who is performing official duties of the agency, when those duties are related  
7359 to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist  
7360 under the authority of the Governor in accordance with § 44-146.28; ~~any~~ an employee of any county,  
7361 city, or town performing official emergency management or emergency services duties in cooperation  
7362 with the Department of Emergency Management, when those duties are related to a major disaster or  
7363 emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of  
7364 the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared  
7365 by a local governing body; ~~any~~ a nonfirefighter regional hazardous materials emergency response team  
7366 member; ~~any~~ a conservation officer of the Department of Conservation and Recreation commissioned  
7367 pursuant to § 10.1-115; or ~~any~~ a full-time sworn member of the enforcement division of the Department  
7368 of Motor Vehicles appointed pursuant to § 46.2-217.

7369 "Disabled person" means any individual who has been determined to be mentally or physically  
7370 incapacitated so as to prevent the further performance of his duties at the time of his disability where  
7371 such incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct  
7372 or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1,  
7373 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  
7374 position listed in the definition of deceased person in this section. "Disabled person" does not include  
7375 any individual who has been determined to be no longer disabled pursuant to subdivision A 2 of  
7376 § 9.1-404. "Disabled person" includes any state employee included in the definition of a deceased person  
7377 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.

"LODA Health Benefit Plans" means the separate health benefits plans established pursuant to § 9.1-401.

"Nonparticipating employer" means any employer that is a political subdivision of the Commonwealth that elected to directly fund the cost of benefits provided under this chapter and not participate in the Fund.

"Participating employer" means any employer that is a state agency or is a political subdivision of the Commonwealth that did not make an election to become a nonparticipating employer.

"VRS" means the Virginia Retirement System.

#### **§ 9.1-500. Definitions.**

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

"Agency" means the Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Conservation and Recreation, or the Department of Motor Vehicles; or the political subdivision or the campus police department of any public institution of higher education of the Commonwealth employing the law-enforcement officer.

"Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent of the Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests and (ii) a nonprobationary officer of one of the following agencies:

a. 1. The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Motor Vehicles, or the Department of Conservation and Recreation;

b. 2. The police department, bureau or force of any political subdivision or the campus police department of any public institution of higher education of the Commonwealth where such department, bureau or force has three or more law-enforcement officers; or

c. 3. Any conservation police officer as defined in § 9.1-101.

For the purposes of this chapter, "law-enforcement officer" ~~shall~~ *does* not include the sheriff's department of any city or county.

#### **§ 9.1-801. Public safety officer defined.**

As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the

7439 Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a  
7440 correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail  
7441 officer; a regional jail or jail farm superintendent; a member of any fire company or department or  
7442 nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or  
7443 resolution of the governing body of any county, city, or town of the Commonwealth as an integral part  
7444 of the official safety program of such county, city, or town; an arson investigator; a member of the  
7445 Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia  
7446 National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the  
7447 United States Code; ~~any~~ a special agent of the Virginia Alcoholic Beverage Control Authority *or the*  
7448 *Virginia Cannabis Control Authority*; ~~any~~ a police agent appointed under the provisions of § 56-353;  
7449 ~~any~~ a regular or special conservation police officer who receives compensation from a county, city, or  
7450 town or from the Commonwealth appointed pursuant to § 29.1-200; ~~any~~ a commissioned forest warden  
7451 appointed pursuant to § 10.1-1135; ~~any~~ a member or employee of the Virginia Marine Resources  
7452 Commission granted the power to arrest pursuant to § 28.2-900; ~~any~~ a Department of Emergency  
7453 Management hazardous materials officer; ~~any~~ a nonfirefighter regional hazardous materials emergency  
7454 response team member; ~~any~~ an investigator who is a full-time sworn member of the security division of  
7455 the Virginia Lottery; ~~any~~ a full-time sworn member of the enforcement division of the Department of  
7456 Motor Vehicles meeting the Department of Criminal Justice Services qualifications, when fulfilling  
7457 duties pursuant to § 46.2-217; ~~any~~ a campus police officer appointed under the provisions of Article 3  
7458 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and ~~any~~ a conservation officer of the Department of  
7459 Conservation and Recreation commissioned pursuant to § 10.1-115.

7460 **§ 9.1-1101. Powers and duties of the Department.**

7461 A. It shall be the responsibility of the Department to provide forensic laboratory services upon  
7462 request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical  
7463 Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police,  
7464 sheriff, or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire  
7465 department; the head of any private police department that has been designated as a criminal justice  
7466 agency by the Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in  
7467 any criminal matter. The Department shall provide such services to any federal investigatory agency  
7468 within available resources.

7469 B. The Department shall:

7470 1. Provide forensic laboratory services to all law-enforcement agencies throughout the  
7471 Commonwealth and provide laboratory services, research, and scientific investigations for agencies of  
7472 the Commonwealth as needed;

7473 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et  
7474 seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; and

7475 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every  
7476 six months. Only equipment found to be accurate shall be used to test the blood alcohol content of  
7477 breath; and

7478 4. *Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in*  
7479 *substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and*  
7480 *54.1-3446. The testing methodology shall use post-decarboxylation testing or other equivalent method*  
7481 *and shall consider the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test*  
7482 *result shall include the total available THC derived from the sum of the THC and THC-A content.*

7483 C. The Department shall have the power and duty to:

7484 1. Receive, administer, and expend all funds and other assistance available for carrying out the  
7485 purposes of this chapter;

7486 2. Make and enter into all contracts and agreements necessary or incidental to the performance of its  
7487 duties and execution of its powers under this chapter including, but not limited to, contracts with the  
7488 United States, units of general local government or combinations thereof in Virginia or other states, and  
7489 with agencies and departments of the Commonwealth; and

7490 3. Perform such other acts as may be necessary or convenient for the effective performance of its  
7491 duties.

7492 D. The Director may appoint and employ a deputy director and such other personnel as are needed  
7493 to carry out the duties and responsibilities conferred by this chapter.

7494 **§ 15.2-2820. Definitions.**

7495 As used in this chapter, unless the context requires a different meaning:

7496 "Bar or lounge area" means any establishment or portion of an establishment devoted to the sale and  
7497 service of alcoholic beverages for consumption on the premises and where the sale or service of food or  
7498 meals is incidental to the consumption of the alcoholic beverages.

7499 "Educational facility" means any building used for instruction of enrolled students, including but not  
7500 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.

"Restaurant" means any place where food is prepared for service to the public on or off the premises, or any place where food is served. Examples of such places include but are not limited to lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and colleges, and kitchen areas of local correctional facilities subject to standards adopted under § 53.1-68. "Restaurant" shall not include (i) places where packaged or canned foods are manufactured and then distributed to grocery stores or other similar food retailers for sale to the public, (ii) mobile points of service to the general public that are outdoors, or (iii) mobile points of service where such service and consumption occur in a private residence or in any location that is not a public place. "Restaurant" shall include any bar or lounge area that is part of such restaurant.

"Smoke" or "smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any kind, *including marijuana*, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling of smoke from a pipe, cigar, or cigarette of any kind, *including marijuana*.

"Theater" means any indoor facility or auditorium, open to the public, which is primarily used or designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture, or other similar performance.

#### **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines; prepayment of local ordinances.**

A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance whether or not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in § 46.2-878.3.

Such infractions shall not include:

1. Indictable offenses;

2. [Repealed.]

3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a

7562 narcotic or habit-producing drug, or permitting another person, who is under the influence of  
7563 intoxicating liquor, *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned  
7564 by the defendant or in his custody or control;

7565 4. Reckless driving;

7566 5. Leaving the scene of an accident;

7567 6. Driving while under suspension or revocation of driving privileges;

7568 7. Driving without being licensed to drive.

7569 8. [Repealed.]

7570 B. An appearance may be made in person or in writing by mail to a clerk of court or in person  
7571 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a  
7572 waiver of trial and a plea of guilty and pay the fine and any civil penalties established for the offense  
7573 charged, with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand  
7574 trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court,  
7575 and that the record of conviction will be sent to the Commissioner of the Department of Motor  
7576 Vehicles.

7577 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall  
7578 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties  
7579 to be imposed, designating each infraction specifically. The schedule, which may from time to time be  
7580 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.  
7581 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying  
7582 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall  
7583 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance  
7584 with the provisions of this Code or any rules or regulations promulgated thereunder.

7585 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law  
7586 and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B  
7587 if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of  
7588 each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be  
7589 imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of  
7590 such order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the  
7591 local circuit court. The schedule, which from time to time may be amended, supplemented or repealed,  
7592 shall be uniform in its application throughout the circuit. Such schedule shall not be construed or  
7593 interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for  
7594 trial. This schedule shall be prominently posted in the place where fines are paid. Fines and costs shall  
7595 be paid in accordance with the provisions of this Code or any rules or regulations promulgated  
7596 thereunder.

7597 **§ 16.1-260. Intake; petition; investigation.**

7598 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of  
7599 a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition  
7600 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the  
7601 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,  
7602 and the processing of petitions to initiate a case shall be the responsibility of the intake officer.  
7603 However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own  
7604 motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may  
7605 complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement  
7606 of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated  
7607 nonattorney employees of a local department of social services may complete, sign, and file with the  
7608 clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions  
7609 for permanency planning hearings, petitions to establish paternity, motions to establish or modify  
7610 support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any  
7611 attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject  
7612 of the petition is a child alleged to be in need of services, in need of supervision, or delinquent.  
7613 Complaints alleging abuse or neglect of a child shall be referred initially to the local department of  
7614 social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2.  
7615 Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake  
7616 officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is  
7617 receiving child support services or public assistance. No individual who is receiving support services or  
7618 public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an  
7619 order for support of a child. If the petitioner is seeking or receiving child support services or public  
7620 assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together  
7621 with notice of the court date, to the Division of Child Support Enforcement. If a petitioner is seeking to  
7622 establish child support, the intake officer shall provide the petitioner information on the possible  
7623 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 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the juvenile, which may include restitution, the performance of community service, or on a complaint alleging that a child has committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an adult and with the consent of the juvenile's parent or legal guardian, referral to a youth justice diversion program established pursuant to § 16.1-309.11, based upon community resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case of a referral to a youth justice diversion program established pursuant to § 16.1-309.11, that any subsequent report from the youth justice diversion program alleging that the juvenile failed to comply with the youth justice diversion program's sentence within 180 days of the sentencing date, may result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such

7685 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,  
7686 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a  
7687 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  
7688 violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8,  
7689 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such  
7690 complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to  
7691 be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer  
7692 believes that probable cause does not exist, or that the authorization of a petition will not be in the best  
7693 interest of the family or juvenile or that the matter may be effectively dealt with by some agency other  
7694 than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a  
7695 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written  
7696 explanation of the conditions, procedures and time limits applicable to the issuance of protective orders  
7697 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant  
7698 to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the  
7699 conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to  
7700 § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

7701 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall  
7702 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be  
7703 in need of supervision have utilized or attempted to utilize treatment and services available in the  
7704 community and have exhausted all appropriate nonjudicial remedies which are available to them. When  
7705 the intake officer determines that the parties have not attempted to utilize available treatment or services  
7706 or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the  
7707 petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility,  
7708 or individual to receive treatment or services, and a petition shall not be filed. Only after the intake  
7709 officer determines that the parties have made a reasonable effort to utilize available community  
7710 treatment or services may he permit the petition to be filed.

7711 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an  
7712 adult would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely  
7713 upon a finding that no probable cause exists, the complainant shall be notified in writing at that time of  
7714 the complainant's right to apply to a magistrate for a warrant. The application for a warrant to the  
7715 magistrate shall be filed within 10 days of the issuance of the written notification. The written  
7716 notification shall indicate that the intake officer made a finding that no probable cause exists and shall  
7717 provide notice that the complainant has 10 days to apply for a warrant to the magistrate. The  
7718 complainant shall provide the magistrate with a copy of the written notification upon application to the  
7719 magistrate. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to  
7720 the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile  
7721 court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is  
7722 closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1  
7723 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this  
7724 subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or  
7725 in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final. If the  
7726 intake officer refuses to authorize a petition relating to an offense that if committed by an adult would  
7727 be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a finding that  
7728 (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final and the  
7729 complainant shall not have a right to apply to a magistrate for a warrant.

7730 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the  
7731 intake officer shall accept and file a petition founded upon the warrant.

7732 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition  
7733 which alleges facts of an offense which would be a felony if committed by an adult.

7734 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a  
7735 report with the division superintendent of the school division in which any student who is the subject of  
7736 a petition alleging that such student who is a juvenile has committed an act, wherever committed, which  
7737 would be a crime if committed by an adult, or that such student who is an adult has committed a crime  
7738 and is alleged to be within the jurisdiction of the court. The report shall notify the division  
7739 superintendent of the filing of the petition and the nature of the offense, if the violation involves:

- 7740 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299  
7741 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;
- 7742 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 7743 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of  
7744 Title 18.2;
- 7745 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 7746 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, *other than marijuana-related 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

7808 facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated  
7809 delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if  
7810 committed by an adult, ~~or~~ (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1  
7811 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or  
7812 Class 2 misdemeanor if committed by an adult, *or (c) a violation of § 4.1-1104*, the court shall order  
7813 the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a  
7814 substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse  
7815 counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally  
7816 operated court services unit or by an individual employed by or currently under contract to such  
7817 agencies and who is specifically trained to conduct such assessments under the supervision of such  
7818 counselor.

7819 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the  
7820 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with  
7821 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant  
7822 physical, psychological, or economic injury as a result of the violation of law.

7823 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**  
7824 **offenses; truancy.**

7825 A. If a court has found facts which would justify a finding that a child at least 13 years of age at the  
7826 time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar  
7827 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2;  
7828 (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  
7829 18.2-250; (iv) a misdemeanor violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248;  
7830 ~~18.2-248.1~~, or 18.2-250 *or a violation of § 4.1-1105*; (v) the unlawful purchase, possession, or  
7831 consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic  
7832 beverages in or on public school grounds in violation of § 4.1-309; (vi) public intoxication in violation  
7833 of § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the unlawful use or possession of a  
7834 handgun or possession of a "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court  
7835 shall order, in addition to any other penalty that it may impose as provided by law for the offense, that  
7836 the child be denied a driver's license. In addition to any other penalty authorized by this section, if the  
7837 offense involves a violation designated under clause (i) and the child was transporting a person 17 years  
7838 of age or younger, the court shall impose the additional fine and order community service as provided in  
7839 § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the denial  
7840 of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17,  
7841 whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the  
7842 age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a  
7843 violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of  
7844 six months unless the offense is committed by a child under the age of 16 years and three months, in  
7845 which case the child's ability to apply for a driver's license shall be delayed for a period of six months  
7846 following the date he reaches the age of 16 and three months. If the offense involves a first violation  
7847 designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment  
7848 of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until  
7849 such time as the court disposes of the case pursuant to subsection F. If the offense involves a violation  
7850 designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the  
7851 delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a  
7852 violation designated under clause (vii), the denial of driving privileges shall be for a period of not less  
7853 than 30 days, except when the offense involves possession of a concealed handgun or a striker 12,  
7854 commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a  
7855 spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving  
7856 privileges shall be for a period of two years unless the offense is committed by a child under the age of  
7857 16 years and three months, in which event the child's ability to apply for a driver's license shall be  
7858 delayed for a period of two years following the date he reaches the age of 16 and three months.

7859 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance  
7860 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's  
7861 driving privileges for a period of not less than 30 days. If such failure to comply involves a child under  
7862 the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed  
7863 for a period of not less than 30 days following the date he reaches the age of 16 and three months.

7864 If the court finds a second or subsequent such offense, it may order the denial of a driver's license  
7865 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the  
7866 child's ability to apply for a driver's license for a period of one year following the date he reaches the  
7867 age of 16 and three months, as may be appropriate.

7868 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation  
7869 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 the court of a refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year after its issuance.

F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

**§ 17.1-276. Fee allowed for providing secure remote access to land records.**

A. A clerk of the circuit court who provides secure remote access to land records pursuant to § 17.1-294 may charge a fee as provided in this section. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in § 17.1-295. The clerk may charge a flat clerk's fee to be assessed for each subscriber, as defined in § 17.1-295, in an amount not to exceed \$50 per month and a separate fee per image downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275. The clerk's

7931 fees shall be used to cover operational expenses as defined in § 17.1-295.

7932 The Office of the Attorney General, the Division of Debt Collection, the Department of  
 7933 Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department  
 7934 of General Services, the Department of Conservation and Recreation, the Department of Forestry, the  
 7935 Virginia Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the  
 7936 Department of Rail and Public Transportation, and the State Corporation Commission shall be exempt  
 7937 from paying any fee for remote access to land records. If any clerk contracts with an outside vendor to  
 7938 provide remote access to land records to subscribers, such contract shall contain a provision exempting  
 7939 the Office of the Attorney General, the Division of Debt Collection, the Department of Transportation,  
 7940 the Virginia Outdoors Foundation, the Department of Historic Resources, the Department of General  
 7941 Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia  
 7942 Alcoholic Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Department of Rail  
 7943 and Public Transportation, and the State Corporation Commission from paying any access or  
 7944 subscription fee.

7945 B. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes  
 7946 to have remote access, in accordance with the security standards established by the Virginia Information  
 7947 Technologies Agency. Any such agreement between a state agency or employee thereof acting in the  
 7948 employee's official capacity and the clerk or an outside vendor contracted by the clerk to provide remote  
 7949 access to land records to subscribers, or such an agreement between a state agency or employee thereof  
 7950 acting in the employee's official capacity and both the clerk and the outside vendor, shall not contain  
 7951 any provision requiring the state agency or employee thereof acting in the employee's official capacity to  
 7952 indemnify the clerk or the vendor. Any such agreement between a state agency and the clerk or an  
 7953 outside vendor shall provide that the state agency is required to monitor its employees' activity under  
 7954 such agreement to ensure compliance with its terms.

7955 C. The clerk may establish a program under which the clerk assesses a reasonable convenience fee  
 7956 that shall not exceed \$2 per transaction for remote access to land records and a separate fee per image  
 7957 downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275.

7958 D. Nothing herein shall be construed to require the use by the general public of the secure remote  
 7959 access to land records made available by the clerk, and such records may continue to be accessed in  
 7960 person in the clerk's office.

7961 **§ 18.2-46.1. Definitions.**

7962 As used in this article unless the context requires otherwise or it is otherwise provided:

7963 "Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

7964 "Criminal street gang" means any ongoing organization, association, or group of three or more  
 7965 persons, whether formal or informal, (i) which has as one of its primary objectives or activities the  
 7966 commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or  
 7967 symbol; and (iii) whose members individually or collectively have engaged in the commission of,  
 7968 attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least  
 7969 one of which is an act of violence, provided such acts were not part of a common act or transaction.

7970 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42,  
 7971 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,  
 7972 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,  
 7973 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,  
 7974 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,  
 7975 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  
 7976 § 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~~  
 7977 ~~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)  
 7978 any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar  
 7979 offense under the laws of another state or territory of the United States, the District of Columbia, or the  
 7980 United States.

7981 **§ 18.2-57. Assault and battery; penalty.**

7982 A. Any person who commits a simple assault or assault and battery is guilty of a Class 1  
 7983 misdemeanor, and if the person intentionally selects the person against whom a simple assault is  
 7984 committed because of his race, religious conviction, gender, disability, gender identity, sexual  
 7985 orientation, color, or national origin, the penalty upon conviction shall include a term of confinement of  
 7986 at least six months.

7987 B. However, if a person intentionally selects the person against whom an assault and battery resulting  
 7988 in bodily injury is committed because of his race, religious conviction, gender, disability, gender  
 7989 identity, sexual orientation, color, or national origin, the person is guilty of a Class 6 felony, and the  
 7990 penalty upon conviction shall include a term of confinement of at least six months.

7991 C. ~~In addition,~~ *If* any person commits an assault or an assault and battery against another knowing  
 7992 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.

F. As used in this section:

"Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities.

"Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

"Judge" means any justice or judge of a court of record of the Commonwealth, including a judge designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge of such district court.

"Law-enforcement officer" means ~~any~~ a full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, ~~any~~ a conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, ~~any~~ a special agent of the Virginia Alcoholic Beverage Control Authority ~~or the Virginia Cannabis Control Authority~~, a conservation police ~~officers~~ officer appointed pursuant to § 29.1-200, a full-time sworn ~~members~~ member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, ~~and any~~ *an* employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10, ~~and such officer also includes a jail officers officer in a local and or regional correctional facilities facility~~, all a deputy ~~sheriffs~~ sheriff, whether assigned to law-enforcement duties, court services, or local jail responsibilities, an auxiliary police ~~officers~~ officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, an auxiliary deputy ~~sheriffs~~ sheriff appointed pursuant to § 15.2-1603, a police ~~officers~~ officer of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and a fire ~~marshals~~ marshal appointed pursuant to § 27-30 when such fire ~~marshals~~ *have* ~~marshal~~ *has* police powers as set out in §§ 27-34.2 and 27-34.2:1.

"School security officer" means the same as that term is defined in § 9.1-101.

G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any school security officer or full-time or part-time employee of any public or private elementary or secondary school while acting in the course and scope of his official capacity, any of the following: (i)

8054 incidental, minor, or reasonable physical contact or other actions designed to maintain order and control;  
8055 (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a  
8056 disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and  
8057 necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and  
8058 necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain  
8059 possession of weapons or other dangerous objects or controlled substances or associated paraphernalia  
8060 that are upon the person of the student or within his control.

8061 In determining whether a person was acting within the exceptions provided in this subsection, due  
8062 deference shall be given to reasonable judgments that were made by a school security officer or  
8063 full-time or part-time employee of any public or private elementary or secondary school at the time of  
8064 the event.

8065 **§ 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI,"**  
8066 **"imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.**

8067 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used in  
8068 Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act  
8069 (§ 54.1-3400 et seq.).

8070 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit  
8071 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ *that* is not  
8072 a controlled substance subject to abuse; and:

8073 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging, or  
8074 by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any  
8075 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced  
8076 into commerce prior to the initial introduction into commerce of the controlled substance which it is  
8077 alleged to imitate; or

8078 2. Which by express or implied representations purports to act like a controlled substance as a  
8079 stimulant or depressant of the central nervous system and which is not commonly used or recognized for  
8080 use in that particular formulation for any purpose other than for such stimulant or depressant effect,  
8081 unless marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

8082 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an  
8083 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,  
8084 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal  
8085 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the  
8086 packaging of the drug and its appearance in overall finished dosage form, promotional materials or  
8087 representations, oral or written, concerning the drug, and the methods of distribution of the drug and  
8088 where and how it is sold to the public.

8089 D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*,  
8090 whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture,  
8091 or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids.  
8092 Marijuana does not include the mature stalks of such plant, fiber produced from such stalk, oil or cake  
8093 made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of  
8094 plants of the genus *Cannabis*. Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112,  
8095 that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii)  
8096 industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer  
8097 license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; or (iii) a hemp  
8098 product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3  
8099 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed  
8100 in compliance with state or federal law.

8101 E. The term "counterfeit controlled substance" means a controlled substance that, without  
8102 authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the  
8103 trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a drug  
8104 manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or  
8105 distributor who did in fact so manufacture, process, pack, or distribute such drug.

8106 F. The Department of Forensic Science shall determine the proper methods for detecting the  
8107 concentration of delta-9-tetrahydrocannabinol (THC) in substances for the purposes of this title and  
8108 §§ 54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other  
8109 equivalent method and shall consider the potential conversion of delta-9-tetrahydrocannabinol acid  
8110 (THC-A) into THC. The test result shall include the total available THC derived from the sum of the  
8111 THC and THC-A content.

8112 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to**  
8113 **manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance**  
8114 **prohibited; penalties.**

8115 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 million and imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence:

1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
2. 500 grams 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 that contains any quantity of any of the substances referred to in subdivisions 2a through 2e a, b, and c;
3. 250 grams or more of a mixture or substance described in subdivisions 2a 2 a through 2d 2 d that contain cocaine base; or
4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not be applicable if the court finds that:

- a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- b. 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;
- c. The offense did not result in death or serious bodily injury to any person;
- d. 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; and
- e. 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.

C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its

8177 salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a  
8178 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,  
8179 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a  
8180 second conviction of such a violation, any such person may, in the discretion of the court or jury  
8181 imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years;  
8182 and be fined not more than \$500,000. When a person is convicted of a third or subsequent offense  
8183 under this subsection and it is alleged in the warrant, indictment, or information that he has been  
8184 previously convicted of two or more such offenses or of substantially similar offenses in any other  
8185 jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior  
8186 convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he  
8187 shall be sentenced to imprisonment for life or for a period not less than 10 years, three years of which  
8188 shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence  
8189 and he shall be fined not more than \$500,000.

8190 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be  
8191 ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner  
8192 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such  
8193 methamphetamine production. This restitution shall include the person's or his estate's estimated or actual  
8194 expenses associated with cleanup, removal, or repair of the affected property. If the property that is  
8195 damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is  
8196 property owned in whole or in part by the person convicted, the court shall order the person to pay to  
8197 the Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual  
8198 expenses associated with cleanup, removal, or repair of the affected property or, if actual or estimated  
8199 expenses cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of  
8200 certifying that any building that is cleaned up or repaired pursuant to this section is safe for human  
8201 occupancy according to the guidelines established pursuant to § 32.1-11.7.

8202 D. If such person proves that he gave, distributed, or possessed with intent to give or distribute a  
8203 controlled substance classified in Schedule I or II only as an accommodation to another individual who  
8204 is not an inmate in a community correctional facility, local correctional facility, or state correctional  
8205 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit  
8206 thereby from any consideration received or expected nor to induce the recipient or intended recipient of  
8207 the controlled substance to use or become addicted to or dependent upon such controlled substance, he  
8208 shall be is guilty of a Class 5 felony.

8209 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the  
8210 prescription of a person authorized under this article to issue the same, which prescription has not been  
8211 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact  
8212 received by the pharmacist within one week of the time of filling the same, or if such violation consists  
8213 of a request by such authorized person for the filling by a pharmacist of a prescription which has not  
8214 been received in writing by the pharmacist and such prescription is, in fact, written at the time of such  
8215 request and delivered to the pharmacist within one week thereof, either such offense shall constitute a  
8216 Class 4 misdemeanor.

8217 E1. Any person who violates this section with respect to a controlled substance classified in Schedule  
8218 III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, shall  
8219 be is guilty of a Class 5 felony.

8220 E2. Any person who violates this section with respect to a controlled substance classified in Schedule  
8221 IV shall be is guilty of a Class 6 felony.

8222 E3. Any person who proves that he gave, distributed, or possessed with the intent to give or  
8223 distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified  
8224 in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual  
8225 who is not an inmate in a community correctional facility, local correctional facility, or state correctional  
8226 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit  
8227 thereby from any consideration received or expected nor to induce the recipient or intended recipient of  
8228 the controlled substance to use or become addicted to or dependent upon such controlled substance, is  
8229 guilty of a Class 1 misdemeanor.

8230 F. Any person who violates this section with respect to a controlled substance classified in Schedule  
8231 V or Schedule VI or an imitation controlled substance which that imitates a controlled substance  
8232 classified in Schedule V or Schedule VI, shall be is guilty of a Class 1 misdemeanor.

8233 G. Any person who violates this section with respect to an imitation controlled substance which that  
8234 imitates a controlled substance classified in Schedule I, II, III, or IV shall be is guilty of a Class 6  
8235 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this  
8236 subsection that the defendant believed the imitation controlled substance to actually be a controlled  
8237 substance.

8238 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 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute, or possess with the intent to manufacture, sell, give, or distribute the following during any 12-month period of its existence:

1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;
2. At least 5.0 kilograms but less than 10 kilograms 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. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ *that* contains cocaine base; *or*
4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~
5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

A conviction under this section shall be 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.

H2. Any person who was the principal or one of several principal administrators, organizers, or leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts during any 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute, or possess with the intent to manufacture, sell, give, or distribute the following during any 12-month period of its existence:

8300 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;  
 8301 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:  
 8302 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
 8303 derivatives of ecgonine or their salts have been removed;  
 8304 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;  
 8305 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or  
 8306 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances  
 8307 referred to in subdivisions a ~~through, b, and c~~;  
 8308 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which that~~ contains  
 8309 cocaine base; *or*  
 8310 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~  
 8311 5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0  
 8312 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,  
 8313 isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1  
 8314 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such  
 8315 punishment shall be made to run consecutively with any other sentence. However, the court may impose  
 8316 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated  
 8317 with law-enforcement authorities.  
 8318 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he  
 8319 violates any provision of this section, the punishment for which is a felony, and either (ii) such violation  
 8320 is a part of a continuing series of violations of this section which are undertaken by such person in  
 8321 concert with five or more other persons with respect to whom such person occupies a position of  
 8322 organizer, asupervisory position, or any other position of management; and from which such person  
 8323 obtains substantial income or resources or (iii) such violation is committed, with respect to  
 8324 methamphetamine or other controlled substance classified in Schedule I or II, for the benefit of, at the  
 8325 direction of, or in association with any criminal street gang as defined in § 18.2-46.1.  
 8326 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any  
 8327 two or more different substances listed below with the intent to manufacture methamphetamine,  
 8328 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,  
 8329 ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture  
 8330 of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium,  
 8331 sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium  
 8332 permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or  
 8333 2-propanone.  
 8334 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product  
 8335 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or  
 8336 salts of optical isomers.  
 8337 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**  
 8338 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it is unlawful for any person to  
 8339 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of  
 8340 cocaine, coca leaves, or any salt, compound, derivative, or preparation thereof as described in Schedule  
 8341 II of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or~~  
 8342 ~~five or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct  
 8343 felony. Upon conviction, the person shall be sentenced to not less than five years nor more than 40  
 8344 years imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a  
 8345 fine not to exceed \$1,000,000 *\$1 million*. A second or subsequent conviction hereunder shall be  
 8346 punishable by a mandatory minimum term of imprisonment of 10 years, which shall be served  
 8347 consecutively with any other sentence.  
 8348 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;**  
 8349 **substance abuse screening, assessment treatment and education programs or services; drug tests;**  
 8350 **costs and fees; violations; discharge.**  
 8351 Whenever any person who has not previously been convicted of any criminal offense under this  
 8352 article or under any statute of the United States or of any state relating to narcotic drugs; ~~marijuana~~, or  
 8353 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for  
 8354 violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of  
 8355 not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts  
 8356 found by the court would justify a finding of guilt, without entering a judgment of guilt and with the  
 8357 consent of the accused, may defer further proceedings and place him on probation upon terms and  
 8358 conditions. If the court defers further proceedings, at that time the court shall determine whether the  
 8359 clerk of court has been provided with the fingerprint identification information or fingerprints of the  
 8360 person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the  
 8361 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.**

A. For purposes of this section, "overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.

B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana pursuant to § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, possession of a controlled substance pursuant to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose; (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith, renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or obtains emergency medical attention in accordance with this subdivision;

2. Such individual remains at the scene of the overdose or at any alternative location to which he or she is transported until a law-enforcement officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

3. Such individual identifies himself to the law-enforcement officer who responds to the report of the overdose; and

4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of the individual seeking or obtaining emergency medical attention or rendering emergency care or assistance.

C. The provisions of this section shall not apply to any person who seeks or obtains emergency medical attention for himself or another individual, to a person experiencing an overdose when another individual seeks or obtains emergency medical attention for him, or to a person who renders emergency

8423 care or assistance to an individual experiencing an overdose while another person seeks or obtains  
8424 emergency medical attention during the execution of a search warrant or during the conduct of a lawful  
8425 search or a lawful arrest.

8426 D. This section does not establish protection from arrest or prosecution for any individual or offense  
8427 other than those listed in subsection B.

8428 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later  
8429 determined that the person arrested was immune from prosecution under this section.

8430 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

8431 No school nurse employed by a local school board, person employed by a local health department  
8432 who is assigned to the public school pursuant to an agreement between the local health department and  
8433 the school board, or other person employed by or contracted with a local school board to deliver  
8434 health-related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or  
8435 § 18.2-248, ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for  
8436 storing, dispensing, or administering cannabis oil, in accordance with a policy adopted by the local  
8437 school board, to a student who has been issued a valid written certification for the use of cannabis oil in  
8438 accordance with subsection B of § 54.1-3408.3.

8439 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing**  
8440 **facilities; hospice and hospice facilities; assisted living facilities.**

8441 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and  
8442 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted  
8443 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  
8444 possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering  
8445 cannabis oil to a patient or resident who has been issued a valid written certification for the use of  
8446 cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of  
8447 Pharmacy.

8448 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;**  
8449 **Department of Agriculture and Consumer Services employees.**

8450 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or  
8451 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower,  
8452 a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of  
8453 performing required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or  
8454 § 18.2-248, ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or  
8455 industrial hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with  
8456 regulations promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer  
8457 Services.

8458 B. No employee of the Department of Agriculture and Consumer Services shall be prosecuted under  
8459 *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  
8460 18.2-250 for the possession or distribution of industrial hemp when possession of industrial hemp is  
8461 necessary in the performance of his duties.

8462 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing,**  
8463 **and treatment or education.**

8464 The trial judge or court trying the case of any person found guilty of a criminal violation of any law  
8465 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious  
8466 chemical substances and like substances shall condition any suspended sentence by first requiring such  
8467 person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such  
8468 periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing  
8469 shall be conducted by the supervising probation agency or by personnel of any program or agency  
8470 approved by the supervising probation agency. The cost of such testing ordered by the court shall be  
8471 paid by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court  
8472 shall order the person, as a condition of any suspended sentence, to undergo such treatment or education  
8473 for substance abuse, if available, as the judge or court deems appropriate based upon consideration of  
8474 the substance abuse assessment. The treatment or education shall be provided by a program or agency  
8475 licensed by the Department of Behavioral Health and Developmental Services, by a similar program or  
8476 services available through the Department of Corrections if the court imposes a sentence of one year or  
8477 more or, if the court imposes a sentence of 12 months or less, by a similar program or services available  
8478 through a local or regional jail, a local community-based probation services agency established pursuant  
8479 to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

8480 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

8481 A. Whenever any person who has not previously been convicted of any criminal offense under this  
8482 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~,  
8483 stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for  
8484 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~~ is 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~~ is 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~~ is 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 is 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 is 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 Acts, 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

8669 the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

- 8670 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing, or
- 8671 harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a
- 8672 controlled substance can be derived;
- 8673 2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing,
- 8674 processing, or preparing ~~marijuana~~ or controlled substances;
- 8675 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~
- 8676 or any species of plant ~~which that~~ is a controlled substance;
- 8677 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength
- 8678 or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to
- 8679 determine whether a controlled substance contains fentanyl or a fentanyl analog;
- 8680 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or
- 8681 controlled substances;
- 8682 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or
- 8683 designed for use in cutting controlled substances;
- 8684 7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds from,
- 8685 or in otherwise cleaning or refining, ~~marijuana~~;
- 8686 8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in
- 8687 compounding controlled substances;
- 8688 9. 8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in
- 8689 packaging small quantities of ~~marijuana~~ or controlled substances;
- 8690 10. 9. Containers and other objects intended for use or designed for use in storing or concealing
- 8691 ~~marijuana~~ or controlled substances;
- 8692 11. 10. Hypodermic syringes, needles, and other objects intended for use or designed for use in
- 8693 parenterally injecting controlled substances into the human body;
- 8694 12. 11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing
- 8695 ~~marijuana~~, cocaine, hashish, or hashish oil into the human body, such as:
- 8696 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent
- 8697 screens, ~~hashish heads~~, or punctured metal bowls;
- 8698 b. Water pipes;
- 8699 c. Carburetion tubes and devices;
- 8700 d. Smoking and carburetion masks;
- 8701 e. Roach clips, meaning objects used to hold burning material; such as a ~~marijuana cigarette~~, that has
- 8702 become too small or too short to be held in the hand;
- 8703 f. Miniature cocaine spoons, and cocaine vials;
- 8704 g. Chamber pipes;
- 8705 h. Carburetor pipes;
- 8706 i. Electric pipes;
- 8707 j. Air-driven pipes;
- 8708 k. Chillums;
- 8709 l. Bongs;
- 8710 m. Ice pipes or chillers.

8711 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

8712 In determining whether an object is drug paraphernalia, the court may consider, in addition to all

8713 other relevant evidence, the following:

- 8714 1. Constitutionally admissible statements by the accused concerning the use of the object;
- 8715 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually
- 8716 known to the accused;
- 8717 3. Instructions, oral or written, provided with the object concerning its use;
- 8718 4. Descriptive materials accompanying the object ~~which that~~ explain or depict its use;
- 8719 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 8720 6. The manner in which the object is displayed for sale;
- 8721 7. Whether the accused is a legitimate supplier of like or related items to the community, such as a
- 8722 licensed distributor or dealer of tobacco products;
- 8723 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the
- 8724 business enterprise;
- 8725 9. The existence and scope of legitimate uses for the object in the community;
- 8726 10. Expert testimony concerning its use or the purpose for which it was designed; *and*
- 8727 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
- 8728 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone
- 8729 in control of the object, as to a direct violation of this article shall not prevent a finding that the object
- 8730 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 Control Authority *or the Virginia Cannabis Control Authority* or as a law-enforcement officer with the Department of State Police, the Department of Wildlife Resources, or a sheriff or police department, bureau, or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, U.S. Customs and Border Protection, Department of State Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia, or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) ~~through~~, (iii), and (iv), after completing 15 years of service; (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55; (vii) as a correctional officer as defined in § 53.1-1, after completing 15 years of service; or (viii) as a probation and parole officer authorized pursuant to § 53.1-143, after completing 15 years of service.

**§ 18.2-308.012. Prohibited conduct.**

A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, *marijuana*, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun

8792 onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2  
8793 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local  
8794 law-enforcement officer.

8795 **§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.**

8796 A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

8797 1. Any State Police officer retired from the Department of State Police, any officer retired from the  
8798 Division of Capitol Police, any local law-enforcement officer, auxiliary police officer, or animal control  
8799 officer retired from a police department or sheriff's office within the Commonwealth, any special agent  
8800 retired from the State Corporation Commission ~~or~~, the Virginia Alcoholic Beverage Control Authority,  
8801 *or the Virginia Cannabis Control Authority*, any employee with internal investigations authority  
8802 designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the  
8803 Department of Corrections, any conservation police officer retired from the Department of Wildlife  
8804 Resources, any conservation officer retired from the Department of Conservation and Recreation, any  
8805 Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine  
8806 Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of  
8807 Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement  
8808 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired  
8809 investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for  
8810 cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such  
8811 law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years  
8812 of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a  
8813 service-related injury, provided such officer carries with him written proof of consultation with and  
8814 favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer  
8815 of the last such agency from which the officer retired or the agency that employs the officer or, in the  
8816 case of special agents, issued by the State Corporation Commission ~~or~~, the Virginia Alcoholic Beverage  
8817 Control Authority, *or the Virginia Cannabis Control Authority*. A copy of the proof of consultation and  
8818 favorable review shall be forwarded by the chief, Commission, or Board to the Department of State  
8819 Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall  
8820 not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the  
8821 requirements of this section. An officer set forth in clause (iv) who receives written proof of  
8822 consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work  
8823 as a law-enforcement officer or upon termination of employment with the law-enforcement agency.  
8824 Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia  
8825 Criminal Information Network. However, if such officer retires on disability because of the  
8826 service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a  
8827 concealed handgun, he may retain the previously issued written proof of consultation.

8828 2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement  
8829 agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such  
8830 law-enforcement agency, commission, or board to accept a position covered by a retirement system that  
8831 is authorized under Title 51.1, provided such person carries with him written proof of consultation with  
8832 and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement  
8833 officer of the agency from which he resigned or, in the case of special agents, issued by the State  
8834 Corporation Commission ~~or~~, the Virginia Alcoholic Beverage Control Authority, *or the Virginia*  
8835 *Cannabis Control Authority*. A copy of the proof of consultation and favorable review shall be  
8836 forwarded by the chief, Commission, or Board to the Department of State Police for entry into the  
8837 Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause  
8838 withhold such written proof if the law-enforcement officer otherwise meets the requirements of this  
8839 section.

8840 3. Any State Police officer who is a member of the organized reserve forces of any of the Armed  
8841 Services of the United States or National Guard, while such officer is called to active military duty,  
8842 provided such officer carries with him written proof of consultation with and favorable review of the  
8843 need to carry a concealed handgun issued by the Superintendent of State Police. The proof of  
8844 consultation and favorable review shall be valid as long as the officer is on active military duty and  
8845 shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of  
8846 consultation and favorable review shall be entered into the Virginia Criminal Information Network. The  
8847 Superintendent of State Police shall not without cause withhold such written proof if the officer is in  
8848 good standing and is qualified to carry a weapon while on active law-enforcement duty.

8849 4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the  
8850 Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement  
8851 or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards  
8852 for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii)  
8853 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~~ is 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.) ~~of Title 54.1~~ to simultaneously with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony.

B. It ~~shall be~~ is 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.) to simultaneously with knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

C. It ~~shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or other firearm or display such weapon in a threatening manner while committing or attempting to commit the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

**§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking by a person under 21 years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking to persons under 21 years of age.**

A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person ~~less younger~~ than 21 years of age, knowing or having reason to believe that such person is ~~less~~ younger than 21 years of age, any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking.

Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for smoking may be sold from a vending machine only if the machine is (i) posted with a notice, in a conspicuous manner and place, indicating that the purchase or possession of such products by persons

8915 ~~under younger than~~ 21 years of age is unlawful and (ii) located in a place that is not open to the general  
8916 public and is not generally accessible to persons ~~under younger than~~ 21 years of age. An establishment  
8917 that prohibits the presence of persons ~~under younger than~~ 21 years of age unless accompanied by a  
8918 person 21 years of age or older is not open to the general public.

8919 B. No person ~~less younger than~~ 21 years of age shall attempt to purchase, purchase, or possess any  
8920 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for  
8921 smoking. The provisions of this subsection shall not be applicable to the possession of tobacco products,  
8922 nicotine vapor products, alternative nicotine products, or hemp products intended for smoking by a  
8923 person ~~less younger than~~ 21 years of age (i) making a delivery of tobacco products, nicotine vapor  
8924 products, alternative nicotine products, or hemp products intended for smoking in pursuance of his  
8925 employment or (ii) as part of a scientific study being conducted by an organization for the purpose of  
8926 medical research to further efforts in cigarette and tobacco use prevention and cessation and tobacco  
8927 product regulation, provided that such medical research has been approved by an institutional review  
8928 board pursuant to applicable federal regulations or by a research review committee pursuant to Chapter  
8929 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to purchase, attempt to  
8930 purchase, or possession by a law-enforcement officer or his agent when the same is necessary in the  
8931 performance of his duties.

8932 C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or  
8933 hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's  
8934 license or similar photo identification issued by a government agency, that the individual is at least 21  
8935 years of age. Such identification is not required from an individual whom the person has reason to  
8936 believe is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the  
8937 person demanded, was shown, and reasonably relied upon a photo identification stating that the  
8938 individual was at least 21 years of age shall be a defense to any action brought under this subsection. In  
8939 determining whether a person had reason to believe an individual is at least 21 years of age, the trier of  
8940 fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior,  
8941 and manner of the individual.

8942 This subsection shall not apply to mail order or Internet sales, provided that the person offering the  
8943 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for  
8944 smoking for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine  
8945 vapor product, alternative nicotine product, or hemp product intended for smoking verifies that the  
8946 purchaser is at least 21 years of age through a commercially available database that is regularly used by  
8947 businesses or governmental entities for the purpose of age and identity verification and (ii) uses a  
8948 method of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age  
8949 before the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product  
8950 intended for smoking will be released to the purchaser.

8951 D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any  
8952 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for  
8953 smoking to any active duty military personnel who are 18 years of age or older. An identification card  
8954 issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

8955 E. A violation of subsection A or C by an individual or by a separate retail establishment that  
8956 involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or  
8957 tobacco product other than a bidi is punishable by a civil penalty not to exceed \$100 for a first  
8958 violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed  
8959 \$500 for a third or subsequent violation.

8960 A violation of subsection A or C by an individual or by a separate retail establishment that involves  
8961 the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a  
8962 first violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the  
8963 amount of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers  
8964 proof that it has trained its employees concerning the requirements of this section, the court shall  
8965 suspend all of the penalties imposed hereunder. However, where the court finds that a retail  
8966 establishment has failed to so train its employees, the court may impose a civil penalty not to exceed  
8967 \$1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a  
8968 nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco  
8969 product other than a bidi.

8970 A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation  
8971 and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an  
8972 alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20  
8973 hours of community service for a first violation of subsection B and up to 40 hours of community  
8974 service for a second or subsequent violation. If the defendant fails or refuses to complete the community  
8975 service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the  
8976 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 a bidi or beedie.

"Hemp product *intended for smoking*" means the same as that term is defined in § 3.2-4112 4.1-600.

"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar.

**§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.**

A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a Class 1 misdemeanor.

B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ law-enforcement officer, or ~~an~~ animal control officer employed pursuant to § 3.2-6555 lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a

9038 Class 1 misdemeanor.

9039 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a  
 9040 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement  
 9041 officer, lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of  
 9042 justice in any court relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3),~~  
 9043 ~~(b) or (c) of § 18.2-248.1, or §, 18.2-46.2, or § 18.2-46.3,~~ or relating to the violation of or conspiracy to  
 9044 violate any violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

9045 D. Any person who knowingly and willfully makes any materially false statement or representation  
 9046 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the  
 9047 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

9048 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from  
 9049 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of  
 9050 this subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a  
 9051 law-enforcement officer when (i) the officer applies physical force to the person; or (ii) the officer  
 9052 communicates to the person that he is under arrest and (a) the officer has the legal authority and the  
 9053 immediate physical ability to place the person under arrest; and (b) a reasonable person who receives  
 9054 such communication knows or should know that he is not free to leave.

9055 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

9056 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,  
 9057 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the  
 9058 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the  
 9059 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ *that* is a controlled  
 9060 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 ~~or~~  
 9061 ~~marijuana~~ is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or  
 9062 attempt to deliver or conspire to deliver to any such prisoner or confined or committed person; firearms,  
 9063 ~~ammunitions~~ *ammunition*, or explosives of any nature is guilty of a Class 3 felony.

9064 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

9065 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**  
 9066 **authorizing interception of communications.**

9067 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in  
 9068 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a  
 9069 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to  
 9070 a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral  
 9071 communications by the Department of State Police, when such interception may reasonably be expected  
 9072 to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder,  
 9073 any felony violation of § 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.)  
 9074 of Title 59.1, any felony violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.),  
 9075 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  
 9076 felonies that are not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any  
 9077 conspiracy to commit any of the foregoing offenses. The Attorney General or Chief Deputy Attorney  
 9078 General may apply for authorization for the observation or monitoring of the interception by a police  
 9079 department of a county or city, by a sheriff's office, or by law-enforcement officers of the United States.  
 9080 Such application shall be made, and such order may be granted, in conformity with the provisions of  
 9081 § 19.2-68.

9082 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

9083 1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction  
 9084 shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to  
 9085 believe that an offense was committed, is being committed, or will be committed or the person or  
 9086 persons whose communications are to be intercepted live, work, subscribe to a wire or electronic  
 9087 communication system, maintain an address or a post office box, or are making the communication  
 9088 within the territorial jurisdiction of the court.

9089 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the  
 9090 authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an  
 9091 offense was committed, is being committed, or will be committed or the physical location of the oral  
 9092 communication to be intercepted is within the territorial jurisdiction of the court.

9093 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of  
 9094 a wire or electronic communication, such communication shall be deemed to be intercepted in the  
 9095 jurisdiction where the order is entered, regardless of the physical location or the method by which the  
 9096 communication is captured or routed to the monitoring location.

9097 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

9098 A. The following officers shall have the powers of arrest as provided in this section:

9099 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 location where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.
- D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, or 46.2-341.24, or subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.
- E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in another jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout, facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of such person wanted and the crime alleged.
- F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not committed in his presence when the officer receives a radio message from his department or other law-enforcement agency within the Commonwealth that a warrant or capias for such offense is on file.
- G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such property is located on premises used for business or commercial purposes, or a similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged offense. The arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation involving shoplifting.
- § 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**
- Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in

§ 19.2-81, persons for crimes involving:

- (a) 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;
- (b) 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
- (c) 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or § 18.2-474.1;
- and
- (d) 4. Any other criminal offense ~~which~~ *that* may contribute to the disruption of the safety, welfare, or security of the population of a correctional institution.

**§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or other employee in any public school division in this Commonwealth for a felony or a Class 1 misdemeanor or an equivalent offense in another state shall file a report of such arrest with the division superintendent of the employing division as soon as practicable. The contents of the report required pursuant to this section shall be utilized by the local school division solely to implement the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

B. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, shall file a report, as soon as practicable, with the division superintendent of the school division in which the student is enrolled upon arresting a person who is known or discovered by the arresting official to be a student age 18 or older in any public school division in this Commonwealth for:

- 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 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, 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, 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 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 order shall also require that, if the defendant has not appeared and allowed the sheriff or probation officer to take the required sample by the date stated in the order, then the sheriff or probation officer shall report to the court the defendant's failure to appear and provide the required sample.

After conviction and upon sentencing of an active participant or member of a criminal street gang, the court may, as a condition for suspending the imposition of the sentence in whole or in part or for placing the accused on probation, place reasonable restrictions on those persons with whom the accused may have contact. Such restrictions may include prohibiting the accused from having contact with anyone whom he knows to be a member of a criminal street gang, except that contact with a family or household member, as defined in § 16.1-228, shall be permitted unless expressly prohibited by the court.

Notwithstanding any other provision of law, in any case where a defendant is convicted of a 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, committed on or after July 1, 2006, and some portion of the sentence is suspended, the judge shall order that the period of suspension shall be for a length of time at least equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned, and the defendant shall be placed on probation for that period of suspension subject to revocation by the court. The conditions of probation may include such conditions as the court shall determine, including active supervision. Where the conviction is for a violation of clause (iii) of subsection A of § 18.2-61, subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court shall order that at least three years of the probation include active supervision of the defendant under a postrelease supervision program operated by the Department of Corrections, and for at least three years of such active supervision, the defendant shall be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device, or other similar device.

If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any time before the sentence has been completely served, suspend the unserved portion of any such sentence, place the person on probation in accordance with the provisions of this section, or otherwise modify the sentence imposed.

If a person has been sentenced for a felony to the Department of Corrections (the Department), the court that heard the case, if it appears compatible with the public interest and there are circumstances in mitigation of the offense, may, at any time before the person is transferred to the Department, or within

9284 60 days of such transfer, suspend or otherwise modify the unserved portion of such a sentence. The  
9285 court may place the person on probation in accordance with the provisions of this section.

9286 *Notwithstanding any other provision of law or rule of court, any person who has been sentenced to*  
9287 *jail or to the Department of Corrections for a marijuana offense, except for (i) a violation of subsection*  
9288 *H, H1, or H2 of § 18.2-248 involving marijuana, (ii) a violation of § 18.2-248.01 involving marijuana,*  
9289 *(iii) a violation of subdivision (a) (3) of former § 18.2-248.1, (iv) a violation of subsection (d) of former*  
9290 *§ 18.2-248.1, or (v) a violation of former § 18.2-248.1 where the defendant gave, distributed, or*  
9291 *possessed with intent to give or distribute marijuana to a minor, or (vi) a violation of § 18.2-255*  
9292 *involving marijuana may, at any time before the sentence has been completely served, file a motion with*  
9293 *the sentencing court that entered the final judgment or order for a resentencing hearing. If it appears*  
9294 *compatible with the public interest and there are circumstances in mitigation of the offense, including*  
9295 *the legalization of marijuana, such court may reduce, suspend, or otherwise modify such person's*  
9296 *sentence at any time before such person's sentence has been completely served. If the petitioner claims*  
9297 *to be indigent, the petitioner shall additionally file with the court a statement of indigency and a request*  
9298 *for the appointment of counsel on forms provided by the Supreme Court of Virginia. If the petition is*  
9299 *not summarily dismissed and the court finds that the petitioner is entitled to representation by counsel*  
9300 *subject to the provisions of Article 3 (§ 19.2-157 et seq.) of Chapter 10 of Title 19.2, the court shall*  
9301 *appoint counsel to represent the petitioner.*

9302 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

9303 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the  
9304 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of  
9305 the final judgment order, provided substantial assistance in investigating or prosecuting another person  
9306 for (i) an act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of  
9307 § 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,  
9308 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  
9309 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in  
9310 the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations  
9311 as a principal in the second degree or accessory before the fact of any of the offenses listed in clause  
9312 (i). In determining whether the defendant has provided substantial assistance pursuant to the provisions  
9313 of this section, the court shall consider (a) the court's evaluation of the significance and usefulness of  
9314 the defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance  
9315 rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by  
9316 the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any  
9317 danger or risk of injury to the defendant or his family resulting from his assistance; and (e) the  
9318 timeliness of the defendant's assistance. If the motion is made more than one year after entry of the final  
9319 judgment order, the court may reduce a sentence only if the defendant's substantial assistance involved  
9320 (1) information not known to the defendant until more than one year after entry of the final judgment  
9321 order, (2) information provided by the defendant within one year of entry of the final judgment order  
9322 but that did not become useful to the Commonwealth until more than one year after entry of the final  
9323 judgment order, or (3) information the usefulness of which could not reasonably have been anticipated  
9324 by the defendant until more than one year after entry of the final judgment order and which was  
9325 promptly provided to the Commonwealth by the defendant after its usefulness was reasonably apparent.

9326 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug**  
9327 **transactions.**

9328 A. The following property shall be subject to lawful seizure by any officer charged with enforcing  
9329 the provisions of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of*  
9330 *Chapter 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment,*  
9331 *motor vehicles, and all other personal and real property of any kind or character, used in substantial*  
9332 *connection with (a) the illegal manufacture, sale or distribution of controlled substances or possession*  
9333 *with intent to sell or distribute controlled substances in violation of § 18.2-248, (b) the sale or*  
9334 *distribution of marijuana or possession with intent to distribute marijuana in violation of subdivisions*  
9335 *(a)(2), (a)(3) and (e) of § 18.2-248.1 § 4.1-1103, or (c) a drug-related offense in violation of § 4.1-1117*  
9336 *or 18.2-474.1; (ii) everything of value furnished, or intended to be furnished, in exchange for a*  
9337 *controlled substance in violation of § 18.2-248 or for marijuana in violation of § 18.2-248.1 4.1-1103 or*  
9338 *for a controlled substance or marijuana in violation of § 4.1-1117 or 18.2-474.1; and (iii) all moneys or*  
9339 *other property, real or personal, traceable to such an exchange, together with any interest or profits*  
9340 *derived from the investment of such money or other property. Under the provisions of clause (i), real*  
9341 *property shall not be subject to lawful seizure unless the minimum prescribed punishment for the*  
9342 *violation is a term of not less than five years.*

9343 B. All seizures and forfeitures under this section shall be governed by the procedures contained in  
9344 Chapter 22.1 (§ 19.2-386.1 et seq.).

9345 **§ 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 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall not result in the requesting agency's exceeding the limits allowed by this subsection.

D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of such substance on a monthly basis, which shall include a description and weight of the substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for research and training purposes. A written report outlining the details of the inventory shall be made to the chief law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency shall detail the substances that were used for research and training pursuant to a court order in the immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with a statement prepared under oath, reporting a description of the substance destroyed, and the time, place, and manner of destruction.

**§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection with any prosecution or investigation under *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly selected from the seized substance for representative purposes as evidence and destroy the remainder of the seized substance.

Before any destruction is carried out under this section, the law-enforcement agency shall cause the material seized to be photographed with identification case numbers or other means of identification and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested party, if known, or his attorney, at least five days in advance that the photography will take place and that they may be present. Prior to any destruction under this section, the law-enforcement agency shall also notify the accused or other interested party, if known, and his attorney at least seven days prior to the destruction of the time and place the destruction will occur. Any notice required under the provisions of this section shall be by first-class mail to the last known address of the person required to

9407 be notified. In addition to the substance retained for representative purposes as evidence, all photographs  
9408 and records made under this section and properly identified shall be admissible in any court proceeding  
9409 for any purposes for which the seized substance itself would have been admissible.

9410 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**  
9411 **substances, etc.**

9412 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to  
9413 take into its custody or to maintain custody of substantial quantities of any controlled substances,  
9414 imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal  
9415 prosecution under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title  
9416 18.2. The court in its order may make provision for ensuring integrity of these items until further order  
9417 of the court.

9418 **§ 19.2-389. Dissemination of criminal history record information.**

9419 A. Criminal history record information shall be disseminated, whether directly or through an  
9420 intermediary, only to:

9421 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for  
9422 purposes of the administration of criminal justice and the screening of an employment application or  
9423 review of employment by a criminal justice agency with respect to its own employees or applicants, and  
9424 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all  
9425 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,  
9426 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For  
9427 purposes of this subdivision, criminal history record information includes information sent to the Central  
9428 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time  
9429 or part-time employee of the State Police, a police department or sheriff's office that is a part of or  
9430 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the  
9431 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the  
9432 Commonwealth for the purposes of the administration of criminal justice;

9433 2. Such other individuals and agencies that require criminal history record information to implement  
9434 a state or federal statute or executive order of the President of the United States or Governor that  
9435 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such  
9436 conduct, except that information concerning the arrest of an individual may not be disseminated to a  
9437 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the  
9438 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is  
9439 pending;

9440 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide  
9441 services required for the administration of criminal justice pursuant to that agreement which shall  
9442 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the  
9443 security and confidentiality of the data;

9444 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities  
9445 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,  
9446 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and  
9447 security of the data;

9448 5. Agencies of state or federal government that are authorized by state or federal statute or executive  
9449 order of the President of the United States or Governor to conduct investigations determining  
9450 employment suitability or eligibility for security clearances allowing access to classified information;

9451 6. Individuals and agencies where authorized by court order or court rule;

9452 7. Agencies of any political subdivision of the Commonwealth, public transportation companies  
9453 owned, operated or controlled by any political subdivision, and any public service corporation that  
9454 operates a public transit system owned by a local government for the conduct of investigations of  
9455 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is  
9456 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a  
9457 conviction record would be compatible with the nature of the employment, permit, or license under  
9458 consideration;

9459 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of  
9460 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a  
9461 position of employment whenever, in the interest of public welfare or safety and as authorized in the  
9462 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person  
9463 with a conviction record would be compatible with the nature of the employment under consideration;

9464 8. Public or private agencies when authorized or required by federal or state law or interstate  
9465 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the  
9466 adult members of that individual's household, with whom the agency is considering placing a child or  
9467 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,  
9468 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 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in § 4.1-622;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such

9530 records information on behalf of such governing boards or administrators pursuant to a written  
9531 agreement with the Department of State Police;

9532 24. Public institutions of higher education and nonprofit private institutions of higher education for  
9533 the purpose of screening individuals who are offered or accept employment;

9534 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,  
9535 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of  
9536 higher education, for the purpose of assessing or intervening with an individual whose behavior may  
9537 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal  
9538 history record information obtained pursuant to this section or otherwise use any record of an individual  
9539 beyond the purpose that such disclosure was made to the threat assessment team;

9540 26. Executive directors of community services boards or the personnel director serving the  
9541 community services board for the purpose of determining an individual's fitness for employment,  
9542 approval as a sponsored residential service provider, permission to enter into a shared living arrangement  
9543 with a person receiving medical assistance services pursuant to a waiver, or permission for any person  
9544 under contract with the community services board to serve in a direct care position on behalf of the  
9545 community services board pursuant to §§ 37.2-506 and 37.2-607;

9546 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of  
9547 determining an individual's fitness for employment, approval as a sponsored residential service provider,  
9548 permission to enter into a shared living arrangement with a person receiving medical assistance services  
9549 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to  
9550 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506 and  
9551 37.2-607;

9552 28. The Commissioner of Social Services for the purpose of locating persons who owe child support  
9553 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the  
9554 name, address, demographics and social security number of the data subject shall be released;

9555 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
9556 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the  
9557 purpose of determining if any applicant who accepts employment in any direct care position or requests  
9558 approval as a sponsored residential service provider, permission to enter into a shared living arrangement  
9559 with a person receiving medical assistance services pursuant to a waiver, or permission for any person  
9560 under contract with the provider to serve in a direct care position has been convicted of a crime that  
9561 affects his fitness to have responsibility for the safety and well-being of individuals with mental illness,  
9562 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

9563 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants  
9564 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20  
9565 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

9566 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House  
9567 Committee for Courts of Justice for the purpose of determining if any person being considered for  
9568 election to any judgeship has been convicted of a crime;

9569 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
9570 determining an individual's fitness for employment in positions designated as sensitive under Department  
9571 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

9572 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under  
9573 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually  
9574 Violent Predators Act (§ 37.2-900 et seq.);

9575 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,  
9576 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary  
9577 companies, for the conduct of investigations of applications for employment or for access to facilities,  
9578 by contractors, leased laborers, and other visitors;

9579 35. Any employer of individuals whose employment requires that they enter the homes of others, for  
9580 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

9581 36. Public agencies when and as required by federal or state law to investigate (i) applicants as  
9582 providers of adult foster care and home-based services or (ii) any individual with whom the agency is  
9583 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,  
9584 subject to the restriction that the data shall not be further disseminated by the agency to any party other  
9585 than a federal or state authority or court as may be required to comply with an express requirement of  
9586 law for such further dissemination, subject to limitations set out in subsection G;

9587 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
9588 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,  
9589 or have accepted a position related to the provision of transportation services to enrollees in the  
9590 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other  
9591 program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, 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 Superintendent of Public Instruction's 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 Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039; and

47. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 46.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.

9653 Dissemination of information regarding offenses not required to be reported to the Exchange shall be  
9654 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

9655 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
9656 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange  
9657 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

9658 F. Criminal history information provided to licensed assisted living facilities and licensed adult day  
9659 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange  
9660 for any offense specified in § 63.2-1720.

9661 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be  
9662 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the  
9663 definition of barrier crime in § 19.2-392.02.

9664 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal  
9665 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the  
9666 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in  
9667 the request to the employer or prospective employer making the request, provided that the person on  
9668 whom the data is being obtained has consented in writing to the making of such request and has  
9669 presented a photo-identification to the employer or prospective employer. In the event no conviction data  
9670 is maintained on the person named in the request, the requesting employer or prospective employer shall  
9671 be furnished at his cost a certification to that effect. The criminal history record search shall be  
9672 conducted on forms provided by the Exchange.

9673 I. Nothing in this section shall preclude the dissemination of a person's criminal history record  
9674 information pursuant to the rules of court for obtaining discovery or for review by the court.

9675 **§ 19.2-389.3. (For contingent expiration dates, see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**  
9676 **551) Marijuana possession; limits on dissemination of criminal history record information;**  
9677 **prohibited practices by employers, educational institutions, and state and local governments;**  
9678 **penalty.**

9679 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor  
9680 violation of *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged  
9681 under *former* §§ 18.2-248.1 or 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251,  
9682 maintained in the Central Criminal Records Exchange shall not be open for public inspection or  
9683 otherwise disclosed, provided that such records may be disseminated (i) to make the determination as  
9684 provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of  
9685 a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article  
9686 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to  
9687 § 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to  
9688 subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established  
9689 pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173  
9690 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving  
9691 juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the  
9692 Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure  
9693 information incidental to sentencing and to attorneys for the Commonwealth and probation officers to  
9694 prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01;  
9695 (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office  
9696 that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is  
9697 responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or  
9698 highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in  
9699 § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any  
9700 full-time or part-time employee of the State Police or a police department or sheriff's office that is a part  
9701 of or administered by the Commonwealth or any political subdivision thereof for the purpose of  
9702 screening any person for full-time or part-time employment with the State Police or a police department  
9703 or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision  
9704 thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person  
9705 who applies to be a volunteer with or an employee of an emergency medical services agency as  
9706 provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic  
9707 Science for the purpose of screening any person for full-time or part-time employment with the  
9708 Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee  
9709 who shall be an individual employed as a public safety official of the locality, that has adopted an  
9710 ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who  
9711 applies to be a volunteer with or an employee of an emergency medical services agency as provided in  
9712 § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any  
9713 employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the  
9714 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 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) 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; (vi) 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; (vii) 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; (viii) 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; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the

9776 Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a  
9777 local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any  
9778 employer or prospective employer or its designee that is allowed access to such sealed records in  
9779 accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted  
9780 pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with  
9781 § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of  
9782 law, or counsel for the accused, in order to comply with any constitutional and statutory duties to  
9783 provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a  
9784 criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use  
9785 in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any  
9786 local department of social services for purposes of performing any statutory duties as required under  
9787 Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as  
9788 authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for  
9789 purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12; (xxiv) to  
9790 determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or  
9791 convicted of the offense that was sealed.

9792 B. Except as provided in subsection C, agencies, officials, and employees of state and local  
9793 governments, private employers that are not subject to federal laws or regulations in the hiring process,  
9794 and educational institutions shall not, in any application, interview, or otherwise, require an applicant for  
9795 employment or admission to disclose information concerning any arrest, criminal charge, or conviction  
9796 against him when the record relating to such arrest, criminal charge, or conviction is not open for public  
9797 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any  
9798 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest,  
9799 criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is  
9800 not open for public inspection pursuant to subsection A.

9801 C. The provisions of subsection B shall not apply if:

9802 1. The person is applying for full-time employment or part-time employment with, or to be a  
9803 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered  
9804 by the Commonwealth or any political subdivision thereof;

9805 2. This Code requires the employer to make such an inquiry;

9806 3. Federal law requires the employer to make such an inquiry;

9807 4. The position, or access to the premises in or upon which any part of the duties of such position is  
9808 performed or is to be performed, is subject to any requirement imposed in the interest of the national  
9809 security of the United States under any security program in effect pursuant to or administered under any  
9810 contract with, or statute or regulation of, the United States or any Executive Order of the President; or

9811 5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to  
9812 § 9.1-134 allow the employer to access such sealed records.

9813 D. Agencies, officials, and employees of the state and local governments shall not, in any  
9814 application, interview, or otherwise, require an applicant for a license, permit, registration, or  
9815 governmental service to disclose information concerning any arrest, criminal charge, or conviction  
9816 against him when the record relating to such arrest, criminal charge, or conviction is not open for public  
9817 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any  
9818 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest,  
9819 criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is  
9820 not open for public inspection pursuant to subsection A. Such an application may not be denied solely  
9821 because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or  
9822 conviction.

9823 E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling,  
9824 as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal  
9825 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction  
9826 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any  
9827 question concerning any arrest, criminal charge, or conviction, include a reference to or information  
9828 concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal  
9829 charge, or conviction is not open for public inspection pursuant to subsection A. Such an application  
9830 may not be denied solely because of the applicant's refusal to disclose information concerning any such  
9831 arrest, criminal charge, or conviction.

9832 F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined  
9833 in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge, or  
9834 conviction against him when the record relating to such arrest, criminal charge, or conviction is not open  
9835 for public inspection pursuant to subsection A. An applicant need not, in answer to any question  
9836 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning  
9837 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, 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 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, 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, 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 substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 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 another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01, 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, 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 another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 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 requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or

9899 recreation to children or the elderly or disabled.

9900 "Department" means the Department of State Police.

9901 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or  
9902 seeks to volunteer for a qualified entity.

9903 "Identification document" means a document made or issued by or under the authority of the United  
9904 States government, a state, a political subdivision of a state, a foreign government, political subdivision  
9905 of a foreign government, an international governmental or an international quasi-governmental  
9906 organization that, when completed with information concerning a particular individual, is of a type  
9907 intended or commonly accepted for the purpose of identification of individuals.

9908 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may  
9909 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity  
9910 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised  
9911 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or  
9912 operate a qualified entity.

9913 "Qualified entity" means a business or organization that provides care to children or the elderly or  
9914 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt  
9915 pursuant to subdivision A 7 of § 22.1-289.030.

9916 B. A qualified entity may request the Department of State Police to conduct a national criminal  
9917 background check on any provider who is employed by such entity. No qualified entity may request a  
9918 national criminal background check on a provider until such provider has:

9919 1. Been fingerprinted; and

9920 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and  
9921 date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the  
9922 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or  
9923 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime  
9924 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a  
9925 background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background  
9926 check report, to challenge the accuracy and completeness of any information contained in any such  
9927 report, and to obtain a prompt determination as to the validity of such challenge before a final  
9928 determination is made by the Department; and (v) a notice to the provider that prior to the completion  
9929 of the background check the qualified entity may choose to deny the provider unsupervised access to  
9930 children or the elderly or disabled for whom the qualified entity provides care.

9931 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a  
9932 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in  
9933 subsection B, the Department shall make a determination whether the provider has been convicted of or  
9934 is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier  
9935 crime information, the Department shall access the national criminal history background check system,  
9936 which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other  
9937 methods of identification, and shall access the Central Criminal Records Exchange maintained by the  
9938 Department. If the Department receives a background report lacking disposition data, the Department  
9939 shall conduct research in whatever state and local recordkeeping systems are available in order to obtain  
9940 complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry  
9941 within 15 business days.

9942 D. Any background check conducted pursuant to this section for a provider employed by a private  
9943 entity shall be screened by the Department of State Police. If the provider has been convicted of or is  
9944 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not  
9945 qualified to work or volunteer in a position that involves unsupervised access to children or the elderly  
9946 or disabled.

9947 E. Any background check conducted pursuant to this section for a provider employed by a  
9948 governmental entity shall be provided to that entity.

9949 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a  
9950 national criminal background check, the Department and the Federal Bureau of Investigation may each  
9951 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted  
9952 with the fingerprints.

9953 G. The failure to request a criminal background check pursuant to subsection B shall not be  
9954 considered negligence per se in any civil action.

9955 **§ 19.2-392.2:1. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 550 and 551, cl. 9)**  
9956 **Former marijuana offenses; automatic expungement.**

9957 A. Records relating to the arrest, criminal charge, conviction, or civil offense of a person for a  
9958 misdemeanor violation of former § 18.2-248.1 or a violation of former § 18.2-250.1, including any  
9959 violation charged under either section and the charge was deferred and dismissed, shall be ordered to be  
9960 automatically expunged in accordance with the provisions of this section.

B. No later than July 1, 2025, the Department of State Police shall determine which offenses in the Central Criminal Records Exchange meet the criteria for automatic expungement set forth in subsection A. The Department of State Police shall provide an electronic list of all offenses that meet the criteria for automatic expungement to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B of § 17.1-502.

C. Upon receipt of the electronic list from the Department of State Police provided under subsection B, the Executive Secretary of the Supreme Court shall provide an electronic list of all offenses that meet the criteria for automatic expungement set forth in subsection A to the clerk of each circuit court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case management system maintained by the Executive Secretary.

D. Upon receipt of the electronic list provided under subsection B or C, the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such order directing that the offenses that meet the criteria for automatic expungement set forth in subsection A be automatically expunged under the process set forth in subsections E, F, and G. Such order shall contain the names of the persons charged with or convicted of such offenses.

E. The clerk of each circuit court shall provide an electronic copy of any order entered under subsection D to the Department of State Police. Upon receipt of such order, the Department of State Police (i) shall not disseminate any criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, that was ordered to be expunged, except for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 and (ii) shall electronically notify those agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be expunged and may only be disseminated for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any records maintained electronically that are transformed or transferred by whatever means to an offline system or to a confidential and secure area inaccessible from normal use within the system in which the record is maintained shall be considered expunged, provided that such records are accessible only to the manager of the records or their designee.

F. Records relating to an arrest, charge, or conviction that was ordered to be expunged pursuant to this section 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 employment or part-time employment with, or to be a volunteer 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; (v) 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; (vi) 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; (vii) 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; (viii) 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; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the

10022 Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for  
 10023 Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for  
 10024 full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the  
 10025 Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a  
 10026 local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any  
 10027 employer or prospective employer or its designee that is allowed access to such expunged records in  
 10028 accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted  
 10029 pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with  
 10030 § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of  
 10031 law, or counsel for the accused, in order to comply with any constitutional and statutory duties to  
 10032 provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a  
 10033 criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use  
 10034 in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any  
 10035 local department of social services for purposes of performing any statutory duties as required under  
 10036 Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as  
 10037 authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for  
 10038 purposes of determining eligibility for expungement pursuant to the provisions of § 19.2-392.12; (xxiv)  
 10039 to determine a person's eligibility to be empaneled as a juror; ~~and (xxv) to any full-time or part-time~~  
 10040 ~~employee of the Virginia Cannabis Control Authority for the purpose of determining whether a person~~  
 10041 ~~qualifies as a social equity applicant; and (xxvi) to the person arrested, charged, or convicted of the~~  
 10042 ~~offense that was expunged.~~

10043 G. The Department of Motor Vehicles shall not expunge any conviction or any charge that was  
 10044 deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of  
 10045 federal regulatory record retention requirements or (ii) in violation of federal program requirements if  
 10046 the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a  
 10047 conviction or deferral and dismissal ordered to be expunged. Upon receipt of an order directing that an  
 10048 offense be expunged, the Department of Motor Vehicles shall expunge all records if the federal  
 10049 regulatory record retention period has run and all federal program requirements associated with a  
 10050 suspension have been satisfied. However, if the Department of Motor Vehicles cannot expunge an  
 10051 offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a)  
 10052 notify the Department of State Police of the reason the record cannot be expunged and cite the authority  
 10053 prohibiting expungement at the time it is ordered; (b) notify the Department of State Police of the date,  
 10054 if known at the time when the expungement is ordered, on which such record can be expunged; (c)  
 10055 expunge such record on that date; and (d) notify the Department of State Police when such record has  
 10056 been expunged within the Department of Motor Vehicles' records.

10057 H. All electronic lists created in accordance with this section are not subject to further dissemination  
 10058 unless explicitly provided for by this section. Any expungement order issued pursuant to this section  
 10059 shall be sealed and may only be disseminated for the purposes set forth in this section and pursuant to  
 10060 rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any  
 10061 willful and intentional unlawful dissemination is punishable as an unlawful dissemination of criminal  
 10062 history record information in violation of § 9.1-136.

10063 **§ 19.2-392.2:2. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 550 and 551, cl. 9)**  
 10064 **Former marijuana offenses; petition for expungement.**

10065 A. A person who has been convicted or adjudicated delinquent of a felony violation of former  
 10066 § 18.2-248.1 or a violation of subsection A of § 18.2-265.3 as it relates to marijuana, or charged under  
 10067 either section and the charge is deferred and dismissed, may file a petition setting forth the relevant  
 10068 facts and requesting expungement of the police records and the court records relating to the arrest,  
 10069 charge, conviction, or adjudication.

10070 B. The petition with a copy of the warrant, summons, or indictment if reasonably available shall be  
 10071 filed in the circuit court of the county or city in which the case was disposed of and shall contain,  
 10072 except where not reasonably available, the date of arrest and the name of the arresting agency. Where  
 10073 this information is not reasonably available, the petition shall state the reason for such unavailability.  
 10074 The petition shall further state the specific criminal charge, conviction, or adjudication to be expunged,  
 10075 the date of final disposition of the charge, conviction, or adjudication as set forth in the petition, the  
 10076 petitioner's date of birth, and the full name used by the petitioner at the time of arrest.

10077 C. A copy of the petition shall be served on the attorney for the Commonwealth of the city or  
 10078 county in which the petition is filed. The attorney for the Commonwealth may file an objection or  
 10079 answer to the petition or may give written notice to the court that he does not object to the petition  
 10080 within 21 days after it is served on him.

10081 D. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's  
 10082 fingerprints and shall provide that agency with a copy of the petition for expungement. The  
 10083 law-enforcement agency shall submit the set of fingerprints to the Central Criminal Records Exchange

(CCRE) with a copy of the petition for expungement attached. The CCRE shall forward under seal to the court a copy of the petitioner's criminal history, a copy of the source documents that resulted in the CCRE entry that the petitioner wishes to expunge, if applicable, and the set of fingerprints. Upon completion of the hearing, the court shall return the fingerprint card to the petitioner. If no hearing was conducted, upon the entry of an order of expungement or an order denying the petition for expungement, the court shall cause the fingerprint card to be destroyed unless, within 30 days of the date of the entry of the order, the petitioner requests the return of the fingerprint card in person from the clerk of the court or provides the clerk of the court a self-addressed, stamped envelope for the return of the fingerprint card.

E. After receiving the criminal history record information from the CCRE, the court shall conduct a hearing on the petition. If the court finds that the continued existence and possible dissemination of information relating to the arrest, charge, conviction, or adjudication of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and court records, including electronic records, relating to the arrest, charge, conviction, or adjudication. Otherwise, it shall deny the petition. However, if the petitioner has no prior criminal record and the arrest, charge, conviction, or adjudication was for a misdemeanor violation of subsection A of § 18.2-265.3, the petitioner shall be entitled, in the absence of good cause shown to the contrary by the Commonwealth, to expungement of the police and court records relating to the arrest, charge, conviction, or adjudication and the court shall enter an order of expungement. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection C that he does not object to the petition and (ii) when the arrest, charge, conviction, or adjudication to be expunged is a felony violation of former § 18.2-248.1, stipulates in such written notice that the continued existence and possible dissemination of information relating to the arrest, charge, conviction, or adjudication of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner, the court may enter an order of expungement without conducting a hearing.

F. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

G. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of such records shall be effected.

H. Records relating to an arrest, charge, conviction, or adjudication that was ordered to be expunged pursuant to this section 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 employment or part-time employment with, or to be a volunteer 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; (v) 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; (vi) 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; (vii) 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; (viii) 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; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of

§ 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such expunged records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for expungement pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; ~~and (xxv) to any full-time or part-time employee of the Virginia Cannabis Control Authority for the purpose of determining whether a person qualifies as a social equity applicant; and (xxvi) to the person arrested, charged, convicted, or adjudicated delinquent of the offense that was expunged.~~

I. The Department of Motor Vehicles shall not expunge any conviction, adjudication, or any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction, adjudication, or deferral and dismissal ordered to be expunged. Upon receipt of an order directing that an offense be expunged, the Department of Motor Vehicles shall expunge all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot expunge an offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be expunged and cite the authority prohibiting expungement at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the expungement is ordered, on which such record can be expunged; (c) expunge such record on that date; and (d) notify the Department of State Police when such record has been expunged within the Department of Motor Vehicles' records.

J. Costs shall be as provided by § 17.1-275, but shall not be recoverable against the Commonwealth. If the court enters an order of expungement, the clerk of the court shall refund to the petitioner such costs paid by the petitioner.

K. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order of expungement contrary to law, shall be voidable upon motion and notice made within three years of the entry of such order.

**§ 19.2-392.2:3. Automatic expungement; certain former marijuana offenses.**

A. Records relating to the arrest, criminal charge, conviction, or civil offense of a person for a misdemeanor violation of former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged under either section and the charge was deferred and dismissed, shall be ordered to be automatically expunged in accordance with the provisions of this section.

B. No later than July 1, 2025, the Department of State Police shall determine which offenses in the Central Criminal Records Exchange meet the criteria for automatic expungement set forth in subsection A. The Department of State Police shall provide an electronic list of all offenses that meet the criteria for automatic expungement to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B of § 17.1-502.

C. Upon receipt of the electronic list from the Department of State Police provided under subsection B, the Executive Secretary of the Supreme Court shall provide an electronic list of all offenses that meet the criteria for automatic expungement set forth in subsection A to the clerk of each circuit court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case management system maintained by the Executive Secretary.

D. Upon receipt of the electronic list provided under subsection B or C, the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such order directing

that the offenses that meet the criteria for automatic expungement set forth in subsection A be automatically expunged under the process set forth in this section. Such order shall contain the names of the persons charged with or convicted of such offenses.

E. The clerk of each circuit court shall provide an electronic copy of any order entered under subsection D to the Department of State Police. Upon electronic notification that a court order for expungement has been entered pursuant to subsection D, the Department of State Police shall, pursuant to the rules and regulations adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of any records relating to the offenses ordered to be expunged shall be effected and shall electronically notify those agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be expunged.

F. The Department of Motor Vehicles shall not expunge any conviction or any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction or deferral and dismissal ordered to be expunged. Upon receipt of an order directing that an offense be expunged, the Department of Motor Vehicles shall expunge all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot expunge an offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be expunged and cite the authority prohibiting expungement at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the expungement is ordered, on which such record can be expunged; (c) expunge such record on that date; and (d) notify the Department of State Police when such record has been expunged within the Department of Motor Vehicles' records.

G. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order for the expungement of records contrary to law shall be voidable upon motion and notice made within three years of the entry of such order.

**§ 19.2-392.2:4. Expungement; certain former marijuana offenses.**

A. A person who has been convicted of a felony violation of former § 18.2-248.1 or a violation of subsection A of § 18.2-265.3 as it relates to marijuana, or charged under either section and the charge is deferred and dismissed, may file a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the arrest, charge, or conviction.

B. A person shall not be required to pay any fees or costs for filing a petition pursuant to this section if such person files a petition to proceed without the payment of fees and costs, and the court with which such person files his petition finds such person to be indigent pursuant to § 19.2-159.

C. The petition with a copy of the warrant, summons, or indictment, if reasonably available, shall be filed in the circuit court of the county or city in which the case was disposed of and shall contain, except where not reasonably available, the date of arrest, the name of the arresting agency, and the date of conviction. Where this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the specific criminal charge or conviction to be expunged, the date of final disposition of the charge or conviction as set forth in the petition, the petitioner's date of birth, sex, race, and social security number, if available, and the full name used by the petitioner at the time of arrest or summons.

D. The Commonwealth shall be made a party to the proceeding. A copy of the petition shall be served on the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 21 days after it is served on him.

E. Upon receipt of the petition, the circuit court shall order that the attorney for the Commonwealth or a law-enforcement officer, as defined in § 9.1-101, provide the court with a sealed copy of the criminal history record of the petitioner. Upon completion of the hearing, the court shall cause the criminal history record to be destroyed unless, within 30 days of the date of the entry of the final order in the matter, the petitioner or the attorney for the Commonwealth notes an appeal to the Supreme Court of Virginia.

F. After receiving the criminal history record of the petitioner, the court may conduct a hearing on the petition. The court shall enter an order requiring the expungement of the criminal history record information and court records, including electronic records, relating to the charge or conviction, if the court finds that the continued existence and possible dissemination of information relating to the arrest, charge, or conviction of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner. Otherwise, it shall deny the petition.

G. However, if the petitioner has no prior criminal record and the arrest, charge, or conviction was for a misdemeanor violation of subsection A of § 18.2-265.3, the petitioner shall be entitled, in absence



10268 of good cause shown to the contrary by the Commonwealth, to expungement of the police and court  
10269 records relating to the arrest, charge, or conviction and the court shall enter an order of expungement.  
10270 If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written  
10271 notice to the court pursuant to subsection D that he does not object to the petition and (ii) stipulates in  
10272 such written notice that the petitioner is eligible to have such offense expunged, and the continued  
10273 existence and possible dissemination of information relating to the charge or conviction of the petitioner  
10274 causes or may cause circumstances that constitute a manifest injustice to the petitioner, the court may  
10275 enter an expungement order without conducting a hearing.

10276 H. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

10277 I. Upon the entry of an order of expungement, the clerk of the court shall provide an electronic copy  
10278 of such order to the Department of State Police. Upon electronic notification that a court order for  
10279 expungement has been entered, the Department of State Police shall, pursuant to the rules and  
10280 regulations adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or  
10281 removal of any records relating to the offenses ordered to be expunged shall be effected and  
10282 electronically notify those agencies and individuals known to maintain or have obtained such a record  
10283 that such record has been ordered to be expunged.

10284 J. The Department of Motor Vehicles shall not expunge any conviction or any charge that was  
10285 deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of  
10286 federal regulatory record retention requirements or (ii) in violation of federal program requirements if  
10287 the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a  
10288 conviction or deferral and dismissal ordered to be expunged. Upon receipt of an order directing that an  
10289 offense be expunged, the Department of Motor Vehicles shall expunge all records if the federal  
10290 regulatory record retention period has run and all federal program requirements associated with a  
10291 suspension have been satisfied. However, if the Department of Motor Vehicles cannot expunge an  
10292 offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a)  
10293 notify the Department of State Police of the reason the record cannot be expunged and cite the  
10294 authority prohibiting expungement at the time it is ordered; (b) notify the Department of State Police of  
10295 the date, if known at the time when the expungement is ordered, on which such record can be  
10296 expunged; (c) expunge such record on that date; and (d) notify the Department of State Police when  
10297 such record has been expunged within the Department of Motor Vehicles' records.

10298 K. Costs shall be as provided by § 17.1-275 but shall not be recoverable against the Commonwealth.  
10299 If the court enters an order of expungement, the clerk of the court shall refund to the petitioner such  
10300 costs paid by the petitioner.

10301 L. Any order entered where (i) the court or parties failed to strictly comply with the procedures set  
10302 forth in this section or (ii) the court enters an order for the expungement of records contrary to law  
10303 shall be voidable upon motion and notice made within three years of the entry of such order.

10304 M. If a petitioner qualifies to file a petition for expungement of records without the payment of fees  
10305 and costs pursuant to subsection B and has requested court-appointed counsel, the court shall then  
10306 appoint counsel to file the petition for expungement of records and represent the petitioner in the  
10307 expungement proceedings. Counsel appointed to represent such a petitioner shall be compensated for his  
10308 services subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, in a  
10309 total amount not to exceed \$120, as determined by the court, and such compensation shall be paid from  
10310 the Sealing Fee Fund as provided in § 17.1-205.1.

10311 **§ 19.2-392.3. Disclosure of expunged records.**

10312 A. It shall be unlawful for any person having or acquiring access to an expunged court or police  
10313 record to open or review it or to disclose to another person any information from it without an order  
10314 from the court which ordered the record expunged.

10315 B. Upon a verified petition filed by the attorney for the Commonwealth alleging that the record is  
10316 needed by (i) a law-enforcement agency or the Department of Forensic Science for purposes of  
10317 employment application as an employee of a law-enforcement agency or the Department of Forensic  
10318 Science or (ii) for a pending criminal investigation and that the investigation will be jeopardized or that  
10319 life or property will be endangered without immediate access to the record, the court may enter an ex  
10320 parte order, without notice to the person, permitting such access. An ex parte order may permit a review  
10321 of the record, but may not permit a copy to be made of it.

10322 C. Any person who willfully violates this section is guilty of a Class 1 misdemeanor.

10323 **§ 19.2-392.6. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)**  
10324 **Automatic sealing of offenses resulting in a deferred and dismissed disposition or conviction.**

10325 A. If a person was charged with an offense in violation of § 4.1-305 or former § 18.2-250.1, and  
10326 such offense was deferred and dismissed as provided in § 4.1-305 or 18.2-251, such offense, including  
10327 any records relating to such offense, shall be ordered to be automatically sealed in the manner set forth  
10328 in § 19.2-392.7, subject to the provisions of subsections C and D.

10329 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.

**§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, and tobacco and nicotine products.**

A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by the Board of Education.

B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking, *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority* shall provide educational materials to the Department of Education. The Department of Education shall review and shall distribute such materials as are approved to the public schools.

C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall distribute to each local school division educational materials concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall be provided in each public elementary and secondary school in the Commonwealth, consistent with such educational materials.

**§ 22.1-277.08. Expulsion of students for certain drug offenses.**

A. School boards shall expel from school attendance any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a controlled substance, *or* imitation controlled substance, *or marijuana as those terms are defined in § 18.2-247* onto school property or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

B. Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

**§ 23.1-609. Surviving spouses and children of certain individuals; tuition and fee waivers.**

A. The surviving spouse and any child between the ages of 16 and 25 of an individual who was killed in the line of duty while employed or serving as a (i) law-enforcement officer, including as a campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8, sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, member of a rescue squad, special agent of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*, state correctional, regional or local jail officer, regional jail or jail farm superintendent, sheriff, or deputy sheriff; (ii) member of the Virginia National Guard while serving on official state duty or federal duty under Title 32 of the United States Code; or (iii) member of the Virginia Defense Force while serving on official state duty, and any individual whose spouse was killed in the line of duty while employed or serving in any of such occupations, is entitled to a waiver of undergraduate tuition and mandatory fees at any public institution of higher education under the

10391 following conditions:

10392 1. The chief executive officer of the deceased individual's employer certifies that such individual was  
10393 so employed and was killed in the line of duty while serving or living in the Commonwealth; and

10394 2. The surviving spouse or child is admitted to, enrolls at, and is in attendance at such institution and  
10395 applies to such institution for the waiver. Waiver recipients who make satisfactory academic progress are  
10396 eligible for renewal of such waiver.

10397 B. Institutions that grant such waivers shall waive the amounts payable for tuition, institutional  
10398 charges and mandatory educational and auxiliary fees, and books and supplies but shall not waive user  
10399 fees such as room and board charges.

10400 C. Each public institution of higher education shall include in its catalog or equivalent publication a  
10401 statement describing the benefits available pursuant to this section.

10402 **§ 23.1-1301. Governing boards; powers.**

10403 A. The board of visitors of each baccalaureate public institution of higher education or its designee  
10404 may:

- 10405 1. Make regulations and policies concerning the institution;  
10406 2. Manage the funds of the institution and approve an annual budget;  
10407 3. Appoint the chief executive officer of the institution;  
10408 4. Appoint professors and fix their salaries; and  
10409 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

10410 B. The governing board of each public institution of higher education or its designee may:

10411 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative  
10412 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has  
10413 acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms  
10414 and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and  
10415 administered in the same manner as all other gifts and bequests;

10416 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other  
10417 purposes on any property owned by the institution;

10418 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,  
10419 maintained, or controlled by the institution;

10420 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,  
10421 instructors, and other employees;

10422 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to  
10423 the regulations or institution policies required pursuant to § 23.1-1303;

10424 6. Adopt regulations or institution policies for the conduct of students in attendance and for the  
10425 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide  
10426 by such regulations or policies;

10427 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to  
10428 promote (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii)  
10429 the awareness and prevention of sexual crimes committed upon students;

10430 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority  
10431 in accordance with the prohibition against hazing as defined in § 18.2-56;

10432 9. Assign any interest it possesses in intellectual property or in materials in which the institution  
10433 claims an interest, provided such assignment is in accordance with the terms of the institution's  
10434 intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is  
10435 required for transfers of such property (i) developed wholly or predominantly through the use of state  
10436 general funds, exclusive of capital assets and (ii)(a) developed by an employee of the institution acting  
10437 within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1)  
10438 the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage  
10439 intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity  
10440 whose purpose is to benefit the respective institutions. The Governor may attach conditions to these  
10441 transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials  
10442 shall remain the property of the respective institutions and may be used and developed in any manner  
10443 permitted by law;

10444 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a "state  
10445 public body" for purposes of subsection D of § 2.2-3708.2; and

10446 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution  
10447 to enforce state statutes and local ordinances with respect to offenses occurring on the property of the  
10448 institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes  
10449 and local ordinances with respect to offenses occurring on the property of the institution.

10450 **§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**

10451 A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the  
10452 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;
  10. Local police officers;
  11. Sheriffs and their deputies;
  12. Regional jail officials;
  13. Animal wardens;
  14. The Director and officers of the Department of Wildlife Resources;
  15. Persons operating firefighting equipment and emergency medical services vehicles as defined in § 32.1-111.1;
  16. Operators of school buses being used to transport pupils to or from schools;
  17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and used to regularly transport workers to and from their places of employment and (ii) public transit buses;
  18. Employees of the Department of Rail and Public Transportation;
  19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of 1988; and
  20. Law-enforcement officers of the Virginia Marine Resources Commission.
- B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the temporary suspension of toll collection operations on its facilities.
1. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend toll collection operations shall be made by the Commissioner of Highways or his designee.
  2. Major incidents that may require the temporary suspension of toll collection operations shall include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a state of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of Highways shall reinstate toll collection when the mandatory evacuation period ends.
  3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the Department of Transportation for deposit into the toll road fund.
- C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.
- D. Any vehicle operated by the holder of a valid driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and other toll facilities in the Commonwealth if:
1. The vehicle is specially equipped to permit its operation by a handicapped person;
  2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being severely physically disabled and having permanent upper limb mobility or dexterity impairments that substantially impair his ability to deposit coins in toll baskets;

3. The driver has applied for and received from the Department of Transportation a vehicle window sticker identifying him as eligible for such free passage; and

4. Such identifying window sticker is properly displayed on the vehicle.

A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by those persons exempted from tolls pursuant to this subsection and shall accept any payments made by such persons.

E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the provisions of § 22.1-187.

F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the 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, ~~48.2-248.1~~, 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

10637 this section. On such petition, the court may approve the petition for restoration to the person of his  
 10638 right if the court is satisfied from the evidence presented that the petitioner has completed, five or more  
 10639 years previously, service of any sentence and any modification of sentence including probation, parole,  
 10640 and suspension of sentence; that the petitioner has demonstrated civic responsibility through community  
 10641 or comparable service; and that the petitioner has been free from criminal convictions, excluding traffic  
 10642 infractions, for the same period.

10643 If the court approves the petition, it shall so state in an order, provide a copy of the order to the  
 10644 petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the  
 10645 petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the  
 10646 date of the order, subject to the approval or denial of restoration of that right by the Governor. The  
 10647 Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the  
 10648 petition for restoration of the right to be eligible to register to vote approved by the court order. The  
 10649 Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at  
 10650 the address stated on the court's order, a certificate of restoration of that right or notice that the  
 10651 Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration  
 10652 of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary  
 10653 shall notify the court and the State Board of Elections in each case of the restoration of the right or  
 10654 denial of restoration by the Governor.

10655 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the  
 10656 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to  
 10657 vote.

10658 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

10659 A. Any person shall be regarded as practicing the healing arts who actually engages in such practice  
 10660 as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to  
 10661 the public in any manner a readiness to practice or who uses in connection with his name the words or  
 10662 letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word,  
 10663 letter or designation intending to designate or imply that he is a practitioner of the healing arts or that  
 10664 he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

10665 Signing a birth or death certificate, or signing any statement certifying that the person so signing has  
 10666 rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or  
 10667 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is  
 10668 practicing the healing arts within the meaning of this chapter except where persons other than physicians  
 10669 are required to sign birth certificates.

10670 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in  
 10671 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an  
 10672 abbreviation or designation, or other language that identifies the type of practice for which he is  
 10673 licensed. No person regulated under this chapter shall include in any advertisement a reference to  
 10674 marijuana, as defined in § ~~18.2-247~~ 54.1-3401, unless such advertisement is for the treatment of  
 10675 addiction or substance abuse. However, nothing in this subsection shall prevent a person from including  
 10676 in any advertisement that such person is registered with the Board of Pharmacy to issue written  
 10677 certifications for the use of cannabis products, as defined in § 54.1-3408.3.

10678 **§ 54.1-3401. Definitions.**

10679 As used in this chapter, unless the context requires a different meaning:

10680 "Administer" means the direct application of a controlled substance, whether by injection, inhalation,  
 10681 ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his  
 10682 authorized agent and under his direction or (ii) the patient or research subject at the direction and in the  
 10683 presence of the practitioner.

10684 "Advertisement" means all representations disseminated in any manner or by any means, other than  
 10685 by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the  
 10686 purchase of drugs or devices.

10687 "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer,  
 10688 distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or  
 10689 employee of the carrier or warehouseman.

10690 "Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related  
 10691 to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

10692 "Animal" means any nonhuman animate being endowed with the power of voluntary action.

10693 "Automated drug dispensing system" means a mechanical or electronic system that performs  
 10694 operations or activities, other than compounding or administration, relating to pharmacy services,  
 10695 including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of  
 10696 all transaction information, to provide security and accountability for such drugs.

10697 "Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood  
 10698 component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or

10699 analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic  
10700 arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human  
10701 beings.

10702 "Biosimilar" means a biological product that is highly similar to a specific reference biological  
10703 product, notwithstanding minor differences in clinically inactive compounds, such that there are no  
10704 clinically meaningful differences between the reference biological product and the biological product that  
10705 has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency  
10706 of the product.

10707 "Board" means the Board of Pharmacy.

10708 "Bulk drug substance" means any substance that is represented for use, and that, when used in the  
10709 compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a  
10710 finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that  
10711 are used in the synthesis of such substances.

10712 "Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i)  
10713 the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns  
10714 or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a  
10715 partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more  
10716 of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation  
10717 of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the  
10718 voting stock of which is actively traded on any securities exchange or in any over-the-counter market;  
10719 (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned  
10720 subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a  
10721 corporation's charter.

10722 "Co-licensed partner" means a person who, with at least one other person, has the right to engage in  
10723 the manufacturing or marketing of a prescription drug, consistent with state and federal law.

10724 "Compounding" means the combining of two or more ingredients to fabricate such ingredients into a  
10725 single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by  
10726 a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or  
10727 therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in  
10728 expectation of receiving a valid prescription based on observed historical patterns of prescribing and  
10729 dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as  
10730 an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the  
10731 course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or  
10732 chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a  
10733 manufacturer's product drugs for the purpose of administration to a patient, when performed by a  
10734 practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person  
10735 supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person  
10736 supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to  
10737 subdivision A 4 of § 54.1-2901 shall not be considered compounding.

10738 "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of  
10739 this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms  
10740 are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled  
10741 substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory  
10742 authority in subsection D of § 54.1-3443.

10743 "Controlled substance analog" means a substance the chemical structure of which is substantially  
10744 similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a  
10745 stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar  
10746 to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a  
10747 controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person  
10748 represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous  
10749 system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect  
10750 on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance  
10751 analog" does not include (a) any substance for which there is an approved new drug application as  
10752 defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally  
10753 recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and  
10754 Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular  
10755 person, any substance for which an exemption is in effect for investigational use for that person under  
10756 § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that  
10757 substance is pursuant to such exemption; or (c) any substance to the extent not intended for human  
10758 consumption before such an exemption takes effect with respect to that substance.

10759 "DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor

- 10760 agency.
- 10761 "Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by  
10762 this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI  
10763 prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a  
10764 manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor,  
10765 warehouse, nonresident warehouse, third-party logistics provider, or nonresident third-party logistics  
10766 provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.
- 10767 "Device" means instruments, apparatus, and contrivances, including their components, parts, and  
10768 accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in  
10769 man or animals or to affect the structure or any function of the body of man or animals.
- 10770 "Dialysis care technician" or "dialysis patient care technician" means an individual who is certified  
10771 by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§  
10772 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician  
10773 assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a  
10774 Medicare-certified renal dialysis facility.
- 10775 "Dialysis solution" means either the commercially available, unopened, sterile solutions whose  
10776 purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal  
10777 dialysis, or commercially available solutions whose purpose is to be used in the performance of  
10778 hemodialysis not to include any solutions administered to the patient intravenously.
- 10779 "Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the  
10780 lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or  
10781 compounding necessary to prepare the substance for that delivery. However, dispensing shall not include  
10782 the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites  
10783 operated by such practitioner or that practitioner's medical practice for the purpose of administration of  
10784 such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For  
10785 practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a  
10786 practitioner to patients to take with them away from the practitioner's place of practice.
- 10787 "Dispenser" means a practitioner who dispenses.
- 10788 "Distribute" means to deliver other than by administering or dispensing a controlled substance.
- 10789 "Distributor" means a person who distributes.
- 10790 "Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia  
10791 National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to  
10792 any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or  
10793 prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect  
10794 the structure or any function of the body of man or animals; (iv) articles or substances intended for use  
10795 as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug"  
10796 does not include devices or their components, parts, or accessories.
- 10797 "Drug product" means a specific drug in dosage form from a known source of manufacture, whether  
10798 by brand or therapeutically equivalent drug product name.
- 10799 "Electronic prescription" means a written prescription that is generated on an electronic application  
10800 and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be  
10801 transmitted in accordance with 21 C.F.R. Part 1300.
- 10802 "Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an  
10803 electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy  
10804 form.
- 10805 "FDA" means the U.S. Food and Drug Administration.
- 10806 "Immediate precursor" means a substance which the Board of Pharmacy has found to be and by  
10807 regulation designates as being the principal compound commonly used or produced primarily for use,  
10808 and which is an immediate chemical intermediary used or likely to be used in the manufacture of a  
10809 controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.
- 10810 "Interchangeable" means a biosimilar that meets safety standards for determining interchangeability  
10811 pursuant to 42 U.S.C. § 262(k)(4).
- 10812 "Label" means a display of written, printed, or graphic matter upon the immediate container of any  
10813 article. A requirement made by or under authority of this chapter that any word, statement, or other  
10814 information appear on the label shall not be considered to be complied with unless such word,  
10815 statement, or other information also appears on the outside container or wrapper, if any, of the retail  
10816 package of such article or is easily legible through the outside container or wrapper.
- 10817 "Labeling" means all labels and other written, printed, or graphic matter on an article or any of its  
10818 containers or wrappers, or accompanying such article.
- 10819 "Manufacture" means the production, preparation, propagation, conversion, or processing of any item  
10820 regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or  
10821 independently by means of chemical synthesis, or by a combination of extraction and chemical



synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds, or its 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, or oil or cake made from the seeds 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, *other than a regulated 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, *or (iv) a regulated hemp product that does not exceed the maximum tetrahydrocannabinol concentration established pursuant to § 4.1-606 and 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.*

"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

- 10883** "Original package" means the unbroken container or wrapping in which any drug or medicine is  
**10884** enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor  
**10885** for use in the delivery or display of such article.
- 10886** "Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is  
**10887** currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and  
**10888** that complies with all applicable requirements of federal and state law, including the Federal Food,  
**10889** Drug, and Cosmetic Act.
- 10890** "Person" means both the plural and singular, as the case demands, and includes an individual,  
**10891** partnership, corporation, association, governmental agency, trust, or other institution or entity.
- 10892** "Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application  
**10893** for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in  
**10894** a manner complying with the laws and regulations for the practice of pharmacy and the sale and  
**10895** dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy  
**10896** and the pharmacy's personnel as required by § 54.1-3432.
- 10897** "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- 10898** "Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01,  
**10899** licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified  
**10900** optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator,  
**10901** or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and  
**10902** administer, or conduct research with respect to a controlled substance in the course of professional  
**10903** practice or research in the Commonwealth.
- 10904** "Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue  
**10905** a prescription.
- 10906** "Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word  
**10907** of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed  
**10908** physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such  
**10909** drugs or medical supplies.
- 10910** "Prescription drug" means any drug required by federal law or regulation to be dispensed only  
**10911** pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of  
**10912** the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).
- 10913** "Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a  
**10914** controlled substance or marijuana.
- 10915** "Proprietary medicine" means a completely compounded nonprescription drug in its unbroken,  
**10916** original package which does not contain any controlled substance or marijuana as defined in this chapter  
**10917** and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general  
**10918** public by or under the authority of the manufacturer or primary distributor, under a trademark, trade  
**10919** name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of  
**10920** this chapter and applicable federal law. However, this definition shall not include a drug that is only  
**10921** advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic,  
**10922** a drug that may be dispensed only upon prescription or the label of which bears substantially the  
**10923** statement "Warning — may be habit-forming," or a drug intended for injection.
- 10924** "Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei  
**10925** with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or  
**10926** radionuclide generator that is intended to be used in the preparation of any such substance, but does not  
**10927** include drugs such as carbon-containing compounds or potassium-containing salts that include trace  
**10928** quantities of naturally occurring radionuclides. The term also includes any biological product that is  
**10929** labeled with a radionuclide or intended solely to be labeled with a radionuclide.
- 10930** "Reference biological product" means the single biological product licensed pursuant to 42 U.S.C.  
**10931** § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food  
**10932** and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to  
**10933** 42 U.S.C. § 262(k).
- 10934** "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any  
**10935** person, whether as an individual, proprietor, agent, servant, or employee.
- 10936** "Therapeutically equivalent drug products" means drug products that contain the same active  
**10937** ingredients and are identical in strength or concentration, dosage form, and route of administration and  
**10938** that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration  
**10939** pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent  
**10940** edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as  
**10941** the "Orange Book."
- 10942** "Third-party logistics provider" means a person that provides or coordinates warehousing of or other  
**10943** logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale  
**10944** distributor, or dispenser of the drug or device but does not take ownership of the product or have

responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

### **§ 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 employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the

11006 patient issued the written certification, the date on which the written certification was made, and the  
11007 signature or authentic electronic signature of the practitioner. Such written certification issued pursuant  
11008 to subsection B shall expire no later than one year after its issuance unless the practitioner provides in  
11009 such written certification an earlier expiration.

11010 D. No practitioner shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or*  
11011 *§ 18.2-248 or 18.2-248.1* for the issuance of a certification for the use of cannabis products for the  
11012 treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written  
11013 certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of  
11014 Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical  
11015 condition or otherwise violating the applicable standard of care for evaluating or treating medical  
11016 conditions.

11017 E. A practitioner who issues a written certification to a patient pursuant to this section shall register  
11018 with the Board and shall hold sufficient education and training to exercise appropriate professional  
11019 judgment in the certification of patients. The Board shall not limit the number of patients to whom a  
11020 practitioner may issue a written certification. The Board may report information to the applicable  
11021 licensing board on unusual patterns of certifications issued by a practitioner.

11022 F. A patient who has been issued a written certification shall register with the Board or, if such  
11023 patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian  
11024 shall register and shall register such patient with the Board. No patient shall be required to physically  
11025 present the written certification after the initial dispensing by any pharmaceutical processor or cannabis  
11026 dispensing facility under each written certification, provided that the pharmaceutical processor or  
11027 cannabis dispensing facility maintains an electronic copy of the written certification.

11028 G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such  
11029 patient's parent or legal guardian, may designate an individual to act as his registered agent for the  
11030 purposes of receiving cannabis products pursuant to a valid written certification. Such designated  
11031 individual shall register with the Board. The Board may set a limit on the number of patients for whom  
11032 any individual is authorized to act as a registered agent.

11033 H. Upon delivery of cannabis oil by a pharmaceutical processor or cannabis dispensing facility to a  
11034 designated caregiver facility, any employee or contractor of a designated caregiver facility, who is  
11035 licensed or registered by a health regulatory board and who is authorized to possess, distribute, or  
11036 administer medications, may accept delivery of the cannabis oil on behalf of a patient or resident for  
11037 subsequent delivery to the patient or resident and may assist in the administration of the cannabis oil to  
11038 the patient or resident as necessary.

11039 I. The Board shall promulgate regulations to implement the registration process. Such regulations  
11040 shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification,  
11041 the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or an  
11042 incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for  
11043 ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a  
11044 prohibition for the patient to be issued a written certification by more than one practitioner during any  
11045 given time period.

11046 J. Information obtained under the registration process shall be confidential and shall not be subject to  
11047 the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However,  
11048 reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee  
11049 for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local  
11050 law enforcement for the purpose of investigating or prosecuting a specific individual for a specific  
11051 violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing  
11052 patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv)  
11053 a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a registered  
11054 patient, or (v) a registered patient, his registered agent, or, if such patient is a minor or an incapacitated  
11055 adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to  
11056 information related to such registered patient.

11057 **§ 54.1-3442.8. Criminal liability; exceptions.**

11058 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be  
11059 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  
11060 possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis  
11061 products, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action  
11062 by a professional licensing board if such agent or employee (i) possessed or manufactured such  
11063 marijuana for the purposes of producing cannabis products in accordance with the provisions of this  
11064 article and Board regulations or (ii) possessed, manufactured, or distributed such cannabis products that  
11065 are consistent with generally accepted cannabis industry standards in accordance with the provisions of  
11066 this article and Board regulations.

11067 **§ 54.1-3446. Schedule I.**

- 11068** The controlled substances listed in this section are included in Schedule I:
- 11069** 1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers,
- 11070** esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers
- 11071** and salts is possible within the specific chemical designation:
- 11072** 1-[2-methyl-4-(3-phenyl-2-propen-1-yl)-1-piperazinyl]-1-butanone (other name: 2-methyl AP-237);
- 11073** 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);
- 11074** 1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);
- 11075** 2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl
- 11076** fentanyl);
- 11077** 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);
- 11078** 3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (other name: AH-7921);
- 11079** Acetyl fentanyl (other name: desmethyl fentanyl);
- 11080** Acetylmethadol;
- 11081** Allylprodine;
- 11082** Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol,
- 11083** levomethadyl acetate, or LAAM);
- 11084** Alphameprodine;
- 11085** Alphamethadol;
- 11086** Benzethidine;
- 11087** Betacetylmethadol;
- 11088** Betameprodine;
- 11089** Betamethadol;
- 11090** Betaprodine;
- 11091** Clonitazene;
- 11092** Dextromoramide;
- 11093** Diampromide;
- 11094** Diethylthiambutene;
- 11095** Difenoxin;
- 11096** Dimenoxadol;
- 11097** Dimepheptanol;
- 11098** Dimethylthiambutene;
- 11099** Dioxaphetylbutyrate;
- 11100** Dipipanone;
- 11101** Ethylmethylthiambutene;
- 11102** Etonitazene;
- 11103** Etoxidine;
- 11104** Furethidine;
- 11105** Hydroxypethidine;
- 11106** Ketobemidone;
- 11107** Levomoramide;
- 11108** Levophenacymorphan;
- 11109** Morpheridine;
- 11110** MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
- 11111** N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);
- 11112** N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuran
- 11113** fentanyl);
- 11114** N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name:
- 11115** alpha-methylthiofentanyl);
- 11116** N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name:
- 11117** acetyl-alpha-methylfentanyl);
- 11118** N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide (other name:
- 11119** beta-hydroxythiofentanyl);
- 11120** N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name:
- 11121** beta-hydroxyfentanyl);
- 11122** N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names:
- 11123** 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);
- 11124** N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: 2-fluorofentanyl,
- 11125** ortho-fluorofentanyl);
- 11126** N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 3-fluorofentanyl);
- 11127** N-[3-methyl-1-(2-hydroxy-2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name:
- 11128** beta-hydroxy-3-methylfentanyl);

- 11129** N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);  
**11130** N-[3-methyl-1-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide (other name:  
**11131** 3-methylthiofentanyl);  
**11132** N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidiny]-propanamide (other name:  
**11133** para-fluoroisobutyl fentanyl);  
**11134** N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidiny]-butanamide (other name:  
**11135** para-fluorobutylfentanyl);  
**11136** N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidiny]-propanamide (other name: para-fluorofentanyl);  
**11137** N,N-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine (other name:  
**11138** Isotonitazene);  
**11139** N-phenyl-N-[1-(2-phenylmethyl)-4-piperidiny]-2-furancarboxamide (other name: N-benzyl Furanyl  
**11140** norfentanyl);  
**11141** N-phenyl-N-(4-piperidiny)-propanamide (other name: Norfentanyl);  
**11142** Noracymethadol;  
**11143** Norlevorphanol;  
**11144** Normethadone;  
**11145** Norpipanone;  
**11146** N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-2-furancarboxamide (other name: Furanyl fentanyl);  
**11147** N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-2-propenamide (other name: Acryl fentanyl);  
**11148** N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-butanamide (other name: butyl fentanyl);  
**11149** N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-pentanamide (other name: Pentanoyl fentanyl);  
**11150** N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide (other name: thiofentanyl);  
**11151** Phenadoxone;  
**11152** Phenampromide;  
**11153** Phenomorphan;  
**11154** Phenoperidine;  
**11155** Piritramide;  
**11156** Proheptazine;  
**11157** Properidine;  
**11158** Propiram;  
**11159** Racemoramide;  
**11160** Tilidine;  
**11161** Trimeperidine;  
**11162** N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-1,3-benzodioxole-5-carboxamide (other name:  
**11163** Benzodioxole fentanyl);  
**11164** 3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide (other name: U-49900);  
**11165** 2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-48800);  
**11166** 2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methyl acetamide (other name: U-51754);  
**11167** N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)-4-piperidiny]-acetamide (other name: Ocfentanil);  
**11168** N-(4-methoxyphenyl)-N-[1-(2-phenylethyl)-4-piperidiny]-butanamide (other name:  
**11169** 4-methoxybutylfentanyl);  
**11170** N-phenyl-2-methyl-N-[1-(2-phenylethyl)-4-piperidiny]-propanamide (other name: Isobutyl fentanyl);  
**11171** N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-cyclopentanecarboxamide (other name: Cyclopentyl  
**11172** fentanyl);  
**11173** N-phenyl-N-(1-methyl-4-piperidiny)-propanamide (other name: N-methyl norfentanyl);  
**11174** N-[2-(dimethylamino)cyclohexyl]-N-methyl-1,3-benzodioxole-5-carboxamide (other names:  
**11175** 3,4-methylenedioxy U-47700 or 3,4-MDO-U-47700);  
**11176** N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-2-butenamide (other name: Crotonyl fentanyl);  
**11177** N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidiny]-propanamide (other name: 4-phenylfentanyl);  
**11178** N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-benzamide (other names: Phenyl fentanyl, Benzoyl  
**11179** fentanyl);  
**11180** N-[2-(dimethylamino)cyclohexyl]-N-phenylfuran-2-carboxamide (other name: Furanyl UF-17);  
**11181** N-[2-(dimethylamino)cyclohexyl]-N-phenylpropionamide (other name: UF-17);  
**11182** 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-isopropyl-benzamide (other name: Isopropyl  
**11183** U-47700).  
**11184** 2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless  
**11185** specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible  
**11186** within the specific chemical designation:  
**11187** Acetorphine;  
**11188** Acetyldihydrocodeine;  
**11189** Benzylmorphine;  
**11190** Codeine methylbromide;

- 11191 Codeine-N-Oxide;  
 11192 Cyprenorphine;  
 11193 Desomorphine;  
 11194 Dihydromorphine;  
 11195 Drotebanol;  
 11196 Etorphine;  
 11197 Heroin;  
 11198 Hydromorphenol;  
 11199 Methyldesorphine;  
 11200 Methyldihydromorphine;  
 11201 Morphine methylbromide;  
 11202 Morphine methylsulfonate;  
 11203 Morphine-N-Oxide;  
 11204 Myrophine;  
 11205 Nicocodeine;  
 11206 Nicomorphine;  
 11207 Normorphine;  
 11208 Pholcodine;  
 11209 Thebacon.
- 11210 3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture,  
 11211 or preparation, which contains any quantity of the following hallucinogenic substances, or which  
 11212 contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers,  
 11213 and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision  
 11214 only, the term "isomer" includes the optical, position, and geometric isomers):
- 11215 Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine;  
 11216 3-2-aminobutyl] indole; a-ET; AET);  
 11217 4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names:  
 11218 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);  
 11219 3,4-methylenedioxy amphetamine;  
 11220 5-methoxy-3,4-methylenedioxy amphetamine;  
 11221 3,4,5-trimethoxy amphetamine;  
 11222 Alpha-methyltryptamine (other name: AMT);  
 11223 Bufotenine;  
 11224 Diethyltryptamine;  
 11225 Dimethyltryptamine;  
 11226 4-methyl-2,5-dimethoxyamphetamine;  
 11227 2,5-dimethoxy-4-ethylamphetamine (DOET);  
 11228 4-fluoro-N-ethylamphetamine;  
 11229 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);  
 11230 Ibogaine;  
 11231 5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);  
 11232 Lysergic acid diethylamide;  
 11233 Mescaline;  
 11234 Parahexyl (some trade or other names:  
 11235 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);  
 11236 Peyote;  
 11237 N-ethyl-3-piperidyl benzilate;  
 11238 N-methyl-3-piperidyl benzilate;  
 11239 Psilocybin;  
 11240 Psilocyn;  
 11241 Salvinorin A;  
 11242 Tetrahydrocannabinols, except as present in (i) industrial hemp, as defined in § 3.2-4112, that is  
 11243 possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) a hemp  
 11244 product, *other than a regulated hemp product*, as defined in § 3.2-4112, containing a  
 11245 tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp,  
 11246 as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law; (iii)  
 11247 marijuana; (iv) dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product  
 11248 approved by the U.S. Food and Drug Administration; or (v) industrial hemp, as defined in § 3.2-4112,  
 11249 that is possessed by a person who holds a hemp producer license issued by the U.S. Department of  
 11250 Agriculture pursuant to 7 C.F.R. Part 990; or (vi) a regulated hemp product that does not exceed the  
 11251 maximum tetrahydrocannabinol concentration established pursuant to § 4.1-606 and that is derived from

- 11252** *industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or*  
**11253** *federal law;*  
**11254** 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine;  
**11255** 2,5-DMA);  
**11256** 3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts  
**11257** and salts of isomers;  
**11258** 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4  
**11259** (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);  
**11260** N-hydroxy-3,4-methylenedioxyamphetamine (some other names:  
**11261** N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);  
**11262** 4-bromo-2,5-dimethoxyamphetamine (some trade or other names:  
**11263** 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);  
**11264** 4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine;  
**11265** paramethoxyamphetamine; PMA);  
**11266** Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine,  
**11267** (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);  
**11268** Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy,  
**11269** PHP);  
**11270** Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine,  
**11271** 2-thienyl analog of phencyclidine, TPCP, TCP);  
**11272** 1-1-(2-thienyl)cyclohexylpyrrolidine (other name: TCPy);  
**11273** 3,4-methylenedioxypyrovalerone (other name: MDPV);  
**11274** 4-methylmethcathinone (other names: mephedrone, 4-MMC);  
**11275** 3,4-methylenedioxymethcathinone (other name: methylone);  
**11276** Naphthylpyrovalerone (other name: naphyrone);  
**11277** 4-fluoromethcathinone (other names: flephedrone, 4-FMC);  
**11278** 4-methoxymethcathinone (other names: methedrone; bk-PMMA);  
**11279** Ethcathinone (other name: N-ethylcathinone);  
**11280** 3,4-methylenedioxyethcathinone (other name: ethylone);  
**11281** Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);  
**11282** N,N-dimethylcathinone (other name: metamfepramone);  
**11283** Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);  
**11284** 4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);  
**11285** 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);  
**11286** Alpha-pyrrolidinovaleorphenone (other name: alpha-PVP);  
**11287** 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);  
**11288** 3-fluoromethcathinone (other name: 3-FMC);  
**11289** 4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);  
**11290** 4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);  
**11291** 4-Methylethcathinone (other name: 4-MEC);  
**11292** 4-Ethylmethcathinone (other name: 4-EMC);  
**11293** N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);  
**11294** Beta-keto-methylbenzodioxolylpentanamine (other names: Pentylone, bk-MBDP);  
**11295** Alpha-methylamino-butyrophenone (other name: Buphedrone);  
**11296** Alpha-methylamino-valerophenone (other name: Pentedrone);  
**11297** 3,4-Dimethylmethcathinone (other name: 3.4-DMMC);  
**11298** 4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);  
**11299** 4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I,  
**11300** 25I-NBOMe, 2C-I-NBOMe);  
**11301** Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);  
**11302** 4-Fluoromethamphetamine (other name: 4-FMA);  
**11303** 4-Fluoroamphetamine (other name: 4-FA);  
**11304** 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);  
**11305** 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);  
**11306** 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);  
**11307** 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);  
**11308** 2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);  
**11309** 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);  
**11310** 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);  
**11311** (2-aminopropyl)benzofuran (other name: APB);  
**11312** (2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);  
**11313** 4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names:



- 11314 2C-C-NBOMe, 25C-NBOMe, 25C);
- 11315 4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names:
- 11316 2C-B-NBOMe, 25B-NBOMe, 25B);
- 11317 Acetoxymethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);
- 11318 Benocyclidine (other names: BCP, BTCP);
- 11319 Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);
- 11320 3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);
- 11321 4-bromomethylcathinone (other name: 4-BMC);
- 11322 4-chloromethylcathinone (other name: 4-CMC);
- 11323 4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);
- 11324 Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);
- 11325 Alpha-Pyrrolidinoheptiophenone (other name: PV8);
- 11326 5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);
- 11327 Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);
- 11328 Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B);
- 11329 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);
- 11330 1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);
- 11331 1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);
- 11332 4-Chloroethylcathinone (other name: 4-CEC);
- 11333 3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);
- 11334 1-propionyl lysergic acid diethylamide (other name: 1P-LSD);
- 11335 (2-Methylaminopropyl)benzofuran (other name: MAPB);
- 11336 1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone,
- 11337 Dipentylone);
- 11338 1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9);
- 11339 3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);
- 11340 4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);
- 11341 4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);
- 11342 4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);
- 11343 4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);
- 11344 4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);
- 11345 4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);
- 11346 4-methyl-alpha-ethylaminopentiophenone;
- 11347 4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);
- 11348 5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);
- 11349 5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);
- 11350 6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);
- 11351 6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);
- 11352 (N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB);
- 11353 2-(methylamino)-2-phenyl-cyclohexanone (other name: Deschloroketamine);
- 11354 2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine);
- 11355 2-methyl-1-(4-(methylthio)phenyl)-2-morpholinopropiophenone (other name: MMMP);
- 11356 Alpha-ethylaminohexanophenone (other name: N-ethylhexedrone);
- 11357 N-ethyl-1-(3-methoxyphenyl)cyclohexylamine (other name: 3-methoxy-PCE);
- 11358 4-fluoro-alpha-pyrrolidinohexiophenone (other name: 4-fluoro-alpha-PHP);
- 11359 N-ethyl-1,2-diphenylethylamine (other name: Ephendine);
- 11360 2,5-dimethoxy-4-chloroamphetamine (other name: DOC);
- 11361 3,4-methylenedioxy-N-tert-butylcathinone;
- 11362 Alpha-pyrrolidinoisohexiophenone (other name: alpha-PiHP);
- 11363 1-[1-(3-hydroxyphenyl)cyclohexyl]piperidine (other name: 3-hydroxy PCP);
- 11364 4-acetyloxy-N,N-diallyltryptamine (other name: 4-AcO-DALT);
- 11365 4-hydroxy-N,N-methylisopropyltryptamine (other name: 4-hydroxy-MIPT);
- 11366 3,4-Methylenedioxy-alpha-pyrrolidinohexanophenone (other name: MDPHP);
- 11367 5-methoxy-N,N-dibutyltryptamine (other name: 5-methoxy-DBT);
- 11368 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-butanone (other names: Eutylone, bk-EBDB);
- 11369 1-(1,3-benzodioxol-5-yl)-2-(butylamino)-1-pentanone (other name: N-butylpentylone);
- 11370 N-benzyl-3,4-dimethoxyamphetamine (other name: N-benzyl-3,4-DMA);
- 11371 1-(benzo[d][1,3]dioxol-5-yl)-2-(sec-butylamino)pentan-1-one (other name: N-sec-butyl Pentylone);
- 11372 1-cyclopropionyl lysergic acid diethylamide (other name: 1cP-LSD);
- 11373 2-(ethylamino)-1-phenylheptan-1-one (other name: N-ethylheptedrone);
- 11374 (2-ethylaminopropyl)benzofuran (other name: EAPB);

- 11375 4-ethyl-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25E-NBOH);  
11376 2-fluoro-Deschloroketamine (other name: 2-(2-fluorophenyl)-2-(methylamino)-cyclohexanone);  
11377 4-hydroxy-N-ethyl-N-propyltryptamine (other name: 4-hydroxy-EPT);  
11378 2-(isobutylamino)-1-phenylhexan-1-one (other names: N-Isobutyl Hexedrone,  
11379 alpha-isobutylaminohexanphenone);  
11380 1-(4-methoxyphenyl)-N-methylpropan-2-amine (other names: para-Methoxymethamphetamine,  
11381 PMMA);  
11382 N-ethyl-1-(3-hydroxyphenyl)cyclohexylamine (other name: 3-hydroxy-PCE);  
11383 N-heptyl-3,4-dimethoxyamphetamine (other names: N-heptyl-3,4-DMA);  
11384 N-hexyl-3,4-dimethoxyamphetamine (other names: N-hexyl-3,4-DMA).  
11385 4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture  
11386 or preparation which contains any quantity of the following substances having a depressant effect on the  
11387 central nervous system, including its salts, isomers and salts of isomers whenever the existence of such  
11388 salts, isomers and salts of isomers is possible within the specific chemical designation:  
11389 Clonazepam;  
11390 Etizolam;  
11391 Flualprazolam;  
11392 Flubromazepam;  
11393 Flubromazolam;  
11394 Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate;  
11395 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);  
11396 Mecloqualone;  
11397 Methaqualone.  
11398 5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture  
11399 or preparation which contains any quantity of the following substances having a stimulant effect on the  
11400 central nervous system, including its salts, isomers and salts of isomers:  
11401 2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);  
11402 Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline;  
11403 4,5-dihydro-5-phenyl-2-oxazolamine);  
11404 Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,  
11405 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;  
11406 Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);  
11407 Ethylamphetamine;  
11408 Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);  
11409 Fenethylamine;  
11410 Methcathinone (some other names: 2-(methylamino)-propionophenone;  
11411 alpha-(methylamino)-propionophenone; 2-(methylamino)-1-phenylpropan-1-one;  
11412 alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone;  
11413 methylcathinone; AL-464; AL-422; AL-463 and UR 1432);  
11414 N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);  
11415 N,N-dimethylamphetamine (other names: N, N-alpha-trimethyl-benzeneethanamine, N,  
11416 N-alpha-trimethylphenethylamine);  
11417 Methyl 2-(4-fluorophenyl)-2-(2-piperidinyl)acetate (other name: 4-fluoromethylphenidate);  
11418 Isopropyl-2-phenyl-2-(2-piperidinyl)acetate (other name: Isopropylphenidate);  
11419 4-chloro-N,N-dimethylcathinone;  
11420 3,4-methylenedioxy-N-benzylcathinone (other name: BMDP).  
11421 6. Any substance that contains one or more cannabimimetic agents or that contains their salts,  
11422 isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is  
11423 possible within the specific chemical designation, and any preparation, mixture, or substance containing,  
11424 or mixed or infused with, any detectable amount of one or more cannabimimetic agents.  
11425 a. "Cannabimimetic agents" includes any substance that is within any of the following structural  
11426 classes:  
11427 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or  
11428 alkenyl, whether or not substituted on the cyclohexyl ring to any extent;  
11429 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of  
11430 the indole ring, whether or not further substituted on the indole ring to any extent, whether or not  
11431 substituted on the naphthoyl or naphthyl ring to any extent;  
11432 3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not  
11433 further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to  
11434 any extent;  
11435 1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not  
11436 further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to

- 11437 any extent;
- 11438 3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring,
- 11439 whether or not further substituted in the indole ring to any extent, whether or not substituted on the
- 11440 phenyl ring to any extent;
- 11441 3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further
- 11442 substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any
- 11443 extent;
- 11444 3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further
- 11445 substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any
- 11446 extent;
- 11447 N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring,
- 11448 whether or not further substituted on the indole ring to any extent, whether or not substituted on the
- 11449 adamantyl ring to any extent; and
- 11450 N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring,
- 11451 whether or not further substituted on the indazole ring to any extent, whether or not substituted on the
- 11452 adamantyl ring to any extent.
- 11453 b. The term "cannabimimetic agents" includes:
- 11454 5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);
- 11455 5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);
- 11456 5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);
- 11457 5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);
- 11458 1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);
- 11459 1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);
- 11460 1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);
- 11461 1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);
- 11462 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);
- 11463 (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tet
- 11464 rahydrobenzo[c]chromen-1-ol (other name: HU-210);
- 11465 1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);
- 11466 1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);
- 11467 1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);
- 11468 1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);
- 11469 1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);
- 11470 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);
- 11471 1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);
- 11472 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);
- 11473 1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);
- 11474 Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other
- 11475 name: WIN 48,098);
- 11476 1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);
- 11477 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);
- 11478 1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);
- 11479 1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11,
- 11480 5-fluoro-UR-144);
- 11481 N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);
- 11482 N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);
- 11483 1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);
- 11484 (8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);
- 11485 (8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);
- 11486 (8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);
- 11487 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);
- 11488 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name:
- 11489 AB-FUBINACA);
- 11490 1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);
- 11491 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name:
- 11492 ADB-PINACA);
- 11493 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name:
- 11494 AB-CHMINACA);
- 11495 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name:
- 11496 5-fluoro-AB-PINACA);
- 11497 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other

**11498** names: ADB-CHMINACA, MAB-CHMINACA);  
**11499** Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name:  
**11500** 5-fluoro-AMB);  
**11501** 1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);  
**11502** 1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);  
**11503** 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);  
**11504** N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide  
**11505** (other name: ADB-FUBINACA);  
**11506** Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-di methylbutanoate (other  
**11507** name: MDMB-FUBINACA);  
**11508** Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names:  
**11509** 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);  
**11510** Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoat e (other  
**11511** names: AMB-FUBINACA, FUB-AMB);  
**11512** N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other name: FUB-AKB48);  
**11513** N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);  
**11514** N-(adamantanyl)-1-(5-chloropentyl) indazole-3-carboxamide (other name: 5-chloro-AKB48);  
**11515** Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);  
**11516** N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name:  
**11517** AB-CHMICA);  
**11518** 1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);  
**11519** Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);  
**11520** Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);  
**11521** N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamid e (other name:  
**11522** 5-fluoro-ADB-PINACA);  
**11523** 1-(4-cyanobutyl)-N-(1-methyl-1-phenylethyl)-1H-indazole-3-carboxamide (other name: 4-cyano  
**11524** CUMYL-BUTINACA);  
**11525** Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3,3-dimethylbutanoate (other name:  
**11526** 5-Fluoro-MDMB-PICA);  
**11527** Ethyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoat e (other name:  
**11528** EMB-FUBINACA);  
**11529** Methyl 2-[1-4-fluorobutyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name:  
**11530** 4-fluoro-MDMB-BUTINACA);  
**11531** 1-(5-fluoropentyl)-N-(1-methyl-1-phenylethyl)-1H-indole-3-carboxamide (other name: 5-fluoro  
**11532** CUMYL-PICA);  
**11533** Methyl 2-[1-(pent-4-enyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name:  
**11534** MDMB-4en-PINACA);  
**11535** Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indole-3-carbonyl}amino)-3-methylbutanoate (other names:  
**11536** MMB-FUBICA, AMB-FUBICA);  
**11537** Methyl 2-[1-(4-penten-1-yl)-1H-indole-3-carboxamido]-3-methylbutanoate (other names: MMB022,  
**11538** MMB-4en-PICA);  
**11539** Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-methylbutanoate (other name: MMB 2201);  
**11540** Methyl 2-[1-(5-fluoropentyl)-1H-indole-3-carboxamido]-3-phenylpropanoate (other name:  
**11541** 5-fluoro-MPP-PICA);  
**11542** N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butylindazole-3-carboxamide (other name:  
**11543** ADB-BUTINACA);  
**11544** N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-chloropentyl)indazole-3-carboxamide (other name:  
**11545** 5-chloro-AB-PINACA).

**11546 § 58.1-3. Secrecy of information; penalties.**

**11547** A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax  
**11548** Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or  
**11549** revenue officer or employee, or any person to whom tax information is divulged pursuant to this section  
**11550** or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices  
**11551** shall not divulge any information acquired by him in the performance of his duties with respect to the  
**11552** transactions, property, including personal property, income or business of any person, firm or  
**11553** corporation. Such prohibition specifically includes any copy of a federal return or federal return  
**11554** information required by Virginia law to be attached to or included in the Virginia return. This  
**11555** prohibition shall apply to any reports, returns, financial documents or other information filed with the  
**11556** Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2.  
**11557** Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions  
**11558** of this subsection shall not be applicable, however, to:

**11559** 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, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its

11621 administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar  
11622 local official who collects or administers taxes for a county, city, or town shall not disclose information  
11623 to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality  
11624 and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that  
11625 such entity agrees to abide by such obligations.

11626 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax  
11627 Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director  
11628 of finance, or other similar collector of county, city, or town taxes who, for the performance of his  
11629 official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the  
11630 Commissioner of the Department of Social Services, upon entering into a written agreement, the amount  
11631 of income, filing status, number and type of dependents, whether a federal earned income tax credit as  
11632 authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as  
11633 authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration  
11634 of public assistance or social services benefits as defined in § 63.2-100 or child support services  
11635 pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the  
11636 administration of outreach and enrollment related to the federal earned income tax credit authorized in  
11637 § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in  
11638 § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the  
11639 Commonwealth of Virginia, upon written request, the names and home addresses of those persons  
11640 identified by the designated guarantor as having delinquent loans guaranteed by the designated  
11641 guarantor; (iv) provide current address information upon request to state agencies and institutions for  
11642 their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or  
11643 district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed  
11644 in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission,  
11645 after entering into a written agreement, such tax information as may be necessary to facilitate the  
11646 collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage  
11647 Control Authority *or the Virginia Cannabis Control Authority*, upon entering into a written agreement,  
11648 such tax information as may be necessary to facilitate the collection of state and local taxes and the  
11649 administration of the alcoholic beverage *or cannabis* control laws; (vii) provide to the Director of the  
11650 Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who  
11651 owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax  
11652 information as may be necessary to facilitate the location of owners and holders of unclaimed property,  
11653 as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into a  
11654 written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees  
11655 administered by the Commission; (x) provide to the Executive Director of the Potomac and  
11656 Rappahannock Transportation Commission for his confidential use such tax information as may be  
11657 necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the  
11658 Commissioner of the Department of Agriculture and Consumer Services such tax information as may be  
11659 necessary to identify those applicants for registration as a supplier of charitable gaming supplies who  
11660 have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing  
11661 and Community Development for its confidential use such tax information as may be necessary to  
11662 facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270  
11663 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and  
11664 address information to private collectors entering into a written agreement with the Tax Commissioner,  
11665 for their confidential use when acting on behalf of the Commonwealth or any of its political  
11666 subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private  
11667 collector who has used or disseminated in an unauthorized or prohibited manner any such information  
11668 previously provided to such collector; (xiv) provide current name and address information as to the  
11669 identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any  
11670 person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for  
11671 injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or  
11672 Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering  
11673 into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid  
11674 wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource  
11675 Management, upon entering into a written agreement, such tax information as may be necessary to  
11676 identify persons receiving workers' compensation indemnity benefits who have failed to report earnings  
11677 as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any  
11678 other officer of any county, city, or town performing any or all of the duties of a commissioner of the  
11679 revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list  
11680 of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii)  
11681 provide to the Executive Director of the Northern Virginia Transportation Commission for his  
11682 confidential use such tax information as may be necessary to facilitate the collection of the motor

vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to the Department of Medical Assistance Services and the Department of Social Services, upon entering into a written agreement, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivisions B 1 and 2 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit under § 46.2-328.3 or an applicant for an identification privilege card under § 46.2-345.3 reported income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth within the preceding 12 months; and (xxiv) provide to the Virginia Health Benefit Exchange, upon entering into a written agreement, for taxable years starting on January 1, 2023, or as soon thereafter as practicable, as determined by the Department of Taxation and the Virginia Health Benefit Exchange, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivision B 3 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who do not meet the income eligibility requirements for medical assistance and would like to newly enroll in a qualified health plan. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification

11744 information about the particular motor vehicle for which that local license decal is assigned.

11745 E. Notwithstanding any other provisions of law, state agencies and any other administrative or  
11746 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon  
11747 written request, the name, address, and social security number of a taxpayer, necessary for the  
11748 performance of the Commissioner's official duties regarding the administration and enforcement of laws  
11749 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax  
11750 Commissioner or his agent that may be deemed taxpayer information shall not relieve the Commissioner  
11751 of the obligations under this section.

11752 F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any  
11753 confidential tax document that he knows or has reason to know is a confidential tax document. A  
11754 confidential tax document is any correspondence, document, or tax return that is prohibited from being  
11755 divulged by subsection A, B, C, or D and includes any document containing information on the  
11756 transactions, property, income, or business of any person, firm, or corporation that is required to be filed  
11757 with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document  
11758 has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person  
11759 violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

11760 **§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

11761 A. The Department of State Police, the Department of Wildlife Resources, the Virginia Alcoholic  
11762 Beverage Control Authority, *the Virginia Cannabis Control Authority*, the Virginia Lottery, the Marine  
11763 Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the  
11764 Department of Forestry, any sheriff, any regional jail board or authority, and any local police department  
11765 may allow any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire  
11766 department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow  
11767 any law-enforcement officer, any institution of higher learning named in § 23.1-1100 may allow any  
11768 campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1,  
11769 retiring on or after July 1, 1991, and the Department of Corrections may allow any employee with  
11770 internal investigations authority designated by the Department of Corrections pursuant to subdivision 11  
11771 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  
11772 a result of a service-incurred disability or who is receiving long-term disability payments for a  
11773 service-incurred disability with no expectation of returning to the employment where he incurred the  
11774 disability to purchase the service handgun issued or previously issued to him by the agency or institution  
11775 at a price of \$1. If the previously issued weapon is no longer available, a weapon of like kind may be  
11776 substituted for that weapon. This privilege shall also extend to any former Superintendent of the  
11777 Department of State Police who leaves service after a minimum of five years. This privilege shall also  
11778 extend to any person listed in this subsection who is eligible for retirement with at least 10 years of  
11779 service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this  
11780 section to accept a position covered by the Virginia Retirement System. Other weapons issued by the  
11781 agencies listed in this subsection for personal duty use of an officer may, with approval of the agency  
11782 head, be sold to the officer subject to the qualifications of this section at a fair market price determined  
11783 as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular  
11784 hardware or sporting goods store by a private citizen without restrictions other than the instant  
11785 background check.

11786 B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who  
11787 retires with five or more years of service, but less than 10, to purchase the service handgun issued to  
11788 him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's  
11789 retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in  
11790 subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the  
11791 service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on  
11792 the date of the officer's retirement. Determinations of fair market value may be made by reference to a  
11793 recognized pricing guide.

11794 C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn  
11795 law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least  
11796 10 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

11797 D. The governing board of any institution of higher learning education named in § 23.1-1100 may  
11798 allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of  
11799 Title 23.1 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price  
11800 equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of  
11801 fair market value may be made by reference to a recognized pricing guide.

11802 E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a  
11803 state agency listed in subsection A, when the agency allows purchases of service handguns, and who  
11804 retires after 10 years of state service, even if a portion of his service was with another state agency, may  
11805 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 stress disorder as specified in the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

"Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1, 2020:

1. Resulting in serious bodily injury or death to any person or persons;
2. Involving a minor who has been injured, killed, abused, or exploited;
3. Involving an immediate threat to life of the claimant or another individual;
4. Involving mass casualties; or
5. Responding to crime scenes for investigation.

B. Post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is compensable under this title if:

1. A mental health professional examines a law-enforcement officer or firefighter and diagnoses the law-enforcement officer or firefighter as suffering from post-traumatic stress disorder as a result of the individual's undergoing a qualifying event;

2. The post-traumatic stress disorder resulted from the law-enforcement officer's or firefighter's acting in the line of duty and, in the case of a firefighter, such firefighter complied with federal Occupational Safety and Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29 C.F.R. 1910.156;

3. The law-enforcement officer's or firefighter's undergoing a qualifying event was a substantial factor in causing his post-traumatic stress disorder;

4. Such qualifying event, and not another event or source of stress, was the primary cause of the post-traumatic stress disorder; and

5. The post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-enforcement officer or firefighter.

Any such mental health professional shall comply with any workers' compensation guidelines for

11867 approved medical providers, including guidelines on release of past or contemporaneous medical records.  
11868 C. Notwithstanding any provision of this title, workers' compensation benefits for any  
11869 law-enforcement officer or firefighter payable pursuant to this section shall (i) include any combination  
11870 of medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary  
11871 total incapacity benefits under § 65.2-500, and temporary partial incapacity benefits under § 65.2-502  
11872 and (ii) be provided for a maximum of 52 weeks from the date of diagnosis. No medical treatment,  
11873 temporary total incapacity benefits under § 65.2-500, or temporary partial incapacity benefits under  
11874 § 65.2-502 shall be awarded beyond four years from the date of the qualifying event that formed the  
11875 basis for the claim for benefits under this section. The weekly benefits received by a law-enforcement  
11876 officer or a firefighter pursuant to § 65.2-500 or 65.2-502, when combined with other benefits, including  
11877 contributory and noncontributory retirement benefits, Social Security benefits, and benefits under a  
11878 long-term or short-term disability plan, but not including payments for medical care, shall not exceed the  
11879 average weekly wage paid to such law-enforcement officer or firefighter.

11880 D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall (i)  
11881 make peer support available to such law-enforcement officers and firefighters and (ii) refer a  
11882 law-enforcement officer or firefighter seeking mental health care services to a mental health professional.

11883 E. Each fire basic training program conducted or administered by the Department of Fire Programs  
11884 or a municipal fire department in the Commonwealth shall provide, in consultation with the Department  
11885 of Behavioral Health and Developmental Services, resilience and self-care technique training for any  
11886 individual who begins basic training as a firefighter on or after July 1, 2021.

11887 **§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or**  
11888 **heart disease, cancer.**

11889 A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of  
11890 Emergency Management hazardous materials officers or (ii) any health condition or impairment of such  
11891 firefighters or Department of Emergency Management hazardous materials officers resulting in total or  
11892 partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are  
11893 covered by this title unless such presumption is overcome by a preponderance of competent evidence to  
11894 the contrary.

11895 B. Hypertension or heart disease causing the death of, or any health condition or impairment  
11896 resulting in total or partial disability of any of the following persons who have completed five years of  
11897 service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers'  
11898 Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy  
11899 sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or  
11900 deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation  
11901 police officers who are full-time sworn members of the enforcement division of the Department of  
11902 Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage  
11903 Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 or *special*  
11904 *agents of the Virginia Cannabis Control Authority appointed under the provisions of Chapter 6*  
11905 *(§ 4.1-600 et seq.) of Title 4.1*, (xi) for such period that the Metropolitan Washington Airports Authority  
11906 voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the  
11907 police force established and maintained by the Metropolitan Washington Airports Authority, (xii)  
11908 officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn  
11909 officers of the police force established and maintained by the Virginia Port Authority, (xiv) campus  
11910 police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed  
11911 by any public institution of higher education, and (xv) salaried or volunteer emergency medical services  
11912 personnel, as defined in § 32.1-111.1, when such emergency medical services personnel is operating in a  
11913 locality that has legally adopted a resolution declaring that it will provide one or more of the  
11914 presumptions under this subsection, shall be presumed to be occupational diseases, suffered in the line of  
11915 duty, that are covered by this title unless such presumption is overcome by a preponderance of  
11916 competent evidence to the contrary.

11917 C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer  
11918 causing the death of, or any health condition or impairment resulting in total or partial disability of, any  
11919 volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer,  
11920 commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of  
11921 State Police, or full-time sworn member of the enforcement division of the Department of Motor  
11922 Vehicles having completed five years of service shall be presumed to be an occupational disease,  
11923 suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a  
11924 preponderance of competent evidence to the contrary. For colon, brain, or testicular cancer, the  
11925 presumption shall not apply for any individual who was diagnosed with such a condition before July 1,  
11926 2020.

11927 D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to  
11928 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 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; (xii) officer of the police force established and maintained by the Norfolk Airport Authority; (xiii) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (xiv) sworn officer of the police force established and maintained by the Virginia Port Authority; (xv) 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; (xvi) correctional officer as defined in § 53.1-1; or (xvii) full-time sworn member of the enforcement division of the Department of Motor Vehicles who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this subsection, an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under this subsection gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time sworn member of the enforcement division of the Department of Motor Vehicles, the presumption shall not apply if such individual was diagnosed with hepatitis, meningococcal meningitis, or HIV before July 1, 2020.

B. 1. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any health care provider, as defined in § 8.01-581.1, who as part of the provider's employment is directly involved in diagnosing or treating persons known or suspected to have COVID-19, shall be presumed to be an occupational disease that is covered by this title unless such presumptions are overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19 and

11990 signs and symptoms of COVID-19 that require medical treatment, as described in ~~subsection~~ *subdivision*  
11991 F 2.

11992 2. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial  
11993 disability of, any (i) firefighter, as defined in § 65.2-102; (ii) law-enforcement officer, as defined in  
11994 § 9.1-101; (iii) correctional officer, as defined in § 53.1-1; or (iv) regional jail officer shall be presumed  
11995 to be an occupational disease, suffered in the line of duty, as applicable, that is covered by this title  
11996 unless such presumption is overcome by a preponderance of competent evidence to the contrary. For the  
11997 purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for  
11998 COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that  
11999 require medical treatment.

12000 C. As used in this section:

12001 "Blood or body fluids" means blood and body fluids containing visible blood and other body fluids  
12002 to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as  
12003 established by the Centers for Disease Control *and Prevention*, apply. For purposes of potential  
12004 transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body  
12005 fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and  
12006 any other fluid through which infectious airborne or blood-borne organisms can be transmitted between  
12007 persons.

12008 "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other  
12009 strain of hepatitis generally recognized by the medical community.

12010 "HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or  
12011 type II, causing immunodeficiency syndrome.

12012 "Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV,  
12013 means an exposure that occurs during the performance of job duties that places a covered employee at  
12014 risk of infection.

12015 D. Persons covered under this section who test positive for exposure to the enumerated occupational  
12016 diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to  
12017 make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical  
12018 examination to measure the progress of the condition, if any, and any other medical treatment,  
12019 prophylactic or otherwise.

12020 E. 1. Whenever any standard, medically-recognized vaccine or other form of immunization or  
12021 prophylaxis exists for the prevention of a communicable disease for which a presumption is established  
12022 under this section, if medically indicated by the given circumstances pursuant to immunization policies  
12023 established by the Advisory Committee on Immunization Practices of the United States Public Health  
12024 Service, a person subject to the provisions of this section may be required by such person's employer to  
12025 undergo the immunization or prophylaxis unless the person's physician determines in writing that the  
12026 immunization or prophylaxis would pose a significant risk to the person's health. Absent such written  
12027 declaration, failure or refusal by a person subject to the provisions of this section to undergo such  
12028 immunization or prophylaxis shall disqualify the person from any presumption established by this  
12029 section.

12030 2. The presumptions described in ~~subsection~~ *subdivision B 1* shall not apply to any person offered by  
12031 such person's employer a vaccine for the prevention of COVID-19 with an Emergency Use  
12032 Authorization issued by the U.S. Food and Drug Administration, unless the person is immunized or the  
12033 person's physician determines in writing that the immunization would pose a significant risk to the  
12034 person's health. Absent such written declaration, failure or refusal by a person subject to the provisions  
12035 of this section to undergo such immunization shall disqualify the person from the presumptions  
12036 described in ~~subsection~~ *subdivision B 1*.

12037 F. 1. The presumptions described in subsection A shall only apply if persons entitled to invoke them  
12038 have, if requested by the appointing authority or governing body employing them, undergone  
12039 preemployment physical examinations that (i) were conducted prior to the making of any claims under  
12040 this title that rely on such presumptions; (ii) were performed by physicians whose qualifications are as  
12041 prescribed by the appointing authority or governing body employing such persons; (iii) included such  
12042 appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may  
12043 have prescribed; and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or  
12044 HIV at the time of such examinations. The presumptions described in subsection A shall not be effective  
12045 until six months following such examinations, unless such persons entitled to invoke such presumption  
12046 can demonstrate a documented exposure during the six-month period.

12047 2. The presumptions described in ~~subsection~~ *subdivision B 1* shall apply to any person entitled to  
12048 invoke them for any death or disability occurring on or after March 12, 2020, caused by infection from  
12049 the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12,  
12050 2020, and prior to December 31, 2021, and;

12051 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 5 (§§ 3.2-5145.1 through 3.2-5145.5) of Chapter 51 of Title 3.2 and §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia are repealed.

3. That the sixteenth enactment of Chapter 550 and the sixteenth enactment of Chapter 551 of the Acts of Assembly of 2021, Special Session I, are repealed.

4. That, except as provided in the fifth, sixth, seventh, eighth, ninth, and tenth enactments of this act, the provisions of this act shall become effective on January 1, 2024.

5. That the provisions of §§ 2.2-2499.8, 4.1-603, 4.1-629, as created by this act, 4.1-1100, 4.1-1101, 4.1-1105.1, as amended in the first enactment, 4.1-1107, 4.1-1108, and 4.1-1121 of the Code of Virginia; subdivisions B 13, 14, and 16 and subsection C of § 4.1-606 of the Code of Virginia; the seventh enactment of this act; and the repeal of the sixteenth enactment of Chapter 550 and the sixteenth enactment of Chapter 551 of the Acts of Assembly of 2021, Special Session I, shall become effective in due course.

6. That, subject to the provisions of the eighth enactment of this act, the provisions of § 4.1-630 and 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 January 1, 2023.

7. That the tenth enactment of Chapter 550 and the tenth enactment of Chapter 551 of the Acts of Assembly of 2021, Special Session I, are amended as follows:

10. That the Board of Directors of the Virginia Cannabis Control Authority (the Board) shall promulgate regulations to implement the provisions of this act by ~~July~~ January 1, 2023; however, the Board shall not adopt such regulations prior to July 1, 2022, and shall present such regulations to the Cannabis Oversight Commission for review prior to adoption. With the exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant thereto shall apply to the initial adoption of any regulations pursuant to this act. Prior to adopting any regulations pursuant to this act, 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 regulations; (ii) the text of the proposed regulations; 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 of the Code of Virginia shall apply to the promulgation or final adoption process for regulations pursuant to this act. The Board shall consider and keep on file all public comments received for any regulations adopted pursuant to this act. The provisions of this enactment shall become effective in due course.

8. That the Virginia Cannabis Control Authority (the Authority) may start accepting applications for licenses pursuant to the provision of § 4.1-1000 of the Code of Virginia, as created by this act, on January 1, 2023, and shall, from January 1, 2023, until January 1, 2024, give preference to qualified social equity applicants, as determined by regulations promulgated by the Board of

12113 Directors of the Authority in accordance with this act. The Authority may issue any license  
12114 authorized by this act to any applicant that meets the requirements for licensure established by  
12115 this act. Notwithstanding the fourth enactment of this act, any applicant issued a license by the  
12116 Authority may operate in accordance with the provisions of this act prior to January 1, 2024;  
12117 however, prior to January 1, 2024, (i) no retail marijuana store licensee may sell retail marijuana,  
12118 retail marijuana products, immature marijuana plants, or marijuana seeds and (ii) no marijuana  
12119 cultivation facility licensee may sell immature marijuana plants or marijuana seeds to a consumer.  
12120 Notwithstanding any other provision of law, on or after January 1, 2023, and prior to January 1,  
12121 2024, no marijuana cultivation facility licensee, marijuana manufacturing facility licensee,  
12122 marijuana wholesaler licensee, retail marijuana store licensee, or marijuana testing facility licensee  
12123 or agent or employee thereof shall be subject to arrest or prosecution for a violation of Chapter 11  
12124 (§ 4.1-1100 et seq.) of Title 4.1 of the Code of Virginia, § 18.2-248, 18.2-248.01, 18.2-255,  
12125 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  
12126 amended by this act, or § 18.2-248.1 of the Code of Virginia, as repealed by this act, involving  
12127 marijuana if such violation is related to acts committed within the scope of the licensure or  
12128 employment and in accordance with the provisions of the Cannabis Control Act (§ 4.1-600 et seq.  
12129 of the Code of Virginia). From January 1, 2023, to January 1, 2028, the Authority shall (a) reserve  
12130 a license slot for a qualified social equity applicant for very license that was initially granted to a  
12131 social equity applicant and was subsequently surrendered and (b) reserve license slots for all  
12132 pharmaceutical processors that have been issued a permit by the Board of Pharmacy pursuant to  
12133 Article 4.2 (§ 54.1-3442.5 et seq. of the Code of Virginia) of the Drug Control Act and issue a  
12134 cultivation, manufacturing, wholesale, and retail license to any such pharmaceutical processor that  
12135 meets the applicable licensing requirements. The Authority shall ensure that geographic dispersion  
12136 is achieved regarding the issuance of retail marijuana store licenses and shall reassess the issuance  
12137 of retail marijuana store licenses at the following intervals to ensure that geographic dispersion is  
12138 maintained: after issuance of 100 licenses, 200 licenses, and 300 licenses. The provisions of this  
12139 enactment shall become effective in due course.

12140 9. That the repeal of Article 5 (§§ 3.2-5145.1 through 3.2-5145.5) of Chapter 51 of Title 3.2 of the  
12141 Code of Virginia shall become effective on the earlier of (i) the promulgation by the Board of  
12142 Directors of the Virginia Cannabis Control Authority of final regulations governing regulated  
12143 hemp products pursuant to § 4.1-606 of the Code of Virginia, as amended by this act, or (ii) July  
12144 1, 2023. Any regulation promulgated by the Department of Agriculture and Consumer Services  
12145 pursuant to Article 5 of Chapter 51 of Title 3.2 of the Code of Virginia, as repealed by this act,  
12146 shall remain in full force and effect and continue to be administered by the Department of  
12147 Agriculture and Consumer Services until the effective date of the repeal of Article 5 of Chapter 51  
12148 of Title 3.2 of the Code of Virginia.

12149 10. That the provisions of §§ 19.2-392.2:3 and 19.2-392.2:4 of the Code of Virginia, as created by  
12150 this act, shall become effective on the earlier of (i) the first day of the fourth month following  
12151 notification to the Chairman of the Virginia Code Commission and the Chairmen of the Senate  
12152 Committee on the Judiciary and the House Committee for Courts of Justice by the Superintendent  
12153 of State Police that the Executive Secretary of the Supreme Court of Virginia, the Department of  
12154 State Police, and any circuit court clerk who maintains a case management system that interfaces  
12155 with the Department of State Police under subsection B of § 17.1-502 of the Code of Virginia have  
12156 automated systems to exchange information or (ii) July 1, 2025. The Executive Secretary of the  
12157 Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who  
12158 maintains a case management system that interfaces with the Department of State Police under  
12159 subsection B of § 17.1-502 of the Code of Virginia, shall automate systems to exchange information  
12160 as required by § 19.2-392.2:3 of the Code of Virginia, as created by this act, no later than July 1,  
12161 2025.

12162 11. That the provisions of this act may result in a net increase in periods of imprisonment or  
12163 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the  
12164 necessary appropriation cannot be determined for periods of imprisonment in state adult  
12165 correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I,  
12166 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of  
12167 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary  
12168 appropriation cannot be determined for periods of commitment to the custody of the Department  
12169 of Juvenile Justice.