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SENATE BILL NO. 754

Offered January 8, 2025

Prefiled December 5, 2024

A BILL to amend and reenact §§ 59.1-198 and 59.1-200, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to Virginia Consumer Protection Act; prohibited practices; obtaining, disclosing, etc., reproductive or sexual health information without consumer consent.

Patron—Favola

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-198 and 59.1-200, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 59.1-198. Definitions.

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

"Business opportunity" means the sale of any products, equipment, supplies, or services which that are sold to an individual for the purpose of enabling such individual to start a business to be operated out of his residence, but does not include a business opportunity which that is subject to the Business Opportunity Sales Act, Chapter 24 (§ 59.1-262 et seq.) of this title.

"Children's product" means a consumer product designed or intended primarily for children 12 years of age or younger. In determining whether a consumer product is primarily intended for a child 12 years of age or younger, the following factors shall be considered:

1. A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable;

2. Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children 12 years of age or younger;

3. Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger; and

4. The Age Determination Guidelines issued by the staff of the Consumer Products Safety Commission in September 2002, and any successor to such guidelines.

"Consent" means the same as that term is defined in § 59.1-575.

"Consumer transaction" means:

1. The advertisement, sale, lease, license, or offering for sale, lease, or license, of goods or services to be used primarily for personal, family, or household purposes;

2. Transactions involving the advertisement, offer, or sale to an individual of a business opportunity that requires both his expenditure of money or property and his personal services on a continuing basis and in which he has not been previously engaged;

3. Transactions involving the advertisement, offer, or sale to an individual of goods or services relating to the individual's finding or obtaining employment;

4. A layaway agreement, whereby part or all of the price of goods is payable in one or more payments subsequent to the making of the layaway agreement and the supplier retains possession of the goods and bears the risk of their loss or damage until the goods are paid in full according to the layaway agreement;

5. Transactions involving the advertisement, sale, lease, or license, or the offering for sale, lease, or license, of goods or services to a church or other religious body; and

6. Transactions involving the advertisement of legal services that contain information about the results of a state or federal survey, inspection, or investigation of a nursing home or certified nursing facility as described in subsection E of § 32.1-126.

"Cure offer" means a written offer of one or more things of value, including but not limited to the payment of money, that is made by a supplier and that is delivered to a person claiming to have suffered a loss as a result of a consumer transaction or to the attorney for such person. A cure offer shall be reasonably calculated to remedy a loss claimed by the person and it shall include a minimum additional amount equaling 10 percent of the value of the cure offer or \$500, whichever is greater, as compensation for inconvenience, any attorney's or other fees, expenses, or other costs of any kind that such person may incur in relation to such loss, provided, however, that the minimum additional amount need not exceed \$4,000.

"Defective drywall" means drywall, or similar building material composed of dried gypsum-based plaster, that (i) as a result of containing the same or greater levels of strontium sulfide that has been found in drywall manufactured in the People's Republic of China and imported into the United States between 2004 and 2007 is capable, when exposed to heat, humidity, or both, of releasing sulfur dioxide, hydrogen sulfide, carbon

12/6/24 05:38

59 disulfide, or other sulfur compounds into the air or (ii) has been designated by the U.S. Consumer Product
60 Safety Commission as a product with a product defect that constitutes a substantial product hazard within the
61 meaning of § 15(a)(2) of the Consumer Product Safety Act (15 U.S.C. § 2064 (a)(2)).

62 "Goods" means all real, personal, or mixed property, tangible or intangible. For purposes of this chapter,
63 intangible property includes but shall not be limited to "computer information" and "informational rights" in
64 computer information as defined in § 59.1-501.2.

65 "Person" means any natural person, corporation, trust, partnership, association, and any other legal entity.

66 "*Reproductive or sexual health information*" means information relating to the past, present, or future
67 reproductive or sexual health of an individual, including:

68 1. *Efforts to research or obtain reproductive or sexual health information services or supplies, including*
69 *location information that may indicate an attempt to acquire such services or supplies;*

70 2. *Reproductive or sexual health conditions, status, diseases, or diagnoses, including pregnancy,*
71 *menstruation, ovulation, ability to conceive a pregnancy, whether an individual is sexually active, and*
72 *whether an individual is engaging in unprotected sex;*

73 3. *Reproductive and sexual health-related surgeries and procedures, including termination of a*
74 *pregnancy;*

75 4. *Use or purchase of contraceptives, birth control, or other medication related to reproductive health,*
76 *including abortifacients;*

77 5. *Bodily functions, vital signs, measurements, or symptoms related to menstruation or pregnancy,*
78 *including basal temperature, cramps, bodily discharge, or hormone levels;*

79 6. *Any information about diagnoses or diagnostic testing, treatment, or medications, or the use of any*
80 *product or service relating to the matters described in subdivisions 1 through 5; and*

81 7. *Any information described in subdivisions 1 through 6 that is derived or extrapolated from non-health-*
82 *related information such as proxy, derivative, inferred, emergent, or algorithmic data.*

83 "*Reproductive or sexual health information*" does not include health information that is protected under
84 the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et seq.), health
85 records for the purposes of Title 32.1, or patient-identifying records for the purposes of 42 U.S.C. § 290dd-2.

86 "Services" includes but ~~shall~~ is not be limited to (i) work performed in the business or occupation of the
87 supplier, (ii) work performed for the supplier by an agent whose charges or costs for such work are
88 transferred by the supplier to the consumer or purchaser as an element of the consumer transaction, or (iii) the
89 subject of an "access contract" as defined in § 59.1-501.2.

90 "Supplier" means a seller, lessor, licensor, or professional ~~who~~ that advertises, solicits, or engages in
91 consumer transactions, or a manufacturer, distributor, or licensor ~~who~~ that advertises and sells, leases, or
92 licenses goods or services to be resold, leased, or sublicensed by other persons in consumer transactions.

93 **§ 59.1-200. (Effective until July 1, 2025) Prohibited practices.**

94 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer
95 transaction are hereby declared unlawful:

96 1. Misrepresenting goods or services as those of another;

97 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

98 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,
99 with another;

100 4. Misrepresenting geographic origin in connection with goods or services;

101 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
102 benefits;

103 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

104 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,
105 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly
106 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,
107 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or
108 "not first class";

109 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the
110 price or upon the terms advertised.

111 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant
112 thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or
113 offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when
114 it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are
115 advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or
116 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or
117 reasonably expected to have at least such quantity or amount for sale;

118 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of
119 price reductions;

120 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts

- 121 installed;
- 122 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill
- 123 for merchandise or services previously ordered;
- 124 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
- 125 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
- 126 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
- 127 goods or services advertised or offered for sale;
- 128 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or
- 129 attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that
- 130 are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal
- 131 statutes or regulations;
- 132 13a. Failing to provide to a consumer, or failing to use or include in any written document or material
- 133 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,
- 134 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so
- 135 provide, use, or include the statement, disclosure, notice, or other information in connection with the
- 136 consumer transaction;
- 137 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
- 138 with a consumer transaction;
- 139 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516,
- 140 or 3.2-6519 is a violation of this chapter;
- 141 16. Failing to disclose all conditions, charges, or fees relating to:
- 142 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
- 143 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
- 144 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
- 145 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
- 146 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
- 147 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
- 148 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
- 149 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
- 150 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
- 151 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
- 152 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
- 153 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
- 154 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
- 155 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;
- 156 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of
- 157 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the
- 158 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure
- 159 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;
- 160 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
- 161 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
- 162 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
- 163 overpayments. If the credit balance information is incorporated into statements of account furnished
- 164 consumers by suppliers within such 60-day period, no separate or additional notice is required;
- 165 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
- 166 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;
- 167 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
- 168 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);
- 169 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);
- 170 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17
- 171 et seq.);
- 172 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 173 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et
- 174 seq.);
- 175 24. Violating any provision of § 54.1-1505;
- 176 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
- 177 (§ 59.1-207.34 et seq.);
- 178 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 179 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 180 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 181 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);
- 182 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et

- 183 seq.);
- 184 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 185 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 186 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 187 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 188 35. Using the consumer's social security number as the consumer's account number with the supplier, if
- 189 the consumer has requested in writing that the supplier use an alternate number not associated with the
- 190 consumer's social security number;
- 191 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 192 37. Violating any provision of § 8.01-40.2;
- 193 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 194 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 195 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 196 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
- 197 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in §
- 198 59.1-526;
- 199 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 200 43. Violating any provision of § 59.1-443.2;
- 201 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 202 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 203 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 204 47. Violating any provision of § 18.2-239;
- 205 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 206 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 207 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 208 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 209 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
- 210 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
- 211 products that are used, secondhand or "seconds";
- 212 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 213 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 214 52. Violating any provision of § 8.2-317.1;
- 215 53. Violating subsection A of § 9.1-149.1;
- 216 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
- 217 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
- 218 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
- 219 drywall has been permanently installed or affixed;
- 220 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
- 221 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
- 222 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of
- 223 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
- 224 seq.) of Title 54.1;
- 225 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 226 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 227 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,
- 228 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer
- 229 by a supplier to a small business, as those terms are defined in § 59.1-207.45;
- 230 59. Violating any provision of subsection E of § 32.1-126;
- 231 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under
- 232 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 233 61. Violating any provision of § 2.2-2001.5;
- 234 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 235 63. Violating any provision of § 6.2-312;
- 236 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 237 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 238 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 239 67. Knowingly violating any provision of § 8.01-27.5;
- 240 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel
- 241 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a
- 242 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an
- 243 obligation to pay for the goods or services;
- 244 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,

245 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic
 246 derivative" means a chemical compound produced by man through a chemical transformation to turn a
 247 compound into a different compound by adding or subtracting molecules to or from the original compound.
 248 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug
 249 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit
 250 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

251 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
 252 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
 253 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 254 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
 255 16 (§ 4.1-1600 et seq.) of Title 4.1;

256 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
 257 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
 258 defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an
 259 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
 260 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
 261 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
 262 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
 263 accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to
 264 standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting
 265 body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
 266 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
 267 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 268 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
 269 16 (§ 4.1-1600 et seq.) of Title 4.1;

270 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in §
 271 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that
 272 depicts or is in the shape of a human, animal, vehicle, or fruit;

273 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
 274 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper
 275 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §
 276 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,
 277 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,
 278 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

279 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a
 280 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to
 281 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 282 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16
 283 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July
 284 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

285 75. Violating any provision of § 59.1-466.8;

286 76. Violating subsection F of § 36-96.3:1;

287 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any
 288 kratom product that does not include a label listing all ingredients and with the following guidance: "This
 289 product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose,
 290 treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the
 291 plant *Mitragyna speciosa* or any extract thereof;

292 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved
 293 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted
 294 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,
 295 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not
 296 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the
 297 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning
 298 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not
 299 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the
 300 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved
 301 location;

302 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a
 303 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any
 304 such good or provision of any such continuous service;

305 80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

306 81. Selling or offering for sale services as a professional mold remediator to be performed upon any

307 residential dwelling without holding a mold remediation certification from the Institute of Inspection,
 308 Cleaning and Restoration Certification (IICRC); ~~and~~

309 82. Willfully violating any provision of § 59.1-444.4; *and*

310 83. *Obtaining, disclosing, selling, or disseminating any personally identifiable reproductive or sexual*
 311 *health information without the consent of the consumer.*

312 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease
 313 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth
 314 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation
 315 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

316 **§ 59.1-200. (Effective July 1, 2025) Prohibited practices.**

317 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer
 318 transaction are hereby declared unlawful:

319 1. Misrepresenting goods or services as those of another;

320 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

321 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,
 322 with another;

323 4. Misrepresenting geographic origin in connection with goods or services;

324 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
 325 benefits;

326 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

327 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,
 328 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly
 329 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,
 330 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or
 331 "not first class";

332 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the
 333 price or upon the terms advertised.

334 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant
 335 thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or
 336 offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when
 337 it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are
 338 advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or
 339 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or
 340 reasonably expected to have at least such quantity or amount for sale;

341 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of
 342 price reductions;

343 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts
 344 installed;

345 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill
 346 for merchandise or services previously ordered;

347 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
 348 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
 349 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
 350 goods or services advertised or offered for sale;

351 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or
 352 attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that
 353 are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal
 354 statutes or regulations;

355 13a. Failing to provide to a consumer, or failing to use or include in any written document or material
 356 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,
 357 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so
 358 provide, use, or include the statement, disclosure, notice, or other information in connection with the
 359 consumer transaction;

360 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
 361 with a consumer transaction;

362 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516,
 363 or 3.2-6519 is a violation of this chapter;

364 16. Failing to disclose all conditions, charges, or fees relating to:

365 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
 366 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
 367 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not

368 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
 369 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
 370 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
 371 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
 372 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
 373 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
 374 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
 375 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
 376 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
 377 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
 378 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

379 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of
 380 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the
 381 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure
 382 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

383 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
 384 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
 385 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
 386 overpayments. If the credit balance information is incorporated into statements of account furnished
 387 consumers by suppliers within such 60-day period, no separate or additional notice is required;

388 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
 389 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

390 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

391 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

392 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

393 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17
 394 et seq.);

395 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

396 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et
 397 seq.);

398 24. Violating any provision of § 54.1-1505;

399 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
 400 (§ 59.1-207.34 et seq.);

401 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

402 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

403 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

404 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

405 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
 406 seq.);

407 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

408 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

409 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

410 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

411 35. Using the consumer's social security number as the consumer's account number with the supplier, if
 412 the consumer has requested in writing that the supplier use an alternate number not associated with the
 413 consumer's social security number;

414 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

415 37. Violating any provision of § 8.01-40.2;

416 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

417 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

418 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

419 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
 420 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in §
 421 59.1-526;

422 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);

423 43. Violating any provision of § 59.1-443.2;

424 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);

425 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;

426 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;

427 47. Violating any provision of § 18.2-239;

428 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);

429 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has

430 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
431 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
432 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
433 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
434 products that are used, secondhand or "seconds";

435 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);

436 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;

437 52. Violating any provision of § 8.2-317.1;

438 53. Violating subsection A of § 9.1-149.1;

439 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
440 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
441 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
442 drywall has been permanently installed or affixed;

443 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
444 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
445 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of
446 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
447 seq.) of Title 54.1;

448 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

449 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;

450 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,
451 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer
452 by a supplier to a small business, as those terms are defined in § 59.1-207.45;

453 59. Violating any provision of subsection E of § 32.1-126;

454 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under
455 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

456 61. Violating any provision of § 2.2-2001.5;

457 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;

458 63. Violating any provision of § 6.2-312;

459 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;

460 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;

461 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

462 67. Knowingly violating any provision of § 8.01-27.5;

463 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel
464 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a
465 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an
466 obligation to pay for the goods or services;

467 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
468 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic
469 derivative" means a chemical compound produced by man through a chemical transformation to turn a
470 compound into a different compound by adding or subtracting molecules to or from the original compound.
471 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug
472 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit
473 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

474 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
475 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
476 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
477 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
478 16 (§ 4.1-1600 et seq.) of Title 4.1;

479 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
480 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
481 defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an
482 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
483 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
484 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
485 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
486 accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to
487 standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting
488 body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
489 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
490 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the

491 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
492 16 (§ 4.1-1600 et seq.) of Title 4.1;

493 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in §
494 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that
495 depicts or is in the shape of a human, animal, vehicle, or fruit;

496 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
497 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper
498 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §
499 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,
500 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,
501 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

502 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a
503 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to
504 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
505 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16
506 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July
507 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

508 75. Violating any provision of § 59.1-466.8;

509 76. Violating subsection F of § 36-96.3:1;

510 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any
511 kratom product that does not include a label listing all ingredients and with the following guidance: "This
512 product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose,
513 treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the
514 plant *Mitragyna speciosa* or any extract thereof;

515 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved
516 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted
517 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,
518 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not
519 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the
520 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning
521 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not
522 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the
523 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved
524 location;

525 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a
526 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any
527 such good or provision of any such continuous service;

528 80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

529 81. Selling or offering for sale services as a professional mold remediator to be performed upon any
530 residential dwelling without holding a mold remediation certification from the Institute of Inspection,
531 Cleaning and Restoration Certification (IICRC);

532 82. Willfully violating any provision of § 59.1-444.4; ~~and~~

533 83. Violating any provision of Chapter 23.2 (§ 59.1-293.10 et seq.); *and*

534 84. *Obtaining, disclosing, selling, or disseminating any personally identifiable reproductive or sexual*
535 *health information without the consent of the consumer.*

536 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease
537 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth
538 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation
539 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.