

25104419D

HOUSE BILL NO. 2021

Offered January 13, 2025

Prefiled January 7, 2025

A BILL to amend and reenact § 59.1-200, as it is currently effective and as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 58, consisting of sections numbered 59.1-607 through 59.1-610, relating to Fair Voice Purchasing Act established; penalties.

Patrons—Seibold, Clark, Convirs-Fowler, Feggans, Martinez and Shin

Referred to Committee on Communications, Technology and Innovation

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-200, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 58, consisting of sections numbered 59.1-607 through 59.1-610, as follows:

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

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

1. Misrepresenting goods or services as those of another;
2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;
4. Misrepresenting geographic origin in connection with goods or services;
5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;
6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or "not first class";
8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

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

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

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

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

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

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

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

59 consumer transaction;

60 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection

61 with a consumer transaction;

62 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,

63 or 3.2-6519 is a violation of this chapter;

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

65 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign

66 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be

67 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not

68 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this

69 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than

70 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of

71 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of

72 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be

73 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to

74 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor

75 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order

76 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's

77 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor

78 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

79 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of

80 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the

81 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure

82 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

83 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5

84 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such

85 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving

86 overpayments. If the credit balance information is incorporated into statements of account furnished

87 consumers by suppliers within such 60-day period, no separate or additional notice is required;

88 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in

89 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

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

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

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

93 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17

94 et seq.);

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

96 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et

97 seq.);

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

99 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6

100 (§ 59.1-207.34 et seq.);

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

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

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

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

105 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et

106 seq.);

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

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

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

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

111 35. Using the consumer's social security number as the consumer's account number with the supplier, if

112 the consumer has requested in writing that the supplier use an alternate number not associated with the

113 consumer's social security number;

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

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

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

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

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

119 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525

et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in § 59.1-526;

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

43. Violating any provision of § 59.1-443.2;

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

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

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

47. Violating any provision of § 18.2-239;

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

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

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

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

52. Violating any provision of § 8.2-317.1;

53. Violating subsection A of § 9.1-149.1;

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

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

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

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

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

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

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

61. Violating any provision of § 2.2-2001.5;

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

63. Violating any provision of § 6.2-312;

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

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

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

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

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

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

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

71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as

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 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

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

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

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

75. Violating any provision of § 59.1-466.8;

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

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

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

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

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

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

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

83. Violating any provision of the Fair Voice Purchasing Act (§ 59.1-607 et seq.).

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

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

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

1. Misrepresenting goods or services as those of another;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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, or 3.2-6519 is a violation of this chapter;

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

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

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure

shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

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

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

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

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

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

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

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

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

24. Violating any provision of § 54.1-1505;

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

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

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

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

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

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

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

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

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

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

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

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

37. Violating any provision of § 8.01-40.2;

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

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

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

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

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

43. Violating any provision of § 59.1-443.2;

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

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

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

47. Violating any provision of § 18.2-239;

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

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

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

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

52. Violating any provision of § 8.2-317.1;

53. Violating subsection A of § 9.1-149.1;

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

55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a

transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;

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

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

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

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

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

61. Violating any provision of § 2.2-2001.5;

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

63. Violating any provision of § 6.2-312;

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

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

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

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

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

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

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

71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as 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 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

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

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

74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the

Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

75. Violating any provision of § 59.1-466.8;

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

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

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

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

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

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

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

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

84. *Violating any provision of the Fair Voice Purchasing Act (§ 59.1-607 et seq.).*

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

CHAPTER 58.

FAIR VOICE PURCHASING ACT.

§ 59.1-607. Definitions.

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

"Cloud computing storage service" means a service that enables convenient, on-demand network access to a shared pool of configurable computing resources that can be rapidly provisioned and released with minimal management effort or service provider interaction. "Cloud computing storage service" includes the service and deployment models therein.

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

"License" means any contract that authorizes access to, or use, distribution, performance, modification, or reproduction of, a virtual assistant, but expressly limits the access or uses authorized or expressly grants fewer than all rights in the virtual assistant, whether or not the virtual assistant licensee has title to a licensed copy.

"Smart speaker device" or "smart display device" means a speaker or display that uses hands-free verbal activation and that is installed in a residence that has (i) an integrated virtual assistant or (ii) the ability to access a virtual assistant.

"Software program" means any digital product or service that runs on an operating system.

"User" means a person who originally purchases, leases, or takes ownership of a smart speaker device or smart display device or another person designated by the user to perform the initial setup or installation of the smart speaker device or smart display device.

"User agreement" means a contract offered by a virtual assistant licensee or virtual assistant licensor and signed by a user that outlines the terms and conditions of the user's operation of a product or service, including a virtual assistant, smart speaker device, or smart display device, and the user's agreement to which is a condition of the user's operation of the product or service.

"Virtual assistant" means a software program that is connected to a cloud computing storage service that uses speech recognition and natural language processing to process demands, complete tasks, or answer questions.

"Virtual assistant licensee" means an entity entitled by agreement to acquire or exercise rights in, or to

have access to or use of, a virtual assistant. A virtual assistant licensor is not a virtual assistant licensee with respect to rights reserved to it under such agreement.

"Virtual assistant licensor" means an entity (i) obligated by agreement to transfer or create rights in, or to give access to or use of, a virtual assistant or (ii) that sells or offers for sale a smart speaker device or smart display device that has an integrated virtual assistant for which the virtual assistant licensor has title. Between the provider of access and the provider of the virtual assistant to be accessed, the provider of the virtual assistant is the virtual assistant licensor.

"Voice purchasing" means the hands-free verbal activation of a virtual assistant to buy products or services.

§ 59.1-608. Prohibited conduct.

A. No virtual assistant licensee or virtual assistant licensor shall provide voice purchasing on a smart speaker device or smart display device unless such licensee or licensor obtains consent from the user of such device.

B. Consent pursuant to subsection A shall not be obtained (i) by signature of a user agreement or (ii) as a condition of the user's operation of the virtual assistant.

§ 59.1-609. Exclusions.

This chapter shall not be construed to apply to any of the following:

1. Portable electronic devices, including cellular telephones, pagers, watches, headphones, tablets, or laptop computers.

2. Electronic devices intended for residential use that have a primary purpose that is not a smart speaker device or smart display device, including home computers, televisions, kitchen appliances, thermostats, lighting or window treatments, security or home monitoring systems, pet care systems, or lawn care systems.

3. Motor vehicles.

4. Any other electronic device that has an integrated virtual assistant or the ability to access a virtual assistant that has a primary purpose that is not a smart speaker device or smart display device.

§ 59.1-610. Enforcement; penalties.

Any violation of this chapter shall constitute a prohibited practice under the provisions of § 59.1-200 and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).