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HOUSE BILL NO. 2250

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, 59.1-575, 59.1-577, 59.1-578, and 59.1-584 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 59.1-611, relating to Consumer Data Protection Act; Artificial Intelligence Training Data Transparency Act.*

Patrons—Maldonado, Glass 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, 59.1-575, 59.1-577, 59.1-578, and 59.1-584 of the Code of Virginia are 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 59.1-611, 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

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59 provide, use, or include the statement, disclosure, notice, or other information in connection with the
60 consumer transaction;

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

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

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

66 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
67 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
68 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
69 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
70 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
71 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
72 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
73 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
74 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
75 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
76 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
77 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
78 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
79 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

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

84 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
85 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
86 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
87 overpayments. If the credit balance information is incorporated into statements of account furnished
88 consumers by suppliers within such 60-day period, no separate or additional notice is required;

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

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

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

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

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

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

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

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

100 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
101 (§ 59.1-207.34 et seq.);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

121 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in §
122 59.1-526;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

175 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
176 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
177 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
178 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
179 16 (§ 4.1-1600 et seq.) of Title 4.1;

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

182 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
 183 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
 184 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
 185 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
 186 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
 187 accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to
 188 standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting
 189 body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
 190 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
 191 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 192 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
 193 16 (§ 4.1-1600 et seq.) of Title 4.1;

194 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in §
 195 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that
 196 depicts or is in the shape of a human, animal, vehicle, or fruit;

197 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
 198 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper
 199 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §
 200 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,
 201 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,
 202 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

203 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a
 204 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to
 205 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 206 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16
 207 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July
 208 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

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

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

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

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

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

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

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

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

234 83. *Violating any provision of the Artificial Intelligence Training Data Transparency Act (§ 59.1-607 et*
 235 *seq.).*

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

240 **§ 59.1-200. (Effective July 1, 2025) Prohibited practices.**

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

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

- 244 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 245 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,
- 246 with another;
- 247 4. Misrepresenting geographic origin in connection with goods or services;
- 248 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
- 249 benefits;
- 250 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
- 251 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,
- 252 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfections, or "not first class," without clearly
- 253 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,
- 254 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfections, or
- 255 "not first class";
- 256 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the
- 257 price or upon the terms advertised.
- 258 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant
- 259 thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or
- 260 offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when
- 261 it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are
- 262 advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or
- 263 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or
- 264 reasonably expected to have at least such quantity or amount for sale;
- 265 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of
- 266 price reductions;
- 267 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts
- 268 installed;
- 269 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill
- 270 for merchandise or services previously ordered;
- 271 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
- 272 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
- 273 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
- 274 goods or services advertised or offered for sale;
- 275 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or
- 276 attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that
- 277 are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal
- 278 statutes or regulations;
- 279 13a. Failing to provide to a consumer, or failing to use or include in any written document or material
- 280 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,
- 281 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so
- 282 provide, use, or include the statement, disclosure, notice, or other information in connection with the
- 283 consumer transaction;
- 284 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
- 285 with a consumer transaction;
- 286 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,
- 287 or 3.2-6519 is a violation of this chapter;
- 288 16. Failing to disclose all conditions, charges, or fees relating to:
- 289 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
- 290 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
- 291 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
- 292 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
- 293 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
- 294 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
- 295 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
- 296 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
- 297 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
- 298 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
- 299 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
- 300 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
- 301 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
- 302 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;
- 303 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of
- 304 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the

305 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure
306 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

307 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
308 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
309 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
310 overpayments. If the credit balance information is incorporated into statements of account furnished
311 consumers by suppliers within such 60-day period, no separate or additional notice is required;

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

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

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

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

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

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

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

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

323 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
324 (§ 59.1-207.34 et seq.);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

343 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
344 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in §
345 59.1-526;

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

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

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

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

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

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

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

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

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

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

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

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

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

366 drywall has been permanently installed or affixed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

398 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
399 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
400 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
401 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
402 16 (§ 4.1-1600 et seq.) of Title 4.1;

403 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
404 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
405 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
406 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
407 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
408 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
409 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
410 accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to
411 standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting
412 body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
413 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
414 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
415 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
416 16 (§ 4.1-1600 et seq.) of Title 4.1;

417 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in §
418 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that
419 depicts or is in the shape of a human, animal, vehicle, or fruit;

420 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
421 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper
422 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §
423 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,
424 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,
425 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

426 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a

427 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to
 428 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 429 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16
 430 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July
 431 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

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

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

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

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

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

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

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

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

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

458 84. *Violating any provision of the Artificial Intelligence Training Data Transparency Act (§ 59.1-607 et*
 459 *seq.).*

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

464 **§ 59.1-575. Definitions.**

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

466 "*Adolescent*" means any natural person that is at least 13 years of age but younger than 16 years of age.

467 "*Affiliate*" means a legal entity that controls, is controlled by, or is under common control with another
 468 legal entity or shares common branding with another legal entity. For the purposes of this definition,
 469 "control" or "controlled" means (i) ownership of, or the power to vote, more than 50 percent of the
 470 outstanding shares of any class of voting security of a company; (ii) control in any manner over the election
 471 of a majority of the directors or of individuals exercising similar functions; or (iii) the power to exercise
 472 controlling influence over the management of a company.

473 "*Authenticate*" means verifying through reasonable means that the consumer, entitled to exercise his
 474 consumer rights in § 59.1-577, is the same consumer exercising such consumer rights with respect to the
 475 personal data at issue.

476 "*Biometric data*" means data generated by automatic measurements of an individual's biological
 477 characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or
 478 characteristics that ~~is~~ *are* used to identify a specific individual. "Biometric data" does not include a physical
 479 or digital photograph, a video or audio recording or data generated therefrom, *unless such data is generated*
 480 *for the purpose of uniquely identifying a natural person*, or information collected, used, or stored for health
 481 care treatment, payment, or operations under HIPAA.

482 "*Business associate*" means the same meaning as the term established by HIPAA.

483 "*Child*" means any natural person younger than 13 years of age.

484 "*Consent*" means a clear affirmative act signifying a consumer's freely given, specific, informed, and
 485 unambiguous agreement to process personal data relating to the consumer. Consent may include a written
 486 statement, including a statement written by electronic means, or any other unambiguous affirmative action.

487 "*Consumer*" means a natural person who is a resident of the Commonwealth acting only in an individual

488 or household context. It does not include a natural person acting in a commercial or employment context.

489 "Controller" means the natural or legal person that, alone or jointly with others, determines the purpose

490 and means of processing personal data.

491 "Covered entity" means the same as the term is established by HIPAA.

492 "Decisions that produce legal or similarly significant effects concerning a consumer" means a decision

493 made by the controller that results in the provision or denial by the controller of financial and lending

494 services, housing, insurance, education enrollment, criminal justice, employment opportunities, health care

495 services, or access to basic necessities, such as food and water.

496 "De-identified data" means data that cannot reasonably be linked to an identified or identifiable natural

497 person, or a device linked to such person. A controller that possesses "de-identified data" shall comply with

498 the requirements of subsection A of § 59.1-581.

499 "Health record" means the same as that term is defined in § 32.1-127.1:03.

500 "Health care provider" means the same as that term is defined in § 32.1-276.3.

501 "HIPAA" means the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §

502 1320d et seq.).

503 "Identified or identifiable natural person" means a person who can be readily identified, directly or

504 indirectly.

505 "Institution of higher education" means a public institution and private institution of higher education, as

506 those terms are defined in § 23.1-100.

507 "Nonprofit organization" means any corporation organized under the Virginia Nonstock Corporation Act

508 (§ 13.1-801 et seq.) or any organization exempt from taxation under § 501(c)(3), 501(c)(6), or 501(c)(12) of

509 the Internal Revenue Code, any political organization, any organization exempt from taxation under §

510 501(c)(4) of the Internal Revenue Code that is identified in § 52-41, and any subsidiary or affiliate of entities

511 organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

512 "Online service, product, or feature" means any service, product, or feature that is provided online.

513 "Online service, product, or feature" does not include telecommunications service, as defined in 47 U.S.C. §

514 153, broadband Internet access service, as defined in 47 C.F.R. § 54.400, or delivery or use of a physical

515 product.

516 "Personal data" means any information that is linked or reasonably linkable to an identified or identifiable

517 natural person. "Personal data" does not include de-identified data or publicly available information.

518 "Political organization" means a party, committee, association, fund, or other organization, whether or not

519 incorporated, organized and operated primarily for the purpose of influencing or attempting to influence the

520 selection, nomination, election, or appointment of any individual to any federal, state, or local public office or

521 office in a political organization or the election of a presidential/vice-presidential elector, whether or not such

522 individual or elector is selected, nominated, elected, or appointed.

523 "Precise geolocation data" means information derived from technology, including ~~but not limited to~~ global

524 positioning system level latitude and longitude coordinates or other mechanisms, that directly identifies the

525 specific location of a natural person with precision and accuracy within a radius of 1,750 feet. "Precise

526 geolocation data" does not include the content of communications or any data generated by or connected to

527 advanced utility metering infrastructure systems or equipment for use by a utility.

528 "Process" or "processing" means any operation or set of operations performed, whether by manual or

529 automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure,

530 analysis, deletion, or modification of personal data.

531 "Processor" means a natural or legal entity that processes personal data on behalf of a controller.

532 "Profiling" means any form of automated processing performed on personal data to evaluate, analyze, or

533 predict personal aspects related to an identified or identifiable natural person's economic situation, health,

534 personal preferences, interests, reliability, behavior, location, or movements.

535 "Protected health information" means the same as the term is established by HIPAA.

536 "Pseudonymous data" means personal data that cannot be attributed to a specific natural person without

537 the use of additional information, provided that such additional information is kept separately and is subject

538 to appropriate technical and organizational measures to ensure that the personal data is not attributed to an

539 identified or identifiable natural person.

540 "Publicly available information" means information that is lawfully made available through federal, state,

541 or local government records, or information that a business has a reasonable basis to believe is lawfully made

542 available to the general public through widely distributed media, by the consumer, or by a person to whom

543 the consumer has disclosed the information, unless the consumer has restricted the information to a specific

544 audience.

545 "Sale of personal data" means the exchange of personal data for monetary *or other valuable* consideration

546 by the controller to a third party. "Sale of personal data" does not include:

547 1. The disclosure of personal data to a processor that processes the personal data on behalf of the

548 controller;

549 2. The disclosure of personal data to a third party for purposes of providing a product or service requested

550 by the consumer;

551 3. The disclosure or transfer of personal data to an affiliate of the controller;

552 4. The disclosure of information that the consumer (i) intentionally made available to the general public
553 via a channel of mass media and (ii) did not restrict to a specific audience; or

554 5. The disclosure or transfer of personal data to a third party as an asset that is part of a merger,
555 acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the
556 controller's assets.

557 "Sensitive data" means a category of personal data that includes:

558 1. Personal data revealing racial or ethnic origin, religious beliefs, mental or physical health *condition or*
559 diagnosis, sexual orientation, or citizenship or immigration status;

560 2. The processing of genetic or biometric data for the purpose of uniquely identifying a natural person;

561 3. The personal data collected from a known child; or

562 4. Precise geolocation data.

563 "State agency" means the same as that term is defined in § 2.2-307.

564 "Targeted advertising" means displaying advertisements to a consumer where the advertisement is
565 selected based on personal data obtained from that consumer's activities over time and across nonaffiliated
566 websites or online applications to predict such consumer's preferences or interests. "Targeted advertising"
567 does not include:

568 1. Advertisements based on activities within a controller's own websites or online applications;

569 2. Advertisements based on the context of a consumer's current search query, visit to a website, or online
570 application;

571 3. Advertisements directed to a consumer in response to the consumer's request for information or
572 feedback; or

573 4. Processing personal data processed solely for measuring or reporting advertising performance, reach, or
574 frequency.

575 "Third party" means a natural or legal person, public authority, agency, or body other than the consumer,
576 controller, processor, or an affiliate of the processor or the controller.

577 **§ 59.1-577. Personal data rights; consumers.**

578 A. A consumer may invoke the consumer rights authorized pursuant to this subsection at any time by
579 submitting a request to a controller specifying the consumer rights the consumer wishes to invoke. A known
580 child's parent or legal guardian may invoke such consumer rights on behalf of the child regarding processing
581 personal data belonging to the known child. A controller shall comply with an authenticated consumer
582 request to exercise the right:

583 1. To confirm whether or not a controller is processing the consumer's personal data and to access such
584 personal data;

585 2. To correct inaccuracies in the consumer's personal data, taking into account the nature of the personal
586 data and the purposes of the processing of the consumer's personal data;

587 3. To delete personal data provided by or obtained about the consumer;

588 4. To obtain a copy of the consumer's personal data that the consumer previously provided to the
589 controller in a portable and, to the extent technically feasible, readily usable format that allows the consumer
590 to transmit the data to another controller without hindrance, where the processing is carried out by automated
591 means; and

592 5. To opt out of the processing of ~~the~~ personal data for purposes of (i) targeted advertising, (ii) the sale of
593 personal data, or (iii) profiling in furtherance of decisions that produce legal or similarly significant effects
594 concerning the consumer. *A consumer may authorize a third party, acting on the consumer's behalf, to opt*
595 *out of the processing of the consumer's personal data for the purposes described in this subdivision. Such*
596 *authorization may be made using technology that indicates the consumer's intent to opt out, including a*
597 *browser setting, browser extension, global device setting, or other user-selected universal opt-out*
598 *mechanism. For the purposes of this subdivision, the user-selected universal opt-out mechanism shall:*

599 *a. Not unfairly disadvantage a controller;*

600 *b. Require the consumer to make an affirmative, freely given, and unambiguous choice to opt out of any*
601 *processing of a consumer's personal data;*

602 *c. Be easy to use by the average consumer;*

603 *d. Be consistent with state and federal laws and regulations; and*

604 *e. Allow the controller to accurately determine whether the consumer has made a legitimate request to opt*
605 *out under this subdivision 5.*

606 B. Except as otherwise provided in this chapter, a controller shall comply with a request by a consumer to
607 exercise the consumer rights authorized pursuant to subsection A as follows:

608 1. A controller shall respond to the consumer without undue delay, but in all cases within 45 days of
609 receipt of the request submitted pursuant to the methods described in subsection A. The response period may
610 be extended once by 45 additional days when reasonably necessary, taking into account the complexity and

611 number of the consumer's requests, so long as the controller informs the consumer of any such extension
612 within the initial 45-day response period, together with the reason for the extension.

613 2. If a controller declines to take action regarding the consumer's request, the controller shall inform the
614 consumer without undue delay, but in all cases and at the latest within 45 days of receipt of the request, of the
615 justification for declining to take action and instructions for how to appeal the decision pursuant to subsection
616 C.

617 3. Information provided in response to a consumer request shall be provided by a controller free of charge,
618 up to twice annually per consumer. If requests from a consumer are manifestly unfounded, excessive, or
619 repetitive, the controller may charge the consumer a reasonable fee to cover the administrative costs of
620 complying with the request or decline to act on the request. The controller bears the burden of demonstrating
621 the manifestly unfounded, excessive, or repetitive nature of the request.

622 4. If a controller is unable to authenticate the request using commercially reasonable efforts, the controller
623 shall not be required to comply with a request to initiate an action under subsection A and may request that
624 the consumer provide additional information reasonably necessary to authenticate the consumer and the
625 consumer's request.

626 5. A controller that has obtained personal data about a consumer from a source other than the consumer
627 shall be deemed in compliance with a consumer's request to delete such data pursuant to subdivision A 3 by
628 either (i) retaining a record of the deletion request and the minimum data necessary for the purpose of
629 ensuring the consumer's personal data remains deleted from the business's records and not using such retained
630 data for any other purpose pursuant to the provisions of this chapter or (ii) opting the consumer out of the
631 processing of such personal data for any purpose except for those exempted pursuant to the provisions of this
632 chapter.

633 *6. If a consumer's decision to authorize a third party to act on his behalf to opt out of the processing of his*
634 *personal data pursuant to subdivision A 5 conflicts with the consumer's existing privacy setting with a*
635 *controller or voluntary participation in a controller's bona fide loyalty, rewards, premium features,*
636 *discounts, or club card program, the controller shall comply with the consumer's opt-out but may notify the*
637 *consumer of the conflict and provide the consumer with the choice to confirm his preferred privacy setting.*

638 *7. If a controller charges a fee for the use of a user-selected universal opt-out mechanism as described in*
639 *subdivision A 5, the controller shall inform a consumer attempting to use such mechanism of such fee.*

640 C. A controller shall establish a process for a consumer to appeal the controller's refusal to take action on
641 a request within a reasonable period of time after the consumer's receipt of the decision pursuant to
642 subdivision B 2. The appeal process shall be conspicuously available and similar to the process for submitting
643 requests to initiate action pursuant to subsection A. Within 60 days of receipt of an appeal, a controller shall
644 inform the consumer in writing of any action taken or not taken in response to the appeal, including a written
645 explanation of the reasons for the decisions. If the appeal is denied, the controller shall also provide the
646 consumer with an online mechanism, if available, or other method through which the consumer may contact
647 the Attorney General to submit a complaint.

648 **§ 59.1-578. Data controller responsibilities; transparency.**

649 A. A controller shall:

650 1. Limit the collection of personal data to what is adequate, relevant, and reasonably necessary in relation
651 to the purposes for which such data is processed, as disclosed to the consumer;

652 2. Except as otherwise provided in this chapter, not process personal data for purposes that are neither
653 reasonably necessary to nor compatible with the disclosed purposes for which such personal data is
654 processed, as disclosed to the consumer, unless the controller obtains the consumer's consent;

655 3. Establish, implement, and maintain reasonable administrative, technical, and physical data security
656 practices to protect the confidentiality, integrity, and accessibility of personal data. Such data security
657 practices shall be appropriate to the volume and nature of the personal data at issue;

658 4. Not process personal data in violation of state and federal laws that prohibit unlawful discrimination
659 against consumers. A controller shall not discriminate against a consumer for exercising any of the consumer
660 rights contained in this chapter, including denying goods or services, charging different prices or rates for
661 goods or services, or providing a different level of quality of goods and services to the consumer. However,
662 nothing in this subdivision shall be construed to require a controller to provide a product or service that
663 requires the personal data of a consumer that the controller does not collect or maintain or to prohibit a
664 controller from offering a different price, rate, level, quality, or selection of goods or services to a consumer,
665 including offering goods or services for no fee, if the consumer has exercised his right to opt out pursuant to §
666 59.1-577 or the offer is related to a consumer's voluntary participation in a bona fide loyalty, rewards,
667 premium features, discounts, or club card program; and

668 5. Not process sensitive data concerning a consumer, *including an adolescent consumer*, without
669 obtaining the consumer's consent, or, in the case of the processing of sensitive data concerning a known child,
670 without processing such data in accordance with the federal Children's Online Privacy Protection Act (15
671 U.S.C. § 6501 et seq.).

672 B. Any provision of a contract or agreement of any kind that purports to waive or limit in any way

673 consumer rights pursuant to § 59.1-577 shall be deemed contrary to public policy and shall be void and
 674 unenforceable.

675 C. Controllers shall provide consumers with a reasonably accessible, clear, and meaningful privacy notice
 676 that includes:

677 1. The categories of personal data processed by the controller;

678 2. The purpose for processing personal data;

679 3. How consumers may exercise their consumer rights pursuant § 59.1-577, including how a consumer
 680 may appeal a controller's decision with regard to the consumer's request;

681 4. The categories of personal data that the controller shares with third parties, if any; and

682 5. The categories of third parties, if any, with whom the controller shares personal data.

683 D. If a controller sells personal data to third parties or processes personal data for targeted advertising, the
 684 controller shall clearly and conspicuously disclose such processing, as well as the manner in which a
 685 consumer may exercise the right to opt out of such processing.

686 E. A controller shall establish, and shall describe in a privacy notice, one or more secure and reliable
 687 means for consumers to submit a request to exercise their consumer rights under this chapter. Such means
 688 shall take into account the ways in which consumers normally interact with the controller, the need for secure
 689 and reliable communication of such requests, and the ability of the controller to authenticate the identity of
 690 the consumer making the request. Controllers shall not require a consumer to create a new account in order to
 691 exercise consumer rights pursuant to § 59.1-577 but may require a consumer to use an existing account.

692 F. 1. Subject to the consent requirement established by subdivision 3, no controller shall process any
 693 personal data collected from a known child:

694 a. For the purposes of (i) targeted advertising, (ii) the sale of such personal data, or (iii) profiling in
 695 furtherance of decisions that produce legal or similarly significant effects concerning a consumer;

696 b. Unless such processing is reasonably necessary to provide the online service, product, or feature;

697 c. For any processing purpose other than the processing purpose that the controller disclosed at the time
 698 such controller collected such personal data or that is reasonably necessary for and compatible with such
 699 disclosed purpose; or

700 d. For longer than is reasonably necessary to provide the online service, product, or feature.

701 2. Subject to the consent requirement established by subdivision 3, no controller shall collect precise
 702 geolocation data from a known child unless (i) such precise geolocation data is reasonably necessary for the
 703 controller to provide an online service, product, or feature and, if such data is necessary to provide such
 704 online service, product, or feature, such controller shall only collect such data for the time necessary to
 705 provide such online service, product, or feature and (ii) the controller provides to the known child a signal
 706 indicating that such controller is collecting such precise geolocation data, which signal shall be available to
 707 such known child for the entire duration of such collection.

708 3. No controller shall engage in the activities described in subdivisions 1 or 2 unless the controller obtains
 709 consent from the child's parent or legal guardian in accordance with the federal Children's Online Privacy
 710 Protection Act (15 U.S.C. § 6501 et seq.).

711 G. 1. *Subject to the consent requirement established by subdivision 3 and where a controller has actual
 712 knowledge or willfully disregards that a consumer is an adolescent, no controller shall process any personal
 713 data collected from such adolescent:*

714 a. *For the purposes of (i) targeted advertising, (ii) the sale of such personal data, or (iii) profiling in
 715 furtherance of decisions that produce legal or similarly significant effects concerning a consumer;*

716 b. *Unless such processing is reasonably necessary to provide the online service, product, or feature;*

717 c. *For any processing purpose other than the processing purpose that the controller disclosed at the time
 718 such controller collected such personal data or that is reasonably necessary for and compatible with such
 719 disclosed purpose; or*

720 d. *For longer than is reasonably necessary to provide the online service, product, or feature.*

721 2. *Subject to the consent requirement established by subdivision 3 and where a controller has actual
 722 knowledge or willfully disregards that a consumer is an adolescent, no controller shall collect precise
 723 geolocation data from such adolescent unless (i) such precise geolocation data is reasonably necessary for
 724 the controller to provide an online service, product, or feature and, if such data is necessary to provide such
 725 online service, product, or feature, such controller shall only collect such data for the time necessary to
 726 provide such online service, product, or feature and (ii) the controller provides to the adolescent a signal
 727 indicating that such controller is collecting such precise geolocation data, which signal shall be available to
 728 such adolescent for the entire duration of such collection.*

729 3. *No controller shall engage in the activities described in subdivision 1 or 2 unless the controller obtains
 730 consent from the adolescent consumer.*

731 **§ 59.1-584. Enforcement; civil penalty; expenses.**

732 A. The Attorney General shall have exclusive authority to enforce the provisions of this chapter.

733 B. Prior to initiating any action under this chapter, the Attorney General ~~shall~~ may provide a controller or

734 processor 30 days' written notice identifying the specific provisions of this chapter the Attorney General
 735 alleges have been or are being violated. If within the 30-day period the controller or processor cures the
 736 noticed violation and provides the Attorney General an express written statement that the alleged violations
 737 have been cured and that no further violations shall occur, no action shall be initiated against the controller or
 738 processor.

739 C. *The Attorney General, in determining whether to grant a controller or processor the opportunity to*
 740 *cure an alleged violation of this chapter, shall give due consideration to:*

- 741 1. *The controller's or processor's history of previous violations of this chapter;*
- 742 2. *The size and complexity of the controller or processor;*
- 743 3. *The nature and extent of the controller's or processor's processing activities;*
- 744 4. *The substantial likelihood of injury to the public as a result of the alleged violation;*
- 745 5. *The safety of persons or property after the alleged violation;*
- 746 6. *Whether the alleged violation was likely caused by human or technical error; and*
- 747 7. *The demonstrated good faith of the controller or processor in attempting to achieve compliance with*
 748 *this chapter.*

749 D. *If a controller or processor ~~continues to violate~~ violates this chapter following, fails to cure a noticed*
 750 *violation within the cure period in subsection B, or breaches an express written statement provided to the*
 751 *Attorney General under that subsection, the Attorney General may initiate an action in the name of the*
 752 *Commonwealth and may seek an injunction to restrain any violations of this chapter and civil penalties of up*
 753 *to \$7,500 for each violation under this chapter. All civil penalties, expenses, and attorney fees collected*
 754 *pursuant to this chapter shall be paid into the state treasury and credited to the Regulatory, Consumer*
 755 *Advocacy, Litigation, and Enforcement Revolving Trust Fund.*

756 ~~D.~~ E. *The Attorney General may recover reasonable expenses incurred in investigating and preparing the*
 757 *case, including attorney fees, in any action initiated under this chapter.*

758 ~~E.~~ F. *Nothing in this chapter shall be construed as providing the basis for, or be subject to, a private right*
 759 *of action for violations of this chapter or under any other law.*

760 CHAPTER 58.

761 ARTIFICIAL INTELLIGENCE TRAINING DATA TRANSPARENCY ACT.

762 § 59.1-607. *Definitions.*

763 "*Artificial intelligence*" means a set of technologies that enables machines to perform tasks under varying
 764 and unpredictable circumstances that typically require human oversight or intelligence, or that can learn
 765 from experience and improve performance when exposed to data sets.

766 "*Artificial intelligence system*" means any machine-based system that, for any explicit or implicit
 767 objective, infers from the inputs such system received how to generate outputs, including content, decisions,
 768 predictions, and recommendations, that can influence physical or virtual environments.

769 "*Developer*" means any person doing business in the Commonwealth that develops or significantly
 770 updates an artificial intelligence system that is offered, sold, leased, given, or otherwise provided to
 771 consumers in the Commonwealth.

772 "*Do Not Train data*" means any data whose owner or publisher has affirmatively asserted that the data
 773 should not be used for training an artificial intelligence system.

774 "*Generative artificial intelligence*" means artificial intelligence based on a foundation model that is
 775 capable of and used to produce synthetic digital content, including audio, images, text, and videos.

776 "*Generative artificial intelligence system or service*" means any artificial intelligence system or service
 777 that incorporates generative artificial intelligence.

778 "*Personal data*" means the same as that term is defined in § 59.1-575.

779 "*Preprocessing*" means any cleaning, processing, or other modification of data prior to usage.

780 "*Primary content owner*" means (i) a person, partnership, or company that owns, in full or in part, digital
 781 data, content, or objects that are subject to copyright protection or (ii) a natural person with personally
 782 identifiable information.

783 "*Publicly available mechanism*" means a mechanism that is lawfully made available to the general public
 784 by a developer or other entity through wide distribution, unless the mechanism is restricted to a specific
 785 audience.

786 "*Security or integrity*" means the ability of (i) networks or information systems to detect security incidents
 787 that compromise the availability, authenticity, integrity, and confidentiality of stored or transmitted personal
 788 information; (ii) businesses to detect security incidents, resist malicious, deceptive, fraudulent, or illegal
 789 actions, and help prosecute those responsible for such actions; and (iii) businesses to ensure the physical
 790 safety of natural persons.

791 "*Significant update*" means any new version, new release, or other update to a generative artificial
 792 intelligence system or service that results in significant changes to such system's or service's use case or key
 793 functionality, including the results of retraining or fine-tuning.

794 "*Synthetic data generation*" means a process in which seed data are used to create artificial data by using

795 a generative artificial intelligence system or service.

796 "Synthetic digital content" means any digital content, including any audio, image, text, or video, that is
797 produced or manipulated by a generative artificial intelligence system or service, including a
798 general-purpose artificial intelligence model.

799 "Train a generative artificial intelligence system or service" includes, in addition to initial data set
800 training, further testing, validating, or fine-tuning by the developer of the generative artificial intelligence
801 system or service.

802 "Training Data Deletion Request" or "TDDR" means a mechanism by which a primary content owner
803 submits a request to a developer to delete content that was or will be ingested by or included in a generative
804 artificial intelligence training data set.

805 "Training Data Verification Request" or "TDVR" means a mechanism by which a primary content owner
806 submits a request to a developer to verify if the owner's content was ingested by or included in a generative
807 artificial intelligence training data set.

808 **§ 59.1-608. Transparency and disclosure requirements.**

809 A. A developer of a generative artificial intelligence system or service that is made available in the
810 Commonwealth for use, regardless of whether the terms of that use include compensation, shall post on the
811 developer's website the following information about the generative artificial intelligence training data set
812 used to train the generative artificial intelligence system or service:

813 1. A description of each data set used in the development of such system or service, including:

814 a. The name of the data set;

815 b. The source or owner of the data set;

816 c. The approximate amount of data included in the data set;

817 d. A statement of whether the data set includes any data protected by copyright, trademark, or patent;

818 e. A description of any steps taken to manage copyrighted, trademarked, or patented data, including
819 whether the data set was purchased or licensed by the developer and whether such data set has been
820 preprocessed to filter copyrighted, trademarked, or patented data;

821 f. A statement of whether the data set includes any Do Not Train data;

822 g. A description of any steps taken to manage Do Not Train data, including whether the data set was
823 purchased or licensed by the developer and whether such data set has been preprocessed to filter Do Not
824 Train data;

825 h. A statement of whether the data set includes personal data;

826 i. A description of any steps taken to manage personal data, including whether the data set has been
827 preprocessed to filter personal data, whether individuals were given the opportunity to opt out of their data
828 being used to train a generative artificial intelligence system or service, whether notice was given to
829 individuals that their data was being used to train a generative artificial intelligence system or service, and
830 whether personal data collected prior to an opt-out is included;

831 j. A statement of whether the data set includes any illegal materials;

832 k. A description of any steps taken to manage illegal materials, including whether the data set has been
833 preprocessed to filter illegal materials;

834 l. The time period during which the data in the data set was collected, including a notice if the data
835 collection is ongoing; and

836 m. A disclosure that the generative artificial intelligence system or service uses synthetic data generation
837 in its development.

838 2. The disclosures required by this chapter to the extent that they derive from the generative artificial
839 intelligence system or service that is used during synthetic data generation.

840 B. A developer of a generative artificial intelligence system or service shall publish the disclosures
841 required by this section no later than 72 hours after such system or service is made available for use in the
842 Commonwealth.

843 C. After a significant update has been made to a generative artificial intelligence system or service, the
844 developer of such system or service shall update the published disclosures required by this section no later
845 than 72 hours after the updated system or service is made available for use in the Commonwealth.

846 D. No developer shall be required to post documentation regarding the data used to train a generative
847 artificial intelligence system or service that has the sole purpose of ensuring security or integrity.

848 **§ 59.1-609. Developer duties.**

849 A. A developer shall keep detailed records of the generative artificial intelligence data set used to train a
850 generative artificial intelligence system or service. A developer shall be deemed compliant with this
851 subsection if the developer adheres to the latest version of the Artificial Intelligence Risk Management
852 Framework published by the National Institute of Standards and Technology, Standard ISO/IEC 42001 of the
853 International Organization for Standardization, or another nationally or internationally recognized risk
854 management framework for artificial intelligence systems or parts thereof.

855 B. A developer shall provide a clearly designated and publicly available mechanism for the submission of

856 Training Data Verification Requests and shall provide verification pursuant to a TDVR within 30 days of
857 receiving such a request.

858 C. A developer shall provide a clearly designated and publicly available mechanism for the submission of
859 Training Data Deletion Requests and shall delete content pursuant to a TDDR within 30 days of receiving
860 such a request. A developer shall delete content pursuant to a TDDR for all future versions of a generative
861 artificial intelligence system or service.

862 **§ 59.1-610. Nondisclosure or confidentiality agreement.**

863 A. No developer shall require an employee or a prospective employee to execute or renew any provision
864 in a nondisclosure or confidentiality agreement, including any provision relating to nondisparagement, that
865 has the purpose or effect of concealing the details relating to a claim of noncompliance with this chapter. Any
866 such provision is against public policy and is void and unenforceable.

867 B. This section shall in no way limit other grounds that exist at law or in equity for the unenforceability of
868 any such agreement or any provision of such agreement.

869 **§ 59.1-611. Enforcement; right to cure.**

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

873 B. 1. Prior to initiating an enforcement action for a violation of this chapter, the Attorney General may
874 provide a developer 30 days' written notice identifying the specific provisions of this chapter the Attorney
875 General alleges have been or are being violated. If within the 30-day period the developer cures the noticed
876 violation and provides the Attorney General an express written statement that the alleged violations have
877 been cured and that no further violations shall occur, no action shall be initiated against the developer.

878 2. The Attorney General, in determining whether to grant a developer the opportunity to cure an alleged
879 violation of this chapter, shall give due consideration to:

880 a. The developer's history of previous violations of this chapter;

881 b. The size and complexity of the developer;

882 c. The nature and complexity of the developer's generative artificial intelligence system or service;

883 d. The substantial likelihood of injury to the public as a result of the alleged violation;

884 e. The safety of persons or property after the alleged violation;

885 f. Whether the alleged violation was likely caused by human or technical error; and

886 g. The demonstrated good faith of the developer in attempting to achieve compliance with this chapter.

887 C. Any person or entity claiming to be injured due to a violation of this chapter shall be entitled to initiate
888 an action to recover monetary damages pursuant to § 59.1-204 or to obtain injunctive or any other available
889 equitable relief. In granting equitable relief, the court may award reasonable attorney fees and costs to the
890 person or entity injured.

891 **2. That the provisions of § 59.1-584 of the Code of Virginia, as amended by this act, shall become**
892 **effective on January 1, 2026.**

893 **3. That the provisions of § 59.1-200 of the Code of Virginia, as amended by this act, and §§ 59.1-607**
894 **through 59.1-611 of the Code of Virginia, as created by this act, shall become effective on July 1, 2026.**