

25103348D

HOUSE BILL NO. 2497

Offered January 13, 2025

Prefiled January 8, 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 a section numbered 3.2-102.1 and by adding in Title 59.1 a chapter numbered 58, consisting of sections numbered 59.1-607, 59.1-608, and 59.1-609, relating to Department of Agriculture and Consumer Services; electric vehicle battery suppliers; certification; penalties.

Patrons—Cordoza, Fowler and Green

Referred to Committee on Agriculture, Chesapeake and Natural Resources

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 a section numbered 3.2-102.1 and by adding in Title 59.1 a chapter numbered 58, consisting of sections numbered 59.1-607, 59.1-608, and 59.1-609, as follows:

§ 3.2-102.1. Electric vehicle battery suppliers; certification required.**A. For purposes of this section:**

"Consumer transaction" means the same as that term is defined in § 59.1-198, except that "consumer transaction" also means the advertisement, sale, lease, license, or offering for sale, lease, or license of electric vehicle batteries to be used for business or commercial purposes.

"Supplier" means a seller, lessor, licensor, or professional that advertises, solicits, or engages in consumer transactions of electric vehicle batteries or a manufacturer, distributor, or licensor that advertises and sells, leases, or licenses electric vehicle batteries to be resold, leased, or sublicensed by other persons in consumer transactions.

B. No later than July 1, 2026, and annually thereafter, each supplier of electric vehicle batteries operating in the Commonwealth shall certify under penalty of perjury to the Commissioner that no electric vehicle batteries sold by such supplier in consumer transactions are manufactured in or sourced from African cobalt mines and that the manufacture or sourcing of such electric vehicle batteries involves no child or slave labor. An electric vehicle battery supplier may be required to submit other information as the Commissioner deems necessary for the issuance of a certificate of compliance.

C. The Commissioner shall develop regulations regarding the issuance of a certificate of compliance for electric vehicle battery suppliers operating in the Commonwealth pursuant to the requirements of this section.

§ 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

59 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or
60 reasonably expected to have at least such quantity or amount for sale;

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

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

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

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

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

75 13a. Failing to provide to a consumer, or failing to use or include in any written document or material
76 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,
77 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so
78 provide, use, or include the statement, disclosure, notice, or other information in connection with the
79 consumer transaction;

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

82 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,
83 or 3.2-6519 is a violation of this chapter;

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

85 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
86 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
87 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
88 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
89 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
90 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
91 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
92 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
93 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
94 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
95 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
96 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
97 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
98 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

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

103 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
104 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
105 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
106 overpayments. If the credit balance information is incorporated into statements of account furnished
107 consumers by suppliers within such 60-day period, no separate or additional notice is required;

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

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

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

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

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

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

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

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

119 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
120 (§ 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;

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

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

194 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
195 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
196 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
197 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
198 16 (§ 4.1-1600 et seq.) of Title 4.1;

199 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
200 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
201 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
202 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
203 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
204 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
205 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
206 accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to
207 standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting
208 body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
209 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
210 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
211 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
212 16 (§ 4.1-1600 et seq.) of Title 4.1;

213 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in §
214 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that
215 depicts or is in the shape of a human, animal, vehicle, or fruit;

216 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
217 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper
218 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §
219 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,
220 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,
221 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

222 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a
223 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to
224 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
225 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16
226 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July
227 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

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

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

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

235 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved
236 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted
237 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,
238 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not
239 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the
240 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning
241 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not
242 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the
243 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved
244 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 Chapter 58 (§ 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:

307 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
308 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
309 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
310 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
311 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
312 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
313 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
314 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
315 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
316 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
317 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
318 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
319 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
320 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

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

325 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
326 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
327 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
328 overpayments. If the credit balance information is incorporated into statements of account furnished
329 consumers by suppliers within such 60-day period, no separate or additional notice is required;

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

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

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

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

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

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

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

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

341 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
342 (§ 59.1-207.34 et seq.);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

361 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
362 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in §
363 59.1-526;

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

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

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

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

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

- 369 47. Violating any provision of § 18.2-239;
- 370 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 371 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 372 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 373 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 374 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
- 375 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
- 376 products that are used, secondhand or "seconds";
- 377 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 378 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 379 52. Violating any provision of § 8.2-317.1;
- 380 53. Violating subsection A of § 9.1-149.1;
- 381 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
- 382 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
- 383 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
- 384 drywall has been permanently installed or affixed;
- 385 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
- 386 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
- 387 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of
- 388 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
- 389 seq.) of Title 54.1;
- 390 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 391 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 392 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,
- 393 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer
- 394 by a supplier to a small business, as those terms are defined in § 59.1-207.45;
- 395 59. Violating any provision of subsection E of § 32.1-126;
- 396 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under
- 397 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 398 61. Violating any provision of § 2.2-2001.5;
- 399 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 400 63. Violating any provision of § 6.2-312;
- 401 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 402 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 403 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 404 67. Knowingly violating any provision of § 8.01-27.5;
- 405 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel
- 406 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a
- 407 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an
- 408 obligation to pay for the goods or services;
- 409 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 410 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic
- 411 derivative" means a chemical compound produced by man through a chemical transformation to turn a
- 412 compound into a different compound by adding or subtracting molecules to or from the original compound.
- 413 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug
- 414 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit
- 415 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 416 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
- 417 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
- 418 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
- 419 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
- 420 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 421 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 422 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
- 423 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
- 424 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
- 425 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
- 426 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
- 427 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
- 428 accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to
- 429 standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting
- 430 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 Chapter 58 (§ 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.

ELECTRIC VEHICLE BATTERY SUPPLIERS.

§ 59.1-607. Definitions.

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

"Commissioner" means the Commissioner of Agriculture and Consumer Services.

"Consumer transaction" means the same as that term is defined in § 59.1-198, except that "consumer transaction" also means the advertisement, sale, lease, license, or offering for sale, lease, or license of electric vehicle batteries to be used for business or commercial purposes.

"Supplier" means a seller, lessor, licensor, or professional that advertises, solicits, or engages in consumer transactions of electric vehicle batteries or a manufacturer, distributor, or licensor that advertises and sells, leases, or licenses electric vehicle batteries to be resold, leased, or sublicensed by other persons in consumer transactions.

§ 59.1-608. Certification required.

It is unlawful for any supplier to sell, lease, or license, or to offer to sell, lease, or license, any electric vehicle battery as part of a consumer transaction in the Commonwealth without first obtaining a valid and current certificate of compliance from the Commissioner pursuant to § 3.2-102.1.

§ 59.1-609. 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.).