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SENATE BILL NO. 1212

Offered January 8, 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, 59.1-586, and 59.1-587 of the Code of Virginia and to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 58, consisting of sections numbered 59.1-607 through 59.1-610, relating to Virginia Consumer Protection Act; prohibited practices; mandatory fees or surcharges disclosure.

Patrons—Pekarsky and Marsden

Referred to Committee on General Laws and Technology

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, 59.1-586, and 59.1-587 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 59.1-610, as follows:

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

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

1. Misrepresenting goods or services as those of another;
 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;
 4. Misrepresenting geographic origin in connection with goods or services;
 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;
 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or "not first class";
 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.
- In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;
9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;
 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;
 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;
 12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;
 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;
 - 13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so

- 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 Chapter 58 (§ 59.1-607 et seq.).*

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

239 **§ 59.1-200. (Effective July 1, 2025) Prohibited practices.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

278 13a. Failing to provide to a consumer, or failing to use or include in any written document or material
279 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,
280 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so
281 provide, use, or include the statement, disclosure, notice, or other information in connection with the
282 consumer transaction;

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

285 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,
286 or 3.2-6519 is a violation of this chapter;

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

288 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
289 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
290 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
291 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
292 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
293 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
294 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
295 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
296 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
297 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
298 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
299 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
300 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
301 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

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

- 305 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;
- 306 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
- 307 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
- 308 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
- 309 overpayments. If the credit balance information is incorporated into statements of account furnished
- 310 consumers by suppliers within such 60-day period, no separate or additional notice is required;
- 311 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
- 312 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;
- 313 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
- 314 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);
- 315 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);
- 316 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17
- 317 et seq.);
- 318 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 319 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et
- 320 seq.);
- 321 24. Violating any provision of § 54.1-1505;
- 322 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
- 323 (§ 59.1-207.34 et seq.);
- 324 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 325 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 326 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 327 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);
- 328 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
- 329 seq.);
- 330 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 331 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 332 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 333 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 334 35. Using the consumer's social security number as the consumer's account number with the supplier, if
- 335 the consumer has requested in writing that the supplier use an alternate number not associated with the
- 336 consumer's social security number;
- 337 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 338 37. Violating any provision of § 8.01-40.2;
- 339 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 340 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 341 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 342 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
- 343 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in §
- 344 59.1-526;
- 345 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 346 43. Violating any provision of § 59.1-443.2;
- 347 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 348 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 349 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 350 47. Violating any provision of § 18.2-239;
- 351 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 352 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 353 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 354 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 355 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
- 356 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
- 357 products that are used, secondhand or "seconds";
- 358 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 359 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 360 52. Violating any provision of § 8.2-317.1;
- 361 53. Violating subsection A of § 9.1-149.1;
- 362 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
- 363 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
- 364 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
- 365 drywall has been permanently installed or affixed;
- 366 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

428 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16
 429 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July
 430 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

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

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

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

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

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

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

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

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

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

457 84. *Violating any provision of Chapter 58 (§ 59.1-607 et seq.).*

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

462 **§ 59.1-586. Definitions.**

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

464 "*Additional fee or percentage*" has the same meaning as "*mandatory fees or surcharges*" in § 59.1-607.

465 "*Clear and conspicuous*" has the same meaning as provided in § 59.1-607.

466 "Food delivery platform" means a person that operates a mobile application or other online service to act
 467 as an intermediary between consumers and multiple restaurants to submit food orders on behalf of a
 468 consumer to a participating restaurant and to arrange for the delivery of the order from the restaurant to the
 469 consumer.

470 "Restaurant" has the same meaning as provided in § 35.1-1 and excludes establishments listed in §
 471 35.1-25.

472 **§ 59.1-587. Food delivery platform; agreements required; disclosure of price and fees.**

473 A. No food delivery platform shall submit an order on behalf of a consumer to a restaurant or arrange for
 474 the delivery of an order from a restaurant without first obtaining an agreement with the restaurant expressly
 475 authorizing the food delivery platform to submit orders to and deliver food prepared by the restaurant.

476 B. *A food delivery platform shall:*

477 1. *At the point when a consumer views and selects a vendor or items for purchase, include a clear and*
 478 *conspicuous disclosure of any additional fee or percentage charged; and*

479 2. *After a consumer selects items for purchase, but prior to checkout, display a subtotal page that itemizes*
 480 *the price of such selected items and any additional fee or percentage included in the total cost.*

481 **CHAPTER 58.**

482 **MANDATORY FEES OR SURCHARGES.**

483 **§ 59.1-607. Definitions.**

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

485 "*Auction*" has the same meaning as provided in § 54.1-600.

486 "*Broadband Internet access service*" has the same meaning as provided in 47 C.F.R. § 8.1(b).

487 "*Cable operator*" has the same meaning as provided in 47 U.S.C. § 522.

488 "*Clear and conspicuous*" and "*clearly and conspicuously*" have the same meaning as provided for those

489 terms in § 59.1-207.45.

490 "Consumer transaction" has the same meaning as provided in § 59.1-198.

491 "Electric utility" has the same meaning as provided in § 56-576.

492 "Federal broadband consumer requirements" means the broadband consumer requirements adopted by
493 the Federal Communications Commission in FCC 22-86 on November 14, 2022.

494 "Hotel" has the same meaning as provided in § 35.1-1.

495 "Mandatory fees or surcharges" includes (i) any fee or surcharge that must be paid in order to purchase
496 the good or service being advertised, (ii) any fee or surcharge that is not reasonably avoidable, and (iii) any
497 fee or surcharge for any good or service that a reasonable consumer would expect to be included with the
498 purchase of the good or service being advertised. "Mandatory fees or surcharges" does not include (a) taxes
499 or fees imposed on the consumer by a government or government-approved entity or assessment fees of a
500 government-created special district or program paid to the government or government-approved entity or (b)
501 reasonable postage or shipping fees.

502 "Motor vehicle dealer" has the same meaning as provided in § 46.2-1500.

503 "Natural gas utility" has the same meaning as provided in § 56-610.

504 "Restaurant" has the same meaning as provided in § 35.1-1.

505 "Settlement services" has the same meaning as provided in 12 U.S.C. § 2602(3).

506 "Supplier" has the same meaning as provided in § 59.1-198.

507 "Telecommunications service provider" has the same meaning as provided in § 56-466.1.

508 "Price-variable supplier" means a supplier that offers services the total price of which is determined by
509 consumer selections or preferences or dependent on distance or time.

510 **§ 59.1-608. Mandatory fees or surcharges; disclosure required.**

511 A. No supplier shall, in connection with a consumer transaction, advertise or display a price for goods or
512 services without clearly and conspicuously displaying the total price, which shall include all mandatory fees
513 or surcharges.

514 B. A supplier offering goods or services in an auction is compliant with this section if such supplier
515 clearly and conspicuously discloses any mandatory fees associated with the transaction and that the total
516 cost of such goods or services may vary.

517 C. A restaurant or hotel is compliant with this section if, in every offer or advertisement for the purchase
518 of a good or service that includes pricing information, such restaurant or hotel includes a clear and
519 conspicuous disclosure of the percentage of any automatic and mandatory gratuities charged.

520 D. A price-variable supplier is compliant with this section if such supplier clearly and conspicuously
521 discloses (i) the factors determining the final price, (ii) any mandatory fees or surcharges associated with the
522 transaction, and (iii) that the total cost of services may vary.

523 E. A provider of broadband Internet access service that complies with federal broadband consumer
524 requirements shall be deemed compliant with this section.

525 F. A cable operator that complies with the pricing requirements of 47 U.S.C. § 552 shall be deemed
526 compliant with this section.

527 **§ 59.1-609. Limitations; exclusions.**

528 A. It shall not be a violation of this chapter for any supplier to (i) reduce the total price that was
529 advertised or displayed or (ii) advertise or display a price for goods and services in compliance with specific
530 state or federal laws applicable to such supplier.

531 B. No provision of this chapter shall apply to (i) fees authorized by law related to the purchase or lease of
532 a motor vehicle that are charged by a motor vehicle dealer; (ii) fees, surcharges, or costs charged by any
533 electric utility, natural gas utility, or telecommunications service provider; or (iii) any fees, surcharges, or
534 other costs associated with settlement services, provided that such associated costs do not include real estate
535 broker commissions and fees.

536 C. No provision of this chapter shall apply to a supplier if such application is expressly preempted by
537 federal law.

538 **§ 59.1-610. Enforcement; penalties.**

539 Any violation of this chapter shall constitute a prohibited practice under the provisions of § 59.1-200 and
540 shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§
541 59.1-196 et seq.).