

25104659D

SENATE BILL NO. 1455

Offered January 17, 2025

A BILL to amend and reenact § 59.1-200, as it is currently effective and as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 58, consisting of sections numbered 59.1-607 through 59.1-610, relating to online marketplace; high-volume third-party sellers; civil penalty; Virginia Consumer Protection Act; prohibited practices; selling, offering for sale, or facilitating the sale of stolen goods.

Patron—Stuart

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, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 58, consisting of sections numbered 59.1-607 through 59.1-610, as follows:

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

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

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

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

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

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

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

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

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

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

- 59 consumer transaction;
- 60 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
- 61 with a consumer transaction;
- 62 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516,
- 63 or 3.2-6519 is a violation of this chapter;
- 64 16. Failing to disclose all conditions, charges, or fees relating to:
- 65 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
- 66 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
- 67 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
- 68 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
- 69 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
- 70 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
- 71 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
- 72 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
- 73 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
- 74 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
- 75 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
- 76 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
- 77 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
- 78 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;
- 79 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of
- 80 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the
- 81 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure
- 82 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;
- 83 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
- 84 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
- 85 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
- 86 overpayments. If the credit balance information is incorporated into statements of account furnished
- 87 consumers by suppliers within such 60-day period, no separate or additional notice is required;
- 88 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
- 89 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;
- 90 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
- 91 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);
- 92 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);
- 93 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17
- 94 et seq.);
- 95 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 96 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et
- 97 seq.);
- 98 24. Violating any provision of § 54.1-1505;
- 99 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
- 100 (§ 59.1-207.34 et seq.);
- 101 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 102 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 103 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 104 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);
- 105 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
- 106 seq.);
- 107 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 108 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 109 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 110 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 111 35. Using the consumer's social security number as the consumer's account number with the supplier, if
- 112 the consumer has requested in writing that the supplier use an alternate number not associated with the
- 113 consumer's social security number;
- 114 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 115 37. Violating any provision of § 8.01-40.2;
- 116 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 117 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 118 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 119 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

181 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
 182 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
 183 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
 184 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
 185 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
 186 accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to
 187 standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting
 188 body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
 189 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
 190 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 191 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
 192 16 (§ 4.1-1600 et seq.) of Title 4.1;

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

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

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

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

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

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

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

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

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

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

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

233 83. *Selling, offering for sale, or facilitating the sale, including through an online marketplace platform or*
 234 *other online website or through the supplier's warehouse or distribution center, of stolen goods.*

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. *Selling, offering for sale, or facilitating the sale, including through an online marketplace platform or*
 458 *other online website or through the supplier's warehouse or distribution center, of stolen goods.*

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

463 CHAPTER 58.

464 ONLINE MARKETPLACE CONSUMER PROTECTION ACT.

465 § 59.1-607. Definitions.

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

467 "*Consumer product*" means any tangible personal property that is (i) distributed in commerce and (ii)
 468 normally used for personal, family, or household purposes. "*Consumer product*" includes property intended
 469 to be attached to or installed in any real property without regard to whether it is so attached or installed.

470 "*High-volume third-party seller*" means a participant in an online marketplace that is a third-party seller
 471 and that, in any continuous 12-month period during the previous 24 months, has entered into 200 or more
 472 discrete sales or transactions of new or unused consumer products, with an aggregate total of \$5,000 or
 473 more in gross revenues. For purposes of calculating the number of discrete sales or transactions or the
 474 aggregate gross revenues, an online marketplace shall only be required to count sales or transactions made
 475 through the online marketplace and for which payment was processed by the online marketplace, either
 476 directly or through its payment processor.

477 "*Online marketplace*" means any person or entity that operates a consumer-directed electronically based
 478 or electronically accessed platform that (i) includes features that allow for, facilitate, or enable third-party
 479 sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer product in the
 480 United States; (ii) is used by one or more third-party sellers for such purposes; and (iii) has a contractual or
 481 similar relationship with consumers governing their use of the platform to purchase consumer products.

482 "*Seller*" means a person who sells, offers to sell, or contracts to sell a consumer product through an
 483 online marketplace platform.

484 "*Third-party seller*" means any seller, independent of an operator, facilitator, or owner of an online
 485 marketplace, who sells, offers to sell, or contracts to sell a consumer product in the United States through an
 486 online marketplace. With respect to an online marketplace, "*third-party seller*" does not include:

487 1. A seller who operates the online marketplace platform; or

488 2. A business entity that has (i) made available to the general public the business entity's name, business
 489 address, and contact information; (ii) an ongoing contractual relationship with the owner of an online
 490 marketplace to provide for the manufacture, distribution, wholesaling, or fulfillment of shipments of
 491 consumer products; and (iii) provided the online marketplace with identifying information, as described in §
 492 59.1-608, that has been verified in accordance with § 59.1-608.

493 "Verify" means to confirm information provided to an online marketplace in accordance with § 59.1-608,
 494 which may include the use of one or more methods that enable the online marketplace to reliably determine
 495 that any information and documents provided by a seller or an individual acting on a seller's behalf are
 496 valid, not misappropriated, and not falsified.

497 **§ 59.1-608. Collection, verification, and disclosure of information by online marketplaces; seller**
 498 **information and verification required.**

499 A. An online marketplace shall require that any high-volume third-party seller on such online
 500 marketplace platform provide the online marketplace with the following information no later than 10 days
 501 after qualifying as a high-volume third-party seller on the platform:

- 502 1. a. A bank account number; or
- 503 b. If the high-volume third-party seller does not have a bank account, the name of the payee for payments
 504 issued by the online marketplace to the high-volume third-party seller.

505 Such required bank account information or payee information may be provided by the seller to the online
 506 marketplace or to a payment processor or other third party contracted by the online marketplace to maintain
 507 the information, provided that the online marketplace ensures that it can obtain the information on demand
 508 from the payment processor or other third party;

509 2. Contact information for the high-volume third-party seller, which shall include the following:

- 510 a. If the high-volume third-party seller is an individual, the individual's name;
- 511 b. If the high-volume third-party seller is not an individual, one of the following forms of identifying
 512 information: (i) a copy of a valid government-issued photo identification for an individual acting on behalf of
 513 the high-volume third-party seller that includes the individual's name or (ii) a copy of a valid government-
 514 issued record or tax document that includes the business name and physical address of the high-volume
 515 third-party seller; and
- 516 c. A current working email address and working telephone number for the high-volume third-party seller;
 517 and

518 3. A business tax identification number or, if the high-volume third-party seller does not have a business
 519 tax identification number, a taxpayer identification number.

520 B. An online marketplace shall verify the information provided by a high-volume third-party seller
 521 pursuant to subsection A within 10 days of receiving the information. If a high-volume third-party seller
 522 provides a copy of a valid government-issued tax document, the information contained within such document
 523 or identification shall be presumed verified as of the date the document or identification was issued.

524 C. At least annually, an online marketplace shall (i) notify each high-volume third-party seller operating
 525 in the online marketplace that the high-volume third-party seller shall inform the online marketplace of any
 526 changes to information required pursuant to subsection A within 10 days of receiving the notification and (ii)
 527 as part of such notification, instruct each high-volume third-party seller to electronically certify either that
 528 the information provided pursuant to subsection A is unchanged or that the high-volume third-party seller
 529 has provided any changes to the information.

530 D. In the event that a high-volume third-party seller does not provide the information or certification
 531 required by this section after the online marketplace has provided the seller with written or electronic notice
 532 and an opportunity to provide such information or certification, the online marketplace shall, after providing
 533 the seller with a second written or electronic notice and an opportunity to provide such information or
 534 certification within 10 days after the issuance of such notice, suspend any future sales activity of such seller
 535 until the seller provides the required information or certification.

536 E. Data collected solely to comply with the requirements of this section shall not be used for any other
 537 purpose unless so required by law. An online marketplace shall implement and maintain reasonable security
 538 procedures and practices, including appropriate administrative, physical, and technological safeguards
 539 relative to the nature and purposes of the data collected to comply with the requirements of this section, in
 540 order to protect such data from unauthorized use, disclosure, access, destruction, or modification.

541 **§ 59.1-609. Disclosures to consumers required.**

542 A. An online marketplace shall require each high-volume third-party seller with an aggregate total of
 543 \$20,000 or more in annual gross revenues through such online marketplace platform to provide and disclose
 544 to consumers in a clear and conspicuous manner the information required by subsection B in (i) any order
 545 confirmation message or other document or communication made to a consumer once a purchase is finalized
 546 and (ii) the consumer's account transaction history.

547 B. An online marketplace shall require each high-volume third-party seller as described in subsection A
 548 to disclose the identity of the high-volume third-party seller in the manner prescribed by subsection A,

549 including the following information:

550 1. The full name of the high-volume third-party seller, which may include the seller name, the seller's
551 company name, or the name by which the seller or company operates in the online marketplace;

552 2. The physical address of the high-volume third-party seller;

553 3. Contact information for the high-volume third-party seller, for the purpose of allowing direct and
554 unhindered communication between high-volume third-party sellers and users of the online marketplace,
555 provided the requirements of this subsection shall not prevent an online marketplace from preventing fraud,
556 abuse, or spam through such communications, including a current working telephone number, a current
557 working email address, or other means of electronic messaging that may be provided to the high-volume
558 third-party seller by the online marketplace; and

559 4. Whether the high-volume third-party seller uses a different seller to fulfill purchase orders to customers
560 placed through the online marketplace. Upon the request of an authenticated purchaser, if a high-volume
561 third party seller uses a different seller to fulfill purchase orders to consumers, the online marketplace shall
562 require such high-volume third-party seller to provide identifying information for the different seller.

563 C. Upon the request of a high-volume third-party seller, an online marketplace may provide for partial
564 disclosure of the identifying information required by this section under the following circumstances:

565 1. If the high-volume third-party seller certifies to the online marketplace that the high-volume third-party
566 seller does not have a business address and only has a residential street address, or that the high-volume
567 third party seller has a combined business and residential address, the online marketplace may (i) disclose
568 only the country and, if applicable, the state in which the high-volume third-party seller resides and (ii)
569 inform consumers that there is no business address available for the high-volume third-party seller and that
570 consumer inquiries should be submitted to the high-volume third-party seller by telephone, email, or other
571 means of electronic messaging provided to such seller by the online marketplace.

572 2. If the high-volume third-party seller certifies to the online marketplace that the high-volume third-party
573 seller is a business that has a physical address for product returns, the online marketplace may disclose the
574 physical address for consumer product returns.

575 3. If a high-volume third-party seller certifies to the online marketplace that the high-volume third-party
576 seller does not have any phone number other than a personal telephone number, the online marketplace may
577 inform consumers that there is no telephone number available for the high-volume third-party seller and that
578 consumer inquiries should be submitted to the high-volume third-party seller by email or other means of
579 electronic messaging provided to such seller by the online marketplace.

580 D. If an online marketplace becomes aware that a high-volume third-party seller has (i) made a false
581 representation to the online marketplace in order to justify the provision of a partial disclosure under
582 subsection B or (ii) requested and received a provision for partial disclosure under subsection B but has not
583 provided responsive answers within a reasonable time frame to consumer inquiries submitted to the
584 high-volume third-party seller by telephone, email, or other means of electronic messaging provided to the
585 seller by the online marketplace; the online marketplace shall, after providing the seller with a written or
586 electronic notice and an opportunity to respond no later than 10 days after the issuance of such notice,
587 suspend any future sales activity of such seller unless the seller consents to the disclosure of the identifying
588 information required by subsection A.

589 E. An online marketplace shall disclose to consumers, in a clear and conspicuous manner on the product
590 listing of any high-volume third-party seller, a reporting mechanism that allows for electronic and telephone
591 reporting of suspicious marketplace activity to the online marketplace.

592 F. If a high-volume third-party seller does not comply with the requirements to provide and disclose
593 information under this section, the online marketplace shall, after providing the seller with written or
594 electronic notice and an opportunity to provide or disclose such information not later than 10 days after the
595 issuance of such notice, suspend any future sales activity of such seller until the seller complies with such
596 requirements.

597 **§ 59.1-610. Enforcement.**

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

599 B. If the Attorney General has reason to believe that any online marketplace has violated the provisions of
600 this chapter, the Attorney General may initiate an action in the name of the Commonwealth and may seek an
601 injunction to restrain any violations of this chapter and civil penalties of up to \$10,000 for each violation
602 under this chapter.

603 C. The Attorney General may recover reasonable expenses incurred in investigating and preparing a
604 case, including attorney fees, in any action initiated under this chapter.

605 D. Nothing in this chapter shall be construed as providing the basis for, or be subject to, a private right of
606 action for violations of this chapter or under any other law.