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SENATE BILL NO. 1060**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee on Finance and Appropriations
on January 29, 2025)

(Patron Prior to Substitute—Senator Ebbin)

A BILL to amend and reenact §§ 4.1-100, 4.1-103, 4.1-103.01, 4.1-229, 15.2-912.4, 18.2-246.8, 18.2-371.2, 58.1-1021.04:1, 59.1-293.14, 59.1-293.15, 59.1-293.18, and 59.1-293.20 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 2 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-241 through 4.1-255, by adding in Chapter 3 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-355 through 4.1-359, and by adding a section numbered 18.2-371.2:1; and to repeal §§ 58.1-1021.06 through 58.1-1021.09, 59.1-293.12, and 59.1-293.13 of the Code of Virginia, relating to permitting of tobacco products retailers; purchase, possession, and sale of retail tobacco products; Virginia Alcoholic Beverage Control Authority; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-103, 4.1-103.01, 4.1-229, 15.2-912.4, 18.2-246.8, 18.2-371.2, 58.1-1021.04:1, 59.1-293.14, 59.1-293.15, 59.1-293.18, and 59.1-293.20 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 2 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-241 through 4.1-255, by adding in Chapter 3 of Title 4.1 an article numbered 4, consisting of sections numbered 4.1-355 through 4.1-359, and by adding a section numbered 18.2-371.2:1 as follows:

§ 4.1-100. Definitions.

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this subtitle.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this subtitle, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24

60 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with
61 charging stations at every seat for cellular phones or other portable devices, and (vi) during the transportation
62 of passengers, is staffed by an attendant who has satisfied all training requirements set forth in this subtitle or
63 Board regulation.

64 "Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of
65 an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but
66 not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment
67 so operated. A corporation or association shall not lose its status as a club because of the conduct of
68 charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in
69 which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are
70 served or consumed in the room where such charitable gaming is being conducted while such gaming is being
71 conducted and that no alcoholic beverages are made available upon the premises to any person who is neither
72 a member nor a bona fide guest of a member.

73 Any such corporation or association which has been declared exempt from federal and state income taxes
74 as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit
75 corporation or association.

76 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10
77 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores
78 and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically
79 integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association
80 that is responsible for the management, maintenance, and operation of the common areas thereof.

81 "Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding alcoholic
82 beverages.

83 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains
84 grapes, fruits, and other agricultural products from a person holding a winery or farm winery license and
85 crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement
86 with the winery or farm winery licensee. For all purposes of this subtitle, wine produced by a contract
87 winemaking facility for a winery or farm winery shall be considered to be wine owned and produced by the
88 winery or farm winery that supplied the grapes, fruits, or other agricultural products used in the production of
89 the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms
90 of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may
91 charge the winery or farm winery for its services. A winery licensee may utilize contract winemaking
92 services only for the manufacture or processing of wine of which no less than 90 percent of the grapes, fruits,
93 and other agricultural products used to make such wine are grown in the Commonwealth.

94 "Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent
95 structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items
96 intended for human consumption consisting of a variety of such items of the types normally sold in grocery
97 stores.

98 "Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building
99 that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at
100 least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the
101 public, for compensation, at least one meal per day, lodging, and recreational and educational activities
102 related to farming, livestock, and other rural activities.

103 "Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring little
104 preparation, such as cheeses, salads, cooked meats, and related condiments.

105 "Designated area" means a room or area approved by the Board for on-premises licensees.

106 "Dining area" means a public room or area in which meals are regularly served.

107 "Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant to a
108 prescription and other medicines and items for home and general use.

109 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
110 manufactured, sold, or used.

111 "Farm winery" means (i) an establishment or cooperative located in the Commonwealth on land zoned
112 agricultural that has (a) a vineyard, orchard, or similar growing area that produces fruits or other agricultural
113 products used to manufacture the wine of such farm winery, subject to the requirements set forth in § 4.1-219,
114 and (b) facilities for fermenting and bottling wine on the premises where such farm winery manufactures
115 wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private
116 institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the
117 wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
118 manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and
119 apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance
120 with the requirements of this clause (ii) and Board regulations. As used in this definition, the term
121 "cooperative" means a cooperative formed by an association of individuals for the purpose of manufacturing

122 wine. In determining whether a cooperative licensed as a farm winery has met the requirements set forth in
 123 clause (i), the Board shall consider all land in the Commonwealth that is owned or leased by a member of the
 124 cooperative. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural
 125 district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this
 126 definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the
 127 limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall
 128 otherwise limit or affect local zoning authority.

129 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty
 130 items relating to history, original and handmade arts and products, collectibles, crafts, and floral
 131 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where
 132 stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer.
 133 Such shop may be located (i) on the premises or grounds of a government registered national, state or local
 134 historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose,
 135 characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

136 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may
 137 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons
 138 facilities for manufacturing, fermenting and bottling such wine or beer.

139 "Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial
 140 marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for
 141 consumption on the premises, and (iii) offers to the public events for the purpose of featuring and educating
 142 the consuming public about local oysters and other seafood products.

143 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
 144 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers
 145 of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to
 146 persons.

147 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

148 "Grocery store" means an establishment that sells food and other items intended for human consumption,
 149 including a variety of ingredients commonly used in the preparation of meals.

150 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the
 151 Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion
 152 pictures to the public.

153 "Hotel" means any duly licensed establishment, provided with special space and accommodation, where,
 154 in consideration of payment, food and lodging are habitually furnished to persons, and which has four or
 155 more bedrooms. It shall also mean the person who operates such hotel.

156 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
 157 pursuant to this subtitle.

158 "Internet wine and beer retailer" means a person who owns or operates an establishment with adequate
 159 inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders
 160 are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

161 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably
 162 affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

163 "Licensed" means the holding of a valid license granted by the Authority.

164 "Licensee" means any person to whom a license has been granted by the Authority.

165 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol
 166 content of 25 percent by volume.

167 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by
 168 volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed
 169 with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit
 170 adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or
 171 fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this subtitle, except that
 172 low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the
 173 Commonwealth.

174 "Marina store" means an establishment that is located on the same premises as a marina, is operated by
 175 the owner of such marina, and sells food and nautical and fishing supplies.

176 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide,
 177 full-service restaurants as principal meals of the day. Such restaurants shall include establishments
 178 specializing in full course meals with a single substantial entree.

179 "Member of a club" means (i) a person who maintains his membership in the club by the payment of
 180 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a
 181 person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal
 182 descendants of a bona fide member, whether alive or deceased, of a national or international organization to

183 which an individual lodge holding a club license is an authorized member in the same locality. It shall also
184 mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident
185 members of the club, the full amount of such contribution being paid in advance in a lump sum.

186 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

187 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and
188 which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are
189 not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain
190 alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

191 "Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which
192 is the county seat of Smyth County.

193 "Performing arts facility" means an indoor or outdoor amphitheater, arena, multipurpose theater, or
194 similar facility at which live musical, dance, theatre, or similar performances, the types of which are
195 approved by the Authority, are performed, provided that the facility has stationary stadium or similar seating
196 for more than 500 persons.

197 "*Permittee*" means any person to whom a permit has been issued by the Authority.

198 "Place or premises" means the real estate, together with any buildings or other improvements thereon,
199 designated in the application for a license as the place at which the manufacture, bottling, distribution, use or
200 sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement
201 actually and exclusively used as a private residence.

202 "*Place or premises,*" for a tobacco retail permit, means the real estate, together with any buildings or
203 other improvements thereon, designated in the application for a tobacco retail permit as the place at which
204 the retail sale of tobacco products is performed, except that portion of any such building or other
205 improvement actually and exclusively used as a private residence.

206 "Principal stockholder" means any person who individually or in concert with his spouse and immediate
207 family members beneficially owns or controls, directly or indirectly, five percent or more of the equity
208 ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate
209 family members has the power to vote or cause the vote of five percent or more of any such equity
210 ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange
211 Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded
212 corporation holding, directly or indirectly, a license from the Authority.

213 "Public place" means any place, building, or conveyance to which the public has, or is permitted to have,
214 access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park,
215 place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

216 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private
217 meetings or private parties limited in attendance to members and guests of a particular group, association or
218 organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities
219 while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to
220 employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii)
221 offices, office buildings or industrial facilities while closed to the public and in use for private meetings or
222 parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such
223 building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on
224 which alcoholic beverages are not sold.

225 "Residence" means any building or part of a building or structure where a person resides, but does not
226 include any part of a building that is not actually and exclusively used as a private residence, nor any part of a
227 hotel or club other than a private guest room thereof.

228 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities
229 located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with
230 voluntary membership which, as its primary function, makes available golf, ski, and other recreational
231 facilities both to its members and to the general public; or (iii) operated by a corporation that operates as a
232 management company which, as its primary function, makes available (a) vacation accommodations, guest
233 rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities
234 and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms
235 or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if
236 the guest rooms or dwelling units are located on property that is not contiguous to the licensed premises, such
237 guest rooms and dwelling units shall be located within the same locality. The Authority may consider the
238 purpose, characteristics, and operation of the applicant establishment in determining whether it shall be
239 considered as a resort complex. All other pertinent qualifications established by the Board for a hotel
240 operation shall be observed by such licensee.

241 "Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license, any
242 establishment provided with special space and accommodation, where, in consideration of payment, meals or
243 other foods prepared on the premises are regularly sold.

244 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license,

245 an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has
 246 adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption
 247 at tables in dining areas on the premises, and includes establishments specializing in full course meals with a
 248 single substantial entree.

249 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale;
 250 peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic
 251 beverages.

252 "Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners,
 253 fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

254 "Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the
 255 Board has designated as a law-enforcement officer pursuant to § 4.1-105.

256 "Special event" means an event sponsored by a duly organized nonprofit corporation or association and
 257 conducted for an athletic, charitable, civic, educational, political, or religious purpose.

258 "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water
 259 and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any
 260 one or more of the last four named ingredients, but shall not include any such liquors completely denatured in
 261 accordance with formulas approved by the United States government.

262 "Sports facility" means a coliseum, stadium, racetrack, or similar facility at which professional sports, as
 263 defined in § 58.1-4030, or similar events, the types of which are approved by the Authority, are conducted.

264 "*Tobacco product*" means (i) any product containing, made of, or derived from tobacco or that contains
 265 nicotine that is intended for human consumption or is likely to be consumed, whether smoked, heated,
 266 chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated tobacco
 267 product, chewing tobacco, snuff, or snus; (ii) any electronic smoking device and any substances that may be
 268 aerosolized or vaporized by such device, whether or not the substance contains nicotine; and (iii) any
 269 component, part, or accessory of a product described in clause (i) or (ii), whether or not such component,
 270 part, or accessory contains tobacco or nicotine, including filters, rolling papers, blunt or hemp wraps, and
 271 glass pipes. "*Tobacco product*" includes any nicotine vapor product. "*Tobacco product*" also includes any
 272 "*retail tobacco product*" as defined in § 58.1-1021.01. "*Tobacco product*" does not include drugs or devices,
 273 as such terms are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. §
 274 353, if such drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug
 275 Administration.

276 "*Tobacco retailer*" means any person, partnership, joint venture, society, club, trustee, trust, association,
 277 organization, or corporation that owns, operates, or manages any tobacco retail establishment. "*Tobacco*
 278 *retailer*" does not include nonmanagement employees of a tobacco retail establishment.

279 "*Tobacco retail establishment*" means any place of business where tobacco products are available for
 280 sale to the general public, including any grocery store, retail tobacco product shop, kiosk, convenience store,
 281 gasoline service station, bar, or restaurant where tobacco products are available for sale to the general
 282 public. For purposes of this subtitle, "*tobacco retail establishment*" shall not include an establishment that
 283 does not sell tobacco products other than cigar and pipe tobacco products as defined in § 58.1-1021.01.

284 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar
 285 content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
 286 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of
 287 distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal
 288 Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol
 289 content of 21 percent by volume.

290 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not
 291 more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine
 292 mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water,
 293 fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products
 294 manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages
 295 shall be treated as wine for all purposes except for taxation under § 4.1-236.

296 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for
 297 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
 298 required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by such
 299 retail licensee.

300 § 4.1-103. General powers of Board.

301 The Board shall have the power to:

- 302 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
- 303 2. Adopt, use, and alter at will a common seal;
- 304 3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of
- 305 products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose
- 306 of providing for the payment of the expenses of the Authority;

- 307 4. Make and enter into all contracts and agreements necessary or incidental to the performance of its
308 duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including
309 agreements with any person or federal agency;
- 310 5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,
311 investment bankers, superintendents, managers, and such other employees and special agents as may be
312 necessary and fix their compensation to be payable from funds made available to the Authority. Legal
313 services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500
314 et seq.) of Title 2.2;
- 315 6. Receive and accept from any federal or private agency, foundation, corporation, association, or person
316 grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept
317 from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or
318 from any other source aid or contributions of either money, property, or other things of value, to be held,
319 used, and applied only for the purposes for which such grants and contributions may be made. All federal
320 moneys accepted under this section shall be accepted and expended by the Authority upon such terms and
321 conditions as are prescribed by the United States and as are consistent with state law, and all state moneys
322 accepted under this section shall be expended by the Authority upon such terms and conditions as are
323 prescribed by the Commonwealth;
- 324 7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall
325 be transacted and the manner in which the powers of the Authority shall be exercised and its duties
326 performed. The Board may delegate or assign any duty or task to be performed by the Authority to any
327 officer or employee of the Authority. The Board shall remain responsible for the performance of any such
328 duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by
329 written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall
330 require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the
331 Board of the responsibility to ensure faithful performance of the duties and tasks;
- 332 8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's
333 purposes or necessary or convenient to exercise its powers;
- 334 9. Develop policies and procedures generally applicable to the procurement of goods, services, and
335 construction, based upon competitive principles;
- 336 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title
337 2.2;
- 338 11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and
339 to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;
- 340 12. Buy and sell any mixers;
- 341 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international
342 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25
343 (clothing);
- 344 14. Control the possession, sale, transportation, and delivery of alcoholic beverages;
- 345 15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or
346 operated and the location of such stores;
- 347 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
348 beverages to and from such warehouses;
- 349 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
350 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
351 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,
352 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to
353 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
354 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms
355 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or
356 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such
357 terms and conditions as may be determined by the Board; and occupy and improve any land or building
358 required for the purposes of this subtitle;
- 359 18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered
360 necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and
361 processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic
362 beverages;
- 363 19. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be
364 kept or sold under this subtitle, and prescribe the form and content of all labels and seals to be placed thereon;
365 however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline
366 alcohol;
- 367 20. Appoint every agent and employee required for its operations; require any or all of them to give bonds
368 payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of

369 experts and professionals;

370 21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production
 371 of records, memoranda, papers and other documents before the Board or any agent of the Board; and
 372 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the
 373 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and
 374 decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may
 375 enter into consent agreements and may request and accept from any applicant or licensee a consent agreement
 376 in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such
 377 consent agreement shall include findings of fact and may include an admission or a finding of a violation. A
 378 consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial
 379 review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by
 380 the Board in future disciplinary proceedings;

381 22. Make a reasonable charge for preparing and furnishing statistical information and compilations to
 382 persons other than (i) officials, including court and police officials, of the Commonwealth and of its
 383 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal
 384 interest in obtaining the information requested if such information is not to be used for commercial or trade
 385 purposes;

386 23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and §
 387 4.1-111;

388 24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale
 389 of alcoholic beverages;

390 25. *Grant, suspend, and revoke permits for the sale of tobacco products;*

391 ~~25-~~26. Assess and collect civil penalties and civil charges for violations of this subtitle and Board
 392 regulations;

393 ~~26-~~27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

394 ~~27-~~28. Establish minimum food sale requirements for all retail licensees;

395 ~~28-~~29. Review and approve any proposed legislative or regulatory changes suggested by the Chief
 396 Executive Officer as the Board deems appropriate;

397 ~~29-~~30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement
 398 activities undertaken to enforce the provisions of this subtitle;

399 ~~30-~~31. Establish and collect fees for all permits set forth in this subtitle, including fees associated with
 400 applications for such permits;

401 ~~31-~~32. Impose a requirement that a mixed beverage casino licensee pursuant to subdivision A 14 of §
 402 4.1-206.3 pay for any cost incurred by the Board to enforce such license in excess of the applicable state
 403 license fee; and

404 ~~32-~~33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

405 **§ 4.1-103.01. Additional powers; access to certain tobacco sales records; inspections; penalty.**

406 A. Notwithstanding the provisions of § 58.1-3 or any other provision of law, the Tax Commissioner shall
 407 provide to the Board the name, address, and other identifying information within his possession of all
 408 ~~wholesale cigarette dealers~~ *tobacco retailers*.

409 B. All invoices, books, papers or other memoranda and records concerning the sale of ~~cigarettes~~
 410 ~~maintained by wholesale cigarette dealers pursuant to § 58.1-1007~~ *tobacco products by a tobacco retailer*
 411 shall be subject to inspection during normal business hours by special agents of the Board. Any person who,
 412 upon request by a special agent, unreasonably fails or refuses to allow an inspection of the records authorized
 413 by this subsection shall be guilty of a Class 2 misdemeanor.

414 C. The Board may use the information obtained from the Tax Commissioner or by the inspections
 415 authorized by subsection B only for the purpose of creating and maintaining a list of retail dealers to facilitate
 416 enforcement of the laws governing the sale of tobacco products to minors. Neither the Board nor any special
 417 agent shall divulge any information provided by the Tax Commissioner or obtained in the performance of the
 418 inspections authorized by subsection B to anyone other than to another special agent. Any person violating
 419 the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

420 D. *Nothing contained in this section shall prohibit the use or release of such information or documents by*
 421 *the Board to any governmental or law-enforcement agency, or when considering the granting, denial,*
 422 *revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or*
 423 *permittee.*

424 **§ 4.1-229. Suspension or revocation of permits; grounds; notice and hearing; exception.**

425 A. The Board may suspend or revoke any permit. The suspension or revocation of any permit shall be in
 426 accordance with §§ 4.1-225 and 4.1-227.

427 B. This section shall not apply to temporary permits granted under § 4.1-212, which may be revoked
 428 summarily in the same manner as a temporary license may be revoked under § 4.1-211, *or to tobacco retail*
 429 *permits, which may be suspended or revoked in accordance with Article 4 (§ 4.1-241 et seq.).*

430 *Article 4.*

Permitting and Restrictions for Tobacco Retailers.

431

§ 4.1-241. Tobacco retail permits.

432 *The Board may grant permits to tobacco retailers who operate a tobacco retail establishment. Such*
 433 *permit shall authorize the permittee to sell tobacco products at retail on the permitted premises.*

§ 4.1-242. To whom privileges conferred by tobacco retail permits extend; liability for violations of law.

436 *The privilege of any permittee to sell tobacco products at retail shall extend to such permittee and to all*
 437 *agents or employees of such permittee for the purpose of selling tobacco products at retail under such permit.*
 438 *The permittee may be held liable for any violation of this subtitle or any Board regulation committed by such*
 439 *agents or employees in connection with their employment.*

§ 4.1-243. Separate tobacco retail permit for each place of business; transfer or amendment; posting; expiration; carriers; civil penalties.

442 *A. Each tobacco retail permit granted by the Board shall designate the place where the business of the*
 443 *permittee will be carried on. A separate permit shall be required for each separate place of business.*

444 *B. No permit shall be transferable from one person to another, or from one location to another.*

445 *C. Each permit shall be posted in a location conspicuous to the public at the place where the permittee*
 446 *carries on the business for which the permit is granted.*

447 *D. The privileges conferred by any tobacco retail permit granted by the Board shall continue until the last*
 448 *day of the twelfth month next ensuing, except the permit may be sooner terminated for any cause for which*
 449 *the Board would be entitled to refuse to grant a tobacco retail permit, by operation of law, voluntary*
 450 *surrender, or order of the Board.*

451 *The Board may permit a tobacco retail permittee who fails to pay:*

452 *1. The required permit fee covering the continuation or reissuance of its permit by midnight of the*
 453 *fifteenth day of the twelfth month, to pay the tax in lieu of reapplying, provided payment of the tax is made*
 454 *within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such tax,*
 455 *whichever is greater; and*

456 *2. The tax and civil penalty pursuant to subdivision 1 to pay the tax in lieu of reapplying, provided*
 457 *payment of the tax is made within 45 days following the 30 days specified in subdivision 1 and is*
 458 *accompanied by a civil penalty of \$100 or 25 percent of such tax, whichever is greater.*

459 *Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-116.*

§ 4.1-244. Applications for tobacco retail permits; fees.

461 *A. Every person intending to apply for a tobacco retail permit shall file with the Board an application on*
 462 *forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of*
 463 *the information contained therein is true.*

464 *B. Each applicant shall pay the required application fee at the time the application is filed. Each tobacco*
 465 *retail permit application fee shall be \$100. Application fees shall be in addition to the state permit fee*
 466 *required pursuant to § 4.1-245 and shall not be refunded.*

467 *C. Subsection A shall not apply to the continuance of permits granted under this article; however, all*
 468 *tobacco retail permittees shall file and maintain with the Board a current, accurate record of the information*
 469 *required by the Board pursuant to subsection A and notify the Board of any changes to such information in*
 470 *accordance with Board regulations.*

§ 4.1-245. Fees on tobacco retail permits.

472 *A. The annual fees on tobacco retail permits shall be as follows:*

473 *1. For tobacco retail permittees holding an Other Tobacco Products (OTP) Distributor's License from the*
 474 *Department of Taxation, Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased*
 475 *for Resale from the Department of Taxation, Cigarette Stamping Agent License from the Department of*
 476 *Taxation, or any license at the permitted premises issued pursuant to this subtitle, \$0.*

477 *2. For any other tobacco retail permittees, \$400.*

478 *B. Nothing in this chapter shall exempt any permittee from any other tax or fee imposed by this subtitle,*
 479 *state merchants' license, state restaurant license, or any other state tax. Every permittee, in addition to the*
 480 *taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license*
 481 *taxation and other state or local taxation applicable to tobacco products.*

482 *C. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any tobacco retail permit*
 483 *purchased in person from the Board if such tobacco retail permit is available for purchase online.*

§ 4.1-246. Records of tobacco retail permittees; inspection of records and place of business.

485 *The Board and its special agents shall be allowed free access during reasonable hours to every place in*
 486 *the Commonwealth and to the premises where tobacco products are offered for sale or sold, for the purpose*
 487 *of examining and inspecting such place and all records, invoices, and accounts therein.*

488 *For purposes of a Board inspection of the records of any tobacco retail permittee, "reasonable hours"*
 489 *means the hours between 9 a.m. and 5 p.m.; however, if the tobacco retail permittee generally is not open to*
 490 *the public substantially during the same hours, "reasonable hours" shall mean the business hours when the*
 491 *tobacco retail permittee is open to the public. At any other time of day, if the tobacco retail permittee's*
 492 *records are not available for inspection, the retailer shall provide the records to a special agent of the Board*

493 within 24 hours after a request is made to inspect the records.

494 **§ 4.1-247. Conditions under which Board may refuse to grant tobacco retail permits.**

495 The Board may refuse to grant any tobacco retail permit if it has reasonable cause to believe that:

496 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an
497 association, any member thereof, or limited partner of 10 percent or more with voting rights, or if the
498 applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
499 stock, or if the applicant is a limited liability company, any member-manager or any member owning 10
500 percent or more of the membership interest of the limited liability company:

501 a. Is not 21 years of age or older;

502 b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude under the
503 laws of any state or of the United States;

504 c. Has been convicted, within the five years immediately preceding the date of the application for such
505 license, of a violation of any law applicable to the manufacture, transportation, possession, use, or sale of
506 tobacco products;

507 d. Is not a person of good moral character and repute;

508 e. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership
509 interests in the business that have not been disclosed;

510 f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business
511 proposed to be permitted;

512 g. Has demonstrated, either by his police record or by his record as a former licensee or permittee of the
513 Board, a lack of respect for law and order;

514 h. Has misrepresented a material fact in applying to the Board for a tobacco retail permit;

515 i. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or
516 governmental agency or authority, by making or filing any report, document, or tax return required by statute
517 or regulation that is fraudulent or contains a false representation of a material fact, or has willfully deceived
518 or attempted to deceive the Board, or any federal, state, or local government, or governmental agency or
519 authority, by making or maintaining business records required by statute or regulation that are false and
520 fraudulent;

521 j. Violates or allows the violation of any provision of this article or Article 4 (§ 4.1-355 et seq.) of Chapter
522 3 in his establishment in the one year prior to application for a retail tobacco permit or while his application
523 for a retail tobacco permit is pending;

524 k. Is a police officer with police authority in the political subdivision within which the establishment
525 designated in the application is located;

526 l. Is physically unable to carry on the business for which the application for a tobacco retail permit is
527 filed or has been adjudicated incapacitated; or

528 m. Is a member, agent, or employee of the Board.

529 2. The place to be occupied by the applicant:

530 a. Does not conform to the requirements of the governing body of the county, city, or town in which such
531 place is located with respect to sanitation, health, construction, or equipment, or to any similar requirements
532 established by the laws of the Commonwealth or by Board regulation;

533 b. Is so located that granting a permit and operation thereunder by the applicant would result in
534 violations of this subtitle, Board regulations, or violation of the laws of the Commonwealth or local
535 ordinances relating to peace and good order;

536 c. Is so located with respect to any church; synagogue; hospital; public, private, or parochial school or
537 an institution of higher education; public or private playground or other similar recreational facility; or any
538 state, local, or federal government-operated facility that the operation of such place under such permit will
539 adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities or institutions;

540 d. Is so located with respect to any residence or residential area that the operation of such place under
541 such permit will adversely affect real property values or substantially interfere with the usual quietude and
542 tranquility of such residence or residential area; or

543 e. Under a retail on-premises license is so constructed, arranged, or illuminated that law-enforcement
544 officers and special agents of the Board are prevented from ready access to and reasonable observation of
545 any room or area within which tobacco products are to be sold.

546 3. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political
547 subdivision thereof that warrants refusal by the Board to grant a tobacco retail permit.

548 4. The Board is not authorized under this chapter to grant such permit.

549 **§ 4.1-248. Conditions under which Board shall refuse to grant tobacco retail permits.**

550 The Board shall refuse to grant any tobacco retail permit authorized by this chapter until the permit fee
551 required by § 4.1-245 is paid to the Board.

552 **§ 4.1-249. Notice and hearings for refusal to grant tobacco retail permits; Administrative Process Act;**
553 **exceptions.**

554 A. The action of the Board in granting or in refusing to grant any tobacco retail permit shall be subject to

555 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in
 556 subsections B and C. Review shall be limited to the evidential record of the proceedings provided by the
 557 Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any
 558 order of the court.

559 B. The Board may refuse a hearing on any application for the granting of any tobacco retail permit,
 560 provided such:

561 1. Permit for the applicant has been refused or revoked within a period of 12 months;

562 2. Permit for any premises has been refused or revoked at that location within a period of 12 months;

563 3. Applicant, within a period of 12 months immediately preceding, has permitted a permit granted by the
 564 Board to expire for nonpayment of permit fee, and at the time of expiration of such permit, there was a
 565 pending and unadjudicated charge, either before the Board or in any court, against the permittee alleging a
 566 violation of this article; or

567 4. Applicant has received a restricted permit and reapplies for a lesser-restricted permit at the same
 568 location within 12 months of the date of the issuance of the restricted permit.

569 C. If an applicant has permitted a permit to expire for nonpayment of permit fee, and at the time of
 570 expiration there remained unexecuted any period of suspension imposed upon the permittee by the Board, the
 571 Board may refuse a hearing on an application for a new permit until after the date on which the suspension
 572 period would have been executed had the permit not have been permitted to expire.

573 **§ 4.1-250. Grounds for which Board may suspend or revoke tobacco retail permits.**

574 The Board may suspend or revoke any tobacco retail permit if it has reasonable cause to believe that:

575 1. The permittee, or if the permittee is a partnership, any general partner thereof, or if the permittee is an
 576 association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the
 577 permittee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
 578 stock, or if the permittee is a limited liability company, any member-manager or any member owning 10
 579 percent or more of the membership interest of the limited liability company:

580 a. Has misrepresented a material fact in applying to the Board for such permit;

581 b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-252,
 582 has (i) been convicted of a violation of any law, ordinance, or regulation of the Commonwealth, of any
 583 county, city, or town in the Commonwealth, of any state, or of the United States, applicable to the
 584 manufacture, transportation, possession, use, or sale of tobacco products; (ii) violated any provision of this
 585 article; (iii) violated or failed or refused to comply with any regulation, rule, or order of the Board; (iv)
 586 failed or refused to comply with any of the conditions or restrictions of the tobacco retail permit granted by
 587 the Board; or (v) violated or failed or refused to comply with Article 4 (§ 4.1-355 et seq.) of Chapter 3;

588 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under
 589 the laws of any state or of the United States;

590 d. Is not the legitimate owner of the business conducted under the permit granted by the Board, or other
 591 persons have ownership interests in the business that have not been disclosed;

592 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
 593 conducted under the permit granted by the Board;

594 f. Has been intoxicated or under the influence of some self-administered drug while upon the permitted
 595 premises;

596 g. Subsequent to the granting of his original permit, has demonstrated by his police record a lack of
 597 respect for law and order;

598 h. Is physically unable to carry on the business conducted under such permit or has been adjudicated
 599 incapacitated;

600 i. Has possessed any illegal gambling apparatus, machine, or device upon the permitted premises;

601 j. Has upon the permitted premises (i) illegally possessed, distributed, sold, or used, or has knowingly
 602 allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use marijuana,
 603 controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as
 604 those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title
 605 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or
 606 (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or
 607 the Drug Control Act. The provisions of this subdivision shall also apply to any conduct related to the
 608 operation of the permitted business that facilitates the commission of any of the offenses set forth herein;

609 k. Has failed to take reasonable measures to prevent (i) the permitted premises, (ii) any premises
 610 immediately adjacent to the permitted premises that are owned or leased by the permittee, or (iii) any portion
 611 of public property immediately adjacent to the permitted premises from becoming a place where patrons of
 612 the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§
 613 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6
 614 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of
 615 Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or
 616 Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such

617 violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to
618 the public safety; or

619 1. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily
620 injury, or a recurrence of such acts, from occurring on (i) the permitted premises, (ii) any premises
621 immediately adjacent to the permitted premises that is owned or leased by the permittee, or (iii) any portion
622 of public property immediately adjacent to the permitted premises.

623 2. The place occupied by the permittee:

624 a. Does not conform to the requirements of the governing body of the county, city, or town in which such
625 establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar
626 requirements established by the laws of the Commonwealth or by Board regulations;

627 b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

628 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,
629 prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are
630 regularly used or distributed. The Board may consider the general reputation in the community of such
631 establishment in addition to any other competent evidence in making such determination.

632 3. The permittee or any employee of the permittee discriminated against any member of the Armed Forces
633 of the United States by prices charged or otherwise.

634 4. Any cause exists for which the Board would have been entitled to refuse to grant such permit had the
635 facts been known.

636 5. The permittee is delinquent for a period of 90 days or more in the payment of any taxes, or any
637 penalties or interest related thereto, lawfully imposed by the locality where the permitted business is located,
638 as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the
639 outstanding amount is de minimis; (ii) the permittee has pending a bona fide application for correction or
640 appeal with respect to such taxes, penalties, or interest; or (iii) the permittee has entered into a payment plan
641 approved by the same locality to settle the outstanding liability.

642 6. Any other cause authorized by this article.

643 **§ 4.1-251. Grounds for which Board shall suspend or revoke tobacco retail permits.**

644 The Board shall suspend or revoke any tobacco retail permit if it finds that:

645 1. A permittee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a
646 gambling device, upon the premises for which the Board has granted a permit for the sale of tobacco
647 products to the public.

648 2. A permittee has defrauded or attempted to defraud the Board, or any federal, state, or local
649 government or governmental agency or authority by making or filing any report, document, or tax return
650 required by statute or regulation that is fraudulent or contains a willful or knowing false representation of a
651 material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local
652 government or governmental agency or authority by making or maintaining business records required by
653 statute or regulation that are false or fraudulent.

654 **§ 4.1-252. Suspension or revocation of tobacco retail permits; notice and hearings; imposition of**
655 **penalties.**

656 A. Except for temporary tobacco retail permits issued pursuant to § 4.1-254, before the Board may
657 impose a civil penalty or suspend or revoke any tobacco retail permit, reasonable notice of such proposed or
658 contemplated action shall be given to the permittee in accordance with the provisions of § 2.2-4020 of the
659 Administrative Process Act (§ 2.2-4000 et seq.).

660 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the permittee,
661 permit the permittee to inspect and copy or photograph all (i) written or recorded statements made by the
662 permittee or copies thereof or the substance of any oral statements made by the permittee or a previous or
663 present employee of the permittee to any law-enforcement officer, the existence of which is known by the
664 Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
665 chapter against the permittee and (ii) designated books, papers, documents, tangible objects, buildings, or
666 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and
667 upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against
668 the permittee. In addition, any subpoena for the production of documents issued to any person at the request
669 of the permittee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought
670 within 10 working days, notwithstanding anything to the contrary in § 4.1-103.

671 If the Board fails to provide for inspection or copying under this section for the permittee after a written
672 request, the Board shall be prohibited from introducing into evidence any items the permittee would have
673 lawfully been entitled to inspect or copy under this section.

674 The action of the Board in suspending or revoking any tobacco retail permit or in imposing a civil penalty
675 shall be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).
676 Such review shall extend to the entire evidential record of the proceedings provided by the Board in
677 accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order
678 of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be

679 *suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither*
 680 *mandamus nor injunction shall lie in any such case.*

681 *B. In suspending any tobacco retail permit, the Board may impose, as a condition precedent to the*
 682 *removal of such suspension or any portion thereof, a requirement that the permittee pay the cost incurred by*
 683 *the Board in investigating the permittee and in holding the proceeding resulting in such suspension, or it may*
 684 *impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil*
 685 *penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of*
 686 *the violation or \$5,000 for the second violation occurring within five years immediately preceding the date of*
 687 *the second violation. However, if the violation involved selling tobacco products to a person prohibited from*
 688 *purchasing tobacco products, the Board may impose a civil penalty not to exceed \$3,000 for the first*
 689 *violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second*
 690 *violation occurring within five years immediately preceding the date of the second violation in lieu of such*
 691 *suspension or any portion thereof, or both. The Board may also impose a requirement that the permittee pay*
 692 *for the cost incurred by the Board not exceeding \$25,000 in investigating the permittee and in holding the*
 693 *proceeding resulting in the violation in addition to any suspension or civil penalty incurred.*

694 *C. Following notice to (i) the permittee of a hearing that may result in the suspension or revocation of his*
 695 *permit or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent*
 696 *agreement as authorized in subdivision 21 of § 4.1-103. The notice shall advise the permittee or applicant of*
 697 *the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing*
 698 *or an appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the*
 699 *proposed restrictions for operating under the permit, (2) accept the period of suspension of the permitted*
 700 *privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any*
 701 *portion of the suspension as applicable, or (4) proceed to a hearing.*

702 *D. The Board may, by regulation or written order:*

703 *1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial*
 704 *hearing;*

705 *2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of*
 706 *suspension may be accepted for a first offense occurring within three years immediately preceding the date of*
 707 *the violation;*

708 *3. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license*
 709 *and the civil charge acceptable in lieu of such suspension; and*

710 *4. Establish a schedule of offenses for which any penalty may be waived upon a showing that the*
 711 *permittee has had no prior violations within five years immediately preceding the date of the violation. No*
 712 *waiver shall be granted by the Board, however, for a permittee's willful and knowing violation of this article*
 713 *or Board regulations.*

714 *E. Notwithstanding any provisions to the contrary in this section or in Article 3 (§ 2.2-4018 et seq.) of the*
 715 *Administrative Process Act, tobacco retail permittees shall be subject to the provisions of § 4.1-225.1.*

716 **§ 4.1-253. Suspension or revocation; disposition of tobacco products on hand; termination.**

717 *A. Tobacco products owned by or in possession of, or for sale by, any retail tobacco permittee at the time*
 718 *the retail tobacco permit of such person is suspended or revoked may be disposed of as follows:*

719 *1. Sold by such person to the Board at prices and terms agreed upon by the Board and such person;*

720 *2. Sold to persons in the Commonwealth permitted to sell such tobacco products; or*

721 *3. Upon permits granted by the Board and conditions specified by the Board, sold to persons outside the*
 722 *Commonwealth for resale outside the Commonwealth upon permits granted by the Board.*

723 *B. Upon permits granted by the Board and upon payment of any excise tax due thereon, tobacco products*
 724 *owned and in possession of, or either, or for sale by, any tobacco retail permittee at the time the license of*
 725 *such person is suspended or revoked may be sold to any person authorized to purchase the same for resale.*

726 *C. All tobacco products owned by or in possession of any person whose tobacco retail permit is*
 727 *suspended or revoked shall be disposed of by such person in accordance with the provisions of this section*
 728 *within 60 days from the date of such suspension or revocation.*

729 *D. Tobacco products owned by, or in possession of, or for sale by persons whose tobacco retail permits*
 730 *have been terminated other than by suspension or revocation may be disposed of in accordance with*
 731 *subsection A or B within such time as the Board deems proper. Such period shall not be less than 60 days.*

732 *E. All tobacco products owned by or remaining in the possession of any person described in subsection A,*
 733 *B, or D after the expiration of such period shall be deemed contraband and forfeited to the Commonwealth in*
 734 *accordance with the provisions of § 4.1-338.*

735 **§ 4.1-254. Continuation of tobacco retail permittee operations in certain instances; temporary permits.**

736 *A. The Board may grant the following temporary permits which shall authorize:*

737 *1. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or*
 738 *property of a person permitted as a tobacco retailer by the Board and who has become lawfully entitled to*
 739 *the possession of the permitted premises to continue to operate the establishment to the same extent as a*
 740 *person holding such tobacco retail permits for a period not to exceed 60 days or for such longer period as*

741 *determined by the Board. Such permit shall be temporary and shall confer the privileges of any tobacco retail*
 742 *permits held by the previous owner to the extent determined by the Board. Such temporary permit may be*
 743 *issued in advance, conditioned on the above requirements.*

744 2. Any person who, through contract, lease, concession, license, management or similar agreement
 745 (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a
 746 person permitted as a tobacco retailer by the Board to continue to operate the establishment to the same
 747 extent as a person holding such tobacco retail permits, provided such person has made application to the
 748 Board for a tobacco retail permit at the same premises. The temporary permit shall (i) confer the privileges
 749 of any tobacco retail permits held by the previous owner to the extent determined by the Board and (ii) be
 750 valid for a period of 120 days or for such longer period as may be necessary as determined by the Board
 751 pending the completion of the processing of the temporary permittee's tobacco retail permit application. No
 752 temporary permit shall be issued without the written consent of the previous tobacco retail permittee. No
 753 temporary permit shall be issued under the provisions of this subdivision if the previous tobacco retail
 754 permittee owes any state or local taxes, or has any pending charges for violation of this subtitle or any Board
 755 regulation, unless the temporary permittee agrees to assume the liability of the previous tobacco retail
 756 permittee for the taxes or any penalty for the pending charges. An application for a temporary permit may be
 757 filed prior to the effective date of the contract, in which case the temporary permit when issued shall become
 758 effective on the effective date of the contract. Upon the effective date of the temporary permit, (a) the
 759 temporary permittee shall be responsible for compliance with the provisions of this subtitle and any Board
 760 regulation and (b) the previous tobacco retail permittee shall not be held liable for any violation of this
 761 subtitle or any Board regulation committed by, or any errors or omissions of, the temporary permittee.

762 B. Every application for a temporary permit granted pursuant to this section shall be on a form provided
 763 by the Board. The fee for a temporary permit shall be one-twelfth of the combined tobacco retail permit
 764 application fee and tobacco retail permit fee computed to the nearest cent and multiplied by the number of
 765 months for which the permit is granted.

766 C. The decision to refuse to grant a temporary permit shall not be subject to a hearing. A temporary
 767 permit may be revoked summarily by the Board for any cause set forth in § 4.1-250 without complying with
 768 subsection A of § 4.1-252. Revocation of a temporary permit shall be effective upon service of the order of
 769 revocation upon the permittee or upon the expiration of three business days after the order of the revocation
 770 has been mailed to the permittee at either his residence or the address given for the business in the license
 771 application. No further notice shall be required.

772 **§ 4.1-255. Tobacco products underage decoy operations; frequency.**

773 For each tobacco retail permittee, the Board shall conduct an unannounced underage decoy operation at
 774 least once every 24 months to verify that the tobacco retail permittee is not selling retail tobacco products to
 775 persons under 21 years of age. If the Board determines, subject to §§ 4.1-250 and 4.1-252, that the tobacco
 776 retail permittee has violated § 4.1-357, the Board shall conduct an additional underage decoy operation of
 777 the tobacco retail permittee within six months of a board order substantiating such violation.

778 Article 4.

779 Tobacco Products.

780 **§ 4.1-355. Illegal sale of tobacco products in general; penalty.**

781 Any person who is not a tobacco retail permittee who sells any tobacco product except as permitted by
 782 this subtitle or, for manufacturers or distributors licensed by the Department of Taxation, sold for resale
 783 pursuant to Title 58.1, is guilty of a Class 1 misdemeanor.

784 **§ 4.1-356. Purchase of tobacco products from person not authorized to sell; penalty.**

785 Any person who buys tobacco products from any person other than a person authorized under this subtitle
 786 or Title 58.1 to sell tobacco products is guilty of a Class 1 misdemeanor.

787 **§ 4.1-357. Persons to whom tobacco products may not be sold; proof of legal age; civil penalty.**

788 A. No person shall sell any tobacco products to any individual when at the time of such sale the person
 789 knows or has reason to believe that the individual to whom the sale is made is younger than 21 years of age.
 790 No person shall sell tobacco products from a vending machine.

791 B. No person shall sell a tobacco product to any individual who does not demonstrate, by producing a
 792 driver's license or similar photo identification issued by a government agency, that the individual is at least
 793 21 years of age.

794 Before a tobacco retail permittee may sell tobacco products, other than cigar and pipe tobacco products
 795 as defined in § 58.1-1021.01, to any consumer, the person selling, offering for sale, giving, or furnishing the
 796 tobacco products shall verify that the consumer is of legal age by examining from any person who appears to
 797 be under 30 years of age a government-issued photographic identification that establishes that the person is
 798 of legal age or verifying the identification presented using identification fraud detection software, technology,
 799 or a scanner that confirms the authenticity of such identification.

800 This subsection shall not apply to mail order or Internet sales, provided that the person offering the retail
 801 tobacco product or hemp product intended for smoking for sale through mail order or the Internet (i) prior to
 802 the sale of the retail tobacco product or hemp product intended for smoking verifies that the purchaser is at

803 *least 21 years of age through a commercially available database that is regularly used by businesses or*
 804 *governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing,*
 805 *shipping, or delivery that requires the signature of a person at least 21 years of age before the retail tobacco*
 806 *product or hemp product intended for smoking will be released to the purchaser.*

807 *C. A violation of subsection A or B by an individual is punishable by a civil penalty in the amount of \$100.*
 808 *Such civil penalty shall not preclude the Board from taking administrative action against a tobacco retail*
 809 *permittee for the conduct of his agent or employee who violates subsection A or B.*

810 **§ 4.1-358. Prohibiting possession of retail tobacco products and hemp products intended for smoking**
 811 **by a person younger than 21 years of age; seizure.**

812 *A. No person younger than 21 years of age shall possess any retail tobacco product or hemp product*
 813 *intended for smoking, as those terms are defined in § 18.2-371.2, except that, for purposes of this section,*
 814 *"retail tobacco product" includes drugs or devices, as such terms are defined in 21 U.S.C. § 321, or*
 815 *combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination*
 816 *products are authorized for sale by the U.S. Food and Drug Administration. The provisions of this section*
 817 *shall not be applicable to the possession of retail tobacco products or hemp products intended for smoking by*
 818 *a person younger than 21 years of age (i) making a delivery of retail tobacco products or hemp products*
 819 *intended for smoking in pursuance of his employment or (ii) as part of a scientific study being conducted by*
 820 *an organization for the purpose of medical research to further efforts in cigarette and tobacco use prevention*
 821 *and cessation and tobacco product regulation, provided that such medical research has been approved by an*
 822 *institutional review board pursuant to applicable federal regulations or by a research review committee*
 823 *pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to the possession*
 824 *of any retail tobacco product or hemp product intended for smoking by a law-enforcement officer or his*
 825 *agent when the same is necessary in the performance of his duties.*

826 *B. Any retail tobacco product or hemp product intended for smoking, as those terms are defined in §*
 827 *18.2-371.2, possessed in violation of this section shall be deemed contraband and may be seized by a law-*
 828 *enforcement officer. Any such product, the lawful possession of which is not established, seized by such*
 829 *officer shall be forfeited and disposed of according to the process described in subdivision A 2 of §*
 830 *19.2-386.23.*

831 *C. The seizure of contraband pursuant to subsection B shall be the sole penalty for a violation of this*
 832 *section.*

833 *D. The provisions of this section shall not preclude prosecution under any other statute.*

834 **§ 4.1-359. Purchasing tobacco products for one to whom they may not be sold; penalty; forfeiture.**

835 *A. Any person who purchases for, or otherwise gives, provides, or assists in the provision of tobacco*
 836 *products to another person, when he knows or has reason to know that such person is younger than 21 years*
 837 *of age, except (i) where possession of the tobacco products by a person younger than 21 years of age is due*
 838 *to such person's making a delivery of tobacco products in pursuance of his employment or (ii) as part of a*
 839 *scientific study being conducted by an organization for the purpose of medical research to further efforts in*
 840 *cigarette and tobacco use prevention and cessation and tobacco product regulation, provided that such*
 841 *medical research has been approved by an institutional review board pursuant to applicable federal*
 842 *regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1.*
 843 *This subsection shall not apply to the possession of any retail tobacco product by a law-enforcement officer*
 844 *or his agent when the same is necessary in the performance of his duties.*

845 *B. A violation of subsection A by an individual is punishable by a civil penalty in the amount of \$100.*
 846 *Such civil penalty shall not preclude the Board from taking administrative action against a tobacco retail*
 847 *permittee for the conduct of his agent or employee who violates subsection A.*

848 *C. Any tobacco products purchased or possessed in violation of this section shall be deemed contraband*
 849 *and may be seized by a law-enforcement officer. Any such product, the lawful possession of which is not*
 850 *established, seized by such officer shall be forfeited and disposed of according to the process described in*
 851 *subdivision A 2 of § 19.2-386.23.*

852 **§ 15.2-912.4. Regulation of tobacco, nicotine, and hemp product retail sale locations.**

853 *Any locality may by ordinance regulate the retail sale locations of ~~retail tobacco products, nicotine vapor~~*
 854 *~~products, alternative nicotine products,~~ as such terms are defined in § 18.2-371.2, or hemp products*
 855 *intended for smoking, as such term is defined in § 3.2-4112, for any such retail sale location and may prohibit*
 856 *a retail sale location on property within 1,000 linear feet of a child day center as defined in § 22.1-289.02 or a*
 857 *public, private, or parochial school. An ordinance adopted pursuant to this section shall not affect (i) a*
 858 *licensee holding a valid license under § 4.1-206.3 or (ii) any retail sale location of ~~retail tobacco products,~~*
 859 *~~nicotine vapor products, alternative nicotine products,~~ or hemp products intended for smoking operating*
 860 *before July 1, 2024.*

861 **§ 18.2-371.2. Prohibiting sale or distribution, etc. of retail tobacco products and hemp products**
 862 **intended for smoking by persons under 21 years of age; civil penalties.**

863 *A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person*
 864 *younger than 21 years of age, knowing or having reason to believe that such person is younger than 21 years*

865 of age, any ~~retail tobacco product or~~ hemp product intended for smoking.

866 No person shall sell retail ~~tobacco products or~~ hemp products intended for smoking from a vending
867 machine.

868 B. No person shall sell a ~~retail tobacco product or~~ hemp product intended for smoking to any individual
869 who does not demonstrate, by producing a driver's license or similar photo identification issued by a
870 government agency, that the individual is at least 21 years of age.

871 Before a ~~retail dealer may sell retail tobacco products, other than cigar and pipe tobacco products as~~
872 ~~defined in § 58.1-1021.01, to any consumer, the person selling, offering for sale, giving, or furnishing the~~
873 ~~retail tobacco products shall verify that the consumer is of legal age by examining from any person who~~
874 ~~appears to be under 30 years of age a government-issued photographic identification that establishes that the~~
875 ~~person is of legal age or, if required pursuant to subdivision C 4 b of § 58.1-1021.04:1 or subdivision B 2 b of~~
876 ~~§ 59.1-293.12, verifying the identification presented using identification fraud detection software,~~
877 ~~technology, or a scanner that confirms the authenticity of such identification.~~

878 This subsection shall not apply to mail order or Internet sales, provided that the person offering the ~~retail~~
879 ~~tobacco product or~~ hemp product intended for smoking for sale through mail order or the Internet (i) prior to
880 the sale of the retail tobacco product or hemp product intended for smoking verifies that the purchaser is at
881 least 21 years of age through a commercially available database that is regularly used by businesses or
882 governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing,
883 shipping, or delivery that requires the signature of a person at least 21 years of age before the ~~retail tobacco~~
884 ~~product or~~ hemp product intended for smoking will be released to the purchaser.

885 C. A violation of subsection A or B by an individual or by a separate retail establishment is punishable by
886 a civil penalty in the amount of \$500 for a first violation and a civil penalty in the amount of \$2,500 for a
887 second or subsequent violation within a three-year period. ~~If applicable, upon a second or subsequent~~
888 ~~violation within a three-year period, the Department of Taxation may suspend or revoke any approved~~
889 ~~license, permit, or registration issued pursuant to subsection C of § 58.1-1021.04:1.~~

890 For any violation of this section by an employee of a retail establishment, (i) such penalty shall be
891 assessed against the establishment and (ii) an additional penalty of \$100 shall be assessed against the
892 employee.

893 Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may
894 bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement
895 officer may issue a summons for a violation of subsection A or B.

896 D. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided
897 by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers
898 for sale any retail tobacco product or hemp product intended for smoking shall post in a conspicuous manner
899 and place a sign or signs indicating that the sale of retail tobacco products or hemp products intended for
900 smoking to any person under 21 years of age is prohibited by law. Any attorney for the county, city, or town
901 in which an alleged violation of this subsection occurred may enforce this subsection by civil action to
902 recover a civil penalty not to exceed \$500. The civil penalty shall be paid into the local treasury. No filing fee
903 or other fee or cost shall be charged to the county, city, or town which instituted the action.

904 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services
905 Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services
906 may promulgate regulations which allow the Department to undertake the activities necessary to comply with
907 such regulations.

908 3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may
909 enforce this subsection by civil action to recover a civil penalty not to exceed \$500. The civil penalty shall be
910 paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town
911 which instituted the action.

912 E. Nothing in this section shall be construed to create a private cause of action.

913 F. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may
914 issue a summons for any violation of this section. Additionally, any retailer selling retail tobacco products
915 shall be subject to the *permitting*, enforcement and compliance provisions of *Article 4 (§ 4.1-241 et seq.) of*
916 *Chapter 23.2 (§ 59.1-293.10 et seq.) 2 of Title 59.1 4.1.*

917 G. As used in this section:

918 "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized
919 substance to the person inhaling from the device, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-
920 hookah. "Electronic smoking device" includes any component, part, or accessory of the device, whether or
921 not sold separately, and also includes any substance intended to be aerosolized or vaporized during the use of
922 the device, whether or not the substance contains nicotine. "Electronic smoking device" does not include any
923 (i) battery or battery charger when sold separately or (ii) device used for heated tobacco products. "Electronic
924 smoking device" does not include drugs or devices, as such terms are defined in 21 U.S.C. § 321, or
925 combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination
926 products are authorized for sale by the U.S. Food and Drug Administration.

927 "Hemp product" and "hemp product intended for smoking" mean the same as those terms are defined in §
928 3.2-4112.

929 "Retail tobacco product" means (i) any product containing, made of, or derived from tobacco or that
930 contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked,
931 heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated
932 tobacco product, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (ii) any electronic smoking device
933 and any substances that may be aerosolized or vaporized by such device, whether or not the substance
934 contains nicotine; and (iii) any component, part, or accessory of a product described in clause (i) or (ii),
935 whether or not such component, part, or accessory contains tobacco or nicotine, including filters, rolling
936 papers, blunt or hemp wraps, and pipes. "Retail tobacco product" includes any nicotine vapor product as that
937 term is defined in § 58.1-1021.01. "Retail tobacco product" does not include drugs or devices, as such terms
938 are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. § 353, if such
939 drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug Administration.

940 "Wrappings" includes materials made or sold for covering or rolling tobacco or other materials for
941 smoking in a manner similar to a cigarette or cigar.

942 **§ 18.2-371.2:1. Prohibiting possession of retail tobacco products and hemp products intended for**
943 **smoking by a person younger than 21 years of age; seizure.**

944 A. No person younger than 21 years of age shall possess any retail tobacco product or hemp product
945 intended for smoking, as those terms are defined in § 18.2-371.2, except that, for purposes of this section,
946 "retail tobacco product" includes drugs or devices, as such terms are defined in 21 U.S.C. § 321, or
947 combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination
948 products are authorized for sale by the U.S. Food and Drug Administration. The provisions of this section
949 shall not be applicable to the possession of retail tobacco products or hemp products intended for smoking by
950 a person younger than 21 years of age (i) making a delivery of retail tobacco products or hemp products
951 intended for smoking in pursuance of his employment or (ii) as part of a scientific study being conducted by
952 an organization for the purpose of medical research to further efforts in cigarette and tobacco use prevention
953 and cessation and tobacco product regulation, provided that such medical research has been approved by an
954 institutional review board pursuant to applicable federal regulations or by a research review committee
955 pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to the possession
956 of any retail tobacco product or hemp product intended for smoking by a law enforcement officer or his agent
957 when the same is necessary in the performance of his duties.

958 B. Any retail tobacco product or hemp product intended for smoking, as those terms are defined in §
959 18.2-371.2, possessed in violation of this section shall be deemed contraband and may be seized by a law-
960 enforcement officer. Any such product, the lawful possession of which is not established, seized by such
961 officer shall be forfeited and disposed of according to the process described in subdivision A 2 of §
962 19.2-386.23.

963 C. The seizure of contraband pursuant to subsection B shall be the sole penalty for a violation of this
964 section.

965 D. The provisions of this section shall not preclude prosecution under any other statute.

966 **§ 58.1-1021.04:1. Distributor's or remote retail seller's license; liquid nicotine and nicotine vapor**
967 **products license; penalties.**

968 A. 1. No person shall engage in the business of selling or dealing in tobacco products as a distributor in
969 the Commonwealth without first having received a separate license from the Department for each location or
970 place of business. Each application for a distributor's license shall be accompanied by a fee to be prescribed
971 by the Department. Every application for such license shall be made on a form prescribed by the Department
972 and the following information shall be provided on the application:

973 a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name
974 and address of each of its members shall be provided. If the applicant is a corporation, the name and address
975 of each of its principal officers shall be provided;

976 b. The address of the applicant's principal place of business;

977 c. The place or places where the business to be licensed is to be conducted; and

978 d. Such other information as the Department may require for the purpose of the administration of this
979 article.

980 2. A person outside the Commonwealth who ships or transports tobacco products to retailers in the
981 Commonwealth, to be sold by those retailers, may make application for license as a distributor, be granted
982 such a license by the Department, and thereafter be subject to all the provisions of this article. Once a license
983 is granted pursuant to this section, such person shall be entitled to act as a licensed distributor and, unless
984 such person maintains a registered agent pursuant to Chapter 9 (§ 13.1-601 et seq.), 10 (§ 13.1-801 et seq.),
985 12 (§ 13.1-1000 et seq.), or 14 (§ 13.1-1200 et seq.) of Title 13.1 or Chapter 2.1 (§ 50-73.1 et seq.) or 2.2 (§
986 50-73.79 et seq.) of Title 50, shall be deemed to have appointed the Clerk of the State Corporation
987 Commission as the person's agent for the purpose of service of process relating to any matter or issue
988 involving the person and arising under the provisions of this article.

989 The Department shall conduct a background investigation, to include a Virginia criminal history records
 990 search, and fingerprints of the applicant, or the responsible principals, managers, and other persons engaged
 991 in handling tobacco products at the licensable locations, that shall be submitted to the Federal Bureau of
 992 Investigation if the Department deems a national criminal records search necessary, on applicants for
 993 licensure as tobacco products distributors. The Department may refuse to issue a distributor's license or may
 994 suspend, revoke, or refuse to renew a distributor's license issued to any person, partnership, corporation,
 995 limited liability company, or business trust if it determines that the principals, managers, and other persons
 996 engaged in handling tobacco products at the licensable location of the applicant have been (i) found guilty of
 997 any fraud or misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny,
 998 embezzlement, fraudulent conversion, gambling, perjury, bribery, treason, or racketeering; or (iii) convicted
 999 of a felony. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a material fact or
 1000 knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application
 1001 for a distributor's license to the Department, is guilty of a Class 1 misdemeanor. The Department may
 1002 establish an application or renewal fee not to exceed \$750 to be retained by the Department to be applied to
 1003 the administrative and other costs of processing distributor's license applications, conducting background
 1004 investigations, and issuing distributor's licenses. Any amount collected pursuant to this section in excess of
 1005 such costs as of June 30 in even-numbered years shall be reported to the State Treasurer and deposited into
 1006 the state treasury.

1007 3. No person inside or outside the Commonwealth shall make a remote retail sale of cigars or pipe tobacco
 1008 to consumers in the Commonwealth without (i) completing an application for and being granted a license as a
 1009 remote retail seller; (ii) determining whether economic nexus activity thresholds have been met to register for
 1010 a dealer's certificate under § 58.1-613; (iii) if economic nexus thresholds are met, collecting and remitting the
 1011 excise tax pursuant to subsection A of § 58.1-1021.02; (iv) providing for age verification through an
 1012 independent, third-party age verification service that compares information available from a commercially
 1013 available database, or aggregate of databases, that is regularly used by government agencies and businesses
 1014 for the purpose of age and identity verification to the personal information entered by the individual during
 1015 the ordering process that establishes that the individual is of age; and (v) if economic nexus thresholds are
 1016 met and excise tax is being remitted using the actual cost list method to calculate the excise tax, providing the
 1017 remote retail seller's certified actual cost list to the Department for each SKU to be offered for remote retail
 1018 sale in the subsequent calendar year. The actual cost list shall be updated quarterly as new SKUs are added to
 1019 a remote retail seller's inventory. New SKUs will be added using the actual cost first paid for the SKU.

1020 B. Upon receipt of an application in proper form and payment of the required license fee, the Department
 1021 shall, unless otherwise provided by this article, issue to the applicant a license, which shall permit the
 1022 licensee to engage in business as a distributor at the place of business shown on the license. Each license, or a
 1023 copy thereof, shall be prominently displayed on the premises covered by the license. No license shall be
 1024 transferable to any other person. Distributor's licenses issued pursuant to this section shall be valid for a
 1025 period of three years from the date of issue unless revoked by the Department in the manner provided herein.
 1026 The Department may at any time revoke the license issued to any distributor who is found guilty of violating
 1027 or noncompliance with any of the provisions of this chapter or any of the rules of the Department adopted and
 1028 promulgated under authority of this chapter. ~~The Department shall suspend or revoke the license issued to~~
 1029 ~~any distributor who is found guilty of a second or subsequent violation of subsection A or B of § 18.2-371.2.~~

1030 ~~C. 1. No person shall engage in the business of selling or dealing liquid nicotine or nicotine vapor~~
 1031 ~~products or who ships or transports liquid nicotine or nicotine vapor products to retailers in the~~
 1032 ~~Commonwealth, to be sold by those retailers, as a manufacturer, distributor, or retail dealer in the~~
 1033 ~~Commonwealth without first having received a separate license from the Department for each location or~~
 1034 ~~place of business. Each application for a manufacturer's, distributor's, or retail dealer's liquid nicotine and~~
 1035 ~~nicotine vapor products license shall be accompanied by a fee to be prescribed by the Department. Any retail~~
 1036 ~~dealer who holds an approved Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes~~
 1037 ~~Purchased for Resale or an Other Tobacco Products (OTP) Distributor's License issued by the Department~~
 1038 ~~shall not be required to obtain a license under this subsection. Every application for such liquid nicotine and~~
 1039 ~~nicotine vapor products license shall be made on a form prescribed by the Department and the following~~
 1040 ~~information shall be provided on the application:~~

1041 a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name
 1042 and address of each of its members shall be provided. If the applicant is a corporation, the name and address
 1043 of each of its principal officers shall be provided;

1044 b. The address of the applicant's principal place of business;

1045 c. The place or places where the business to be licensed is to be conducted; and

1046 d. Such other information as the Department may require for the purpose of the administration of this
 1047 article.

1048 2. The Department shall conduct a background investigation, to include a Virginia criminal history
 1049 records search of the applicant, or the responsible principals and managers of liquid nicotine and nicotine
 1050 vapor products at the licensable locations that shall be submitted to the Federal Bureau of Investigation if the

1051 Department deems a national criminal records search necessary, on applicants for licensure as a liquid
 1052 nicotine and nicotine vapor products manufacturer, distributor, or retailer, as applicable. The Department may
 1053 refuse to issue a license or may suspend, revoke, or refuse to renew a license issued to any person,
 1054 partnership, corporation, limited liability company, or business trust if it determines that the principals and
 1055 managers at the licensable location of the applicant have been (i) found guilty of any fraud or
 1056 misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny, embezzlement,
 1057 fraudulent conversion, gambling, perjury, bribery, treason, tax evasion, or racketeering; or (iii) convicted of a
 1058 felony within the last five years. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a
 1059 material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in
 1060 any application for a license to the Department is guilty of a Class 4 misdemeanor. The Department may
 1061 establish an application or renewal fee to be retained by the Department to be applied to the administrative
 1062 and other costs of processing license applications, conducting background investigations, and issuing
 1063 licenses. Any amount collected pursuant to this section in excess of such costs as of June 30 in even-
 1064 numbered years shall be reported to the State Treasurer and deposited into the state treasury.

1065 3. Upon receipt of an application in proper form and payment of the required license fee, the Department
 1066 shall, unless otherwise provided by this article, issue to the applicant a liquid nicotine and nicotine vapor
 1067 products license, which shall permit the licensee to engage in business as a manufacturer, distributor, or retail
 1068 dealer at the place of business shown on the license. Each license, or a copy thereof, shall be prominently
 1069 displayed on the premises covered by the license. No license shall be transferable to any other person,
 1070 partnership, corporation, limited liability company, or business trust; however, the Department may grant a
 1071 temporary license to any applicant that has purchased the business of any manufacturer, distributor, or retail
 1072 dealer licensed pursuant to this section while such applicant's application for licensure is pending. Licenses,
 1073 other than temporary licenses, issued pursuant to this section shall be valid for two years from the date of
 1074 issue unless revoked by the Department in the manner provided in this section. The Department may at any
 1075 time suspend or revoke the approved license, permit, or registration issued in accordance with this subsection
 1076 to any person who is found guilty of violating or noncompliance with any of the provisions of this chapter or
 1077 any of the rules of the Department adopted and promulgated under authority of this chapter. Any person
 1078 authorized to sell liquid nicotine or nicotine vapor products pursuant to this subsection shall, as a condition of
 1079 renewing or extending an approved license, permit, or registration, be required to submit to the Department
 1080 an accurate record of any taxes paid on liquid nicotine pursuant to § 58.1-1021.02.

1081 4. No person shall make a sale of liquid nicotine or nicotine vapor products (i) to any person who has not
 1082 attained the legal age for purchasing liquid nicotine or nicotine vapor products and (ii) without a valid liquid
 1083 nicotine and nicotine vapor products license issued pursuant to this subsection. Any person who is found
 1084 guilty of violating or noncompliance with this subdivision shall be subject to the following penalties:

1085 a. For the first violation in a 36-month period, a penalty of no less than \$1,000;

1086 b. For a second violation in a 36-month period, a penalty of no less than \$5,000 and a 30-day suspension
 1087 of the liquid nicotine and nicotine vapor products license. If the person is found to be in violation of clause (i)
 1088 of this subdivision 4, such person shall be required to verify that any consumer who appears to be under 30
 1089 years of age is of legal age by verifying such consumer's government-issued photographic identification using
 1090 fraud detection software, technology, or a scanner that confirms the authenticity of such identification; and

1091 c. For a third violation in a 36-month period, a penalty of no less than \$10,000, revocation of the liquid
 1092 nicotine and nicotine vapor products license, and ineligibility to possess a liquid nicotine and nicotine vapor
 1093 products license for a period of three years from the date of the most recent violation.

1094 5. No person inside or outside the Commonwealth shall make a retail sale of liquid nicotine and nicotine
 1095 vapor products without verifying that the consumer is of legal age by examining from any person who
 1096 appears to be under 30 years of age a government-issued photographic identification that establishes that the
 1097 person is of legal age or providing for age verification through an independent age verification service that
 1098 compares information available from a commercially available database, or aggregate of databases, that is
 1099 regularly used by government agencies and businesses for the purpose of age and identity verification to the
 1100 personal information entered by the individual during the ordering process that establishes that the individual
 1101 is of age.

1102 6. For any transaction between a distributor and a retail dealer involving liquid nicotine or nicotine vapor
 1103 products, both the distributor and the retail dealer shall maintain and retain records of any invoice or sales
 1104 receipt involved that shall include itemized lists of the types of products included in such transaction, the tax
 1105 due on each product pursuant to subsection B of § 58.1-1021.02, and the total amount of taxes paid. Such
 1106 records shall be produced and provided to the Department as necessary for auditing, compliance, and
 1107 enforcement purposes.

1108 D. C. The Department shall compile and maintain a current list of licensed distributors and remote retail
 1109 sellers of tobacco products and of manufacturers, distributors, and retail dealers of liquid nicotine and
 1110 nicotine vapor products. The list shall be updated on a monthly basis and published on the Department's
 1111 website, available to any interested party.

1112 § 59.1-293.14. Tobacco Retail Enforcement Fund.

1113 There is hereby created in the state treasury a special nonreverting fund to be known as the Tobacco Retail
 1114 Enforcement Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the
 1115 Comptroller. All revenues accruing to the Fund pursuant to this article, all funds appropriated for such
 1116 purpose, and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into
 1117 the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund
 1118 and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal
 1119 year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely
 1120 for the purposes of funding the ~~Department of Taxation's direct and indirect costs of the license~~
 1121 ~~administration and enforcement program administered pursuant to Article 2.1 (§ 58.1-1021.01 et seq.) of~~
 1122 ~~Chapter 40 of Title 58.1 and the administrative costs of education and training, retail inspections, and~~
 1123 ~~unannounced compliance checks in accordance with the provisions of §§ 59.1-293.12 and 59.1-293.13~~
 1124 *Virginia Alcoholic Beverage Control Authority's direct and indirect costs of tobacco retail permit*
 1125 *administration; enforcement program, including unannounced compliance checks; and administrative costs*
 1126 *pursuant to Article 4 (§ 4.1-241 et seq.) of Chapter 2 of Title 4.1.* Expenditures and disbursements from the
 1127 Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed
 1128 by ~~the Tax Commissioner~~ *the Virginia Alcoholic Beverage Control Authority's Chief Executive Officer.*
 1129 **2. That §§ 58.1-1021.06 through 58.1-1021.09, 59.1-293.12, and 59.1-293.13 of the Code of Virginia are**
 1130 **repealed.**
 1131 **3. That any tobacco retailer holding a valid Department of Taxation retail dealer's liquid nicotine and**
 1132 **nicotine vapor license shall be able to continue to sell tobacco products at retail without the payment of**
 1133 **any additional application or permit fee until the last day of the twelfth month next ensuing from its**
 1134 **date of license issuance, provided that the tobacco retailer files its initial application with the Virginia**
 1135 **Alcoholic Beverage Control Authority for a tobacco retail permit prior to January 1, 2026. On January**
 1136 **1, 2026, such retail dealer's liquid nicotine and nicotine vapor license shall become a Virginia Alcoholic**
 1137 **Beverage Control Authority tobacco retail permit subject to Article 4 (§ 4.1-241 et seq.) of Chapter 2 of**
 1138 **Title 4.1 of the Code of Virginia, as created by this act. Such tobacco retailer, when renewing its**
 1139 **tobacco retail permit, shall at that time be subject to the permit fee assessed by § 4.1-245 of the Code of**
 1140 **Virginia, as created by this act.**
 1141 **4. The Department of Taxation shall provide to the Virginia Alcoholic Beverage Control Authority a**
 1142 **complete list of each place of business that has received a retail dealer's liquid nicotine and nicotine**
 1143 **vapor license and the date each such license was issued.**
 1144 **5. That the provisions of the first, second, and third enactments of this act shall become effective on**
 1145 **January 1, 2026, except that the Virginia Alcoholic Beverage Control Authority is authorized to begin**
 1146 **accepting applications for tobacco retail permits in accordance with the provisions of Article 4 (§**
 1147 **4.1-241 et seq.) of Chapter 2 of Title 4.1 of the Code of Virginia, as created by this act, on October 1,**
 1148 **2025.**
 1149 **6. That the Virginia Alcoholic Beverage Control Authority (the Authority) may promulgate regulations**
 1150 **implementing the provisions of this act. The Authority's initial adoption of such regulations shall be**
 1151 **exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the**
 1152 **Authority shall provide an opportunity for public comment on the regulations prior to adoption.**