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HOUSE BILL NO. 2515

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Labor and Commerce
on January 30, 2025)

(Patron Prior to Substitute—Delegate McClure)

A *BILL to amend and reenact §§ 59.1-200, as it is currently effective and as it shall become effective, 59.1-586, and 59.1-587 of the Code of Virginia and to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 58, consisting of sections numbered 59.1-607 through 59.1-610, relating to Virginia Consumer Protection Act; prohibited practices; mandatory fees or surcharges disclosure.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-200, as it is currently effective and as it shall become effective, 59.1-586, and 59.1-587 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 58, consisting of sections numbered 59.1-607 through 59.1-610, as follows:

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

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

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

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

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

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

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

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

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

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

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection

60 with a consumer transaction;

61 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516,
62 or 3.2-6519 is a violation of this chapter;

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

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

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

82 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
83 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
84 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
85 overpayments. If the credit balance information is incorporated into statements of account furnished
86 consumers by suppliers within such 60-day period, no separate or additional notice is required;

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

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

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

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

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

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

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

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

98 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
99 (§ 59.1-207.34 et seq.);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

118 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
119 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in §
120 59.1-526;

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

- 122 43. Violating any provision of § 59.1-443.2;
- 123 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 124 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 125 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 126 47. Violating any provision of § 18.2-239;
- 127 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 128 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
 129 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
 130 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
 131 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
 132 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
 133 products that are used, secondhand or "seconds";
- 134 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 135 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 136 52. Violating any provision of § 8.2-317.1;
- 137 53. Violating subsection A of § 9.1-149.1;
- 138 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
 139 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
 140 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
 141 drywall has been permanently installed or affixed;
- 142 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
 143 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
 144 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of
 145 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
 146 seq.) of Title 54.1;
- 147 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 148 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 149 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,
 150 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer
 151 by a supplier to a small business, as those terms are defined in § 59.1-207.45;
- 152 59. Violating any provision of subsection E of § 32.1-126;
- 153 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under
 154 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 155 61. Violating any provision of § 2.2-2001.5;
- 156 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 157 63. Violating any provision of § 6.2-312;
- 158 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 159 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 160 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 161 67. Knowingly violating any provision of § 8.01-27.5;
- 162 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel
 163 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a
 164 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an
 165 obligation to pay for the goods or services;
- 166 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
 167 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic
 168 derivative" means a chemical compound produced by man through a chemical transformation to turn a
 169 compound into a different compound by adding or subtracting molecules to or from the original compound.
 170 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug
 171 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit
 172 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 173 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
 174 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
 175 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 176 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
 177 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 178 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
 179 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
 180 defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an
 181 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
 182 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

237 **§ 59.1-200. (Effective July 1, 2025) Prohibited practices.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

276 13a. Failing to provide to a consumer, or failing to use or include in any written document or material
277 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,
278 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so
279 provide, use, or include the statement, disclosure, notice, or other information in connection with the
280 consumer transaction;

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

283 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516,
284 or 3.2-6519 is a violation of this chapter;

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

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

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

304 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
305 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such

306 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
307 overpayments. If the credit balance information is incorporated into statements of account furnished
308 consumers by suppliers within such 60-day period, no separate or additional notice is required;

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

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

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

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

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

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

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

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

320 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
321 (§ 59.1-207.34 et seq.);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

340 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
341 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in §
342 59.1-526;

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

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

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

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

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

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

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

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

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

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

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

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

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

364 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
365 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
366 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of

367 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
368 seq.) of Title 54.1;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

400 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
401 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
402 defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an
403 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
404 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
405 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
406 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
407 accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to
408 standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting
409 body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
410 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
411 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
412 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
413 16 (§ 4.1-1600 et seq.) of Title 4.1;

414 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in §
415 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that
416 depicts or is in the shape of a human, animal, vehicle, or fruit;

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

423 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a
424 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to
425 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
426 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16
427 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to

428 July 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

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

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

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

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

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

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

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

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

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

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

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

460 **§ 59.1-586. Definitions.**

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

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

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

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

468 "Restaurant" has the same meaning as provided in § 35.1-1 and excludes establishments listed in §
469 35.1-25.

470 **§ 59.1-587. Food delivery platform; agreements required; disclosure of price and fees.**

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

474 B. *A food delivery platform shall:*

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

477 2. *Prior to checkout, display a subtotal page that itemizes the price of the selected items for purchase and*
478 *any additional fee or percentage included in the total cost.*

479 C. *It shall not be a violation of this chapter for a food delivery platform to (i) reduce the total cost that*
480 *was previously advertised or displayed, (ii) display a promotion or discount, including an offer to waive one*
481 *or more mandatory fees, or (iii) advertise or display a price for goods and services in compliance with*
482 *specific state or federal laws applicable to food delivery platforms.*

483 D. *A food delivery platform that is a price-variable supplier, as defined in § 59.1-607, is compliant with*
484 *subdivision B 1 if such supplier includes a disclosure at the point when a consumer selects items for purchase*
485 *of (i) the factors determining the final price; (ii) any mandatory fees or surcharges, as defined in § 59.1-607,*
486 *associated with the transaction; and (iii) that the total cost of services may vary.*

487 **CHAPTER 58.**

488 **MANDATORY FEES OR SURCHARGES.**

489 **§ 59.1-607. Definitions.**

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

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

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

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

494 "Clear and conspicuous" and "clearly and conspicuously" have the same meaning as provided for those
495 terms in § 59.1-207.45.

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

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

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

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

501 "Mandatory fees or surcharges" includes any additional fee or surcharge that must be paid in order to
502 purchase the good or service being advertised. "Mandatory fees or surcharges" does not include (i) taxes or
503 fees imposed on the consumer by a government or government-approved entity or assessment fees of a
504 government-created special district or program paid to the government or government-approved entity or (ii)
505 reasonable postage or shipping fees.

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

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

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

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

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

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

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

514 **§ 59.1-608. Mandatory fees or surcharges; disclosure required.**

515 A. No supplier shall, in connection with a consumer transaction, advertise or display a price for goods or
516 services without clearly and conspicuously displaying the total price, which shall include all mandatory fees
517 or surcharges. A supplier that provides both a good and a service to consumers may comply with this section
518 by displaying or advertising the total price of the good separately from the total price or rate charged for
519 providing the service.

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

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

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

529 E. A provider of broadband Internet access service on its own or as part of a bundle that complies with
530 federal broadband consumer requirements codified in 47 C.F.R. § 8.2(a) shall be deemed compliant with this
531 section.

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

534 G. A direct broadcast satellite provider that complies with the pricing requirements of 47 C.F.R. 76.310
535 shall be deemed compliant with this section.

536 H. A provider of live-event tickets that complies with the provisions of 16 C.F.R. Part 464 relating to
537 live-event tickets shall be deemed compliant with this section.

538 I. A food delivery platform that complies with the provisions of Chapter 54 (§ 59.1-586 et seq.) shall be
539 deemed compliant with this section.

540 **§ 59.1-609. Limitations; exclusions.**

541 A. It shall not be a violation of this chapter for any supplier to (i) reduce the total price that was
542 previously advertised or displayed; (ii) display a promotion or discount, including an offer to waive one or
543 more mandatory fees; or (iii) advertise or display a price for goods and services in compliance with specific
544 state or federal laws applicable to such supplier.

545 B. No provision of this chapter shall apply to (i) fees authorized by law related to the purchase or lease of
546 a motor vehicle that are charged by a motor vehicle dealer; (ii) fees, surcharges, or costs charged by any
547 electric utility, natural gas utility, or telecommunications service provider; (iii) any fees, surcharges, or other
548 costs associated with settlement services, provided that such associated costs do not include real estate
549 broker commissions and fees; or (iv) the provision of air transportation by air carriers, as such terms are
550 defined in 49 U.S.C. § 40102.

551 C. No provision of this chapter shall apply to a supplier if such application is expressly preempted by

552 *federal law.*

553 **§ 59.1-610. Enforcement; penalties.**

554 *Any violation of this chapter shall constitute a prohibited practice under the provisions of § 59.1-200 and*
555 *shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§*
556 *59.1-196 et seq.).*