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## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 2.2-2499.8, 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606,*  
 3 *4.1-607, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1500, 4.1-1501, 4.1-1502, 4.1-1601,*  
 4 *4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248,*  
 5 *18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254,*  
 6 *18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3,*  
 7 *18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1,*  
 8 *19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently*  
 9 *effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-206, 22.1-277.08, 23.1-1301,*  
 10 *46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 58.1-301, and 59.1-200, as it is currently effective*  
 11 *and as it shall become effective, of the Code of Virginia; to amend the Code of Virginia by adding in*  
 12 *Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters*  
 13 *numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding sections*  
 14 *numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and*  
 15 *4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200*  
 16 *through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and*  
 17 *4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through*  
 18 *4.1-1406, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding in*  
 19 *Chapter 44 of Title 54.1 a section numbered 54.1-4426; and to repeal §§ 4.1-1101.1, 4.1-1105.1,*  
 20 *18.2-248.1, and 18.2-251.1 of the Code of Virginia, relating to cannabis control; retail market; penalties.*

21  
22

[H 2485]

Approved

23 **Be it enacted by the General Assembly of Virginia:**

24 **1. That §§ 2.2-2499.8, 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-607, 4.1-611,**  
 25 **4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1500, 4.1-1501, 4.1-1502, 4.1-1601, 4.1-1604, 5.1-13,**  
 26 **9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01,**  
 27 **18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1,**  
 28 **18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012,**  
 29 **18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01,**  
 30 **19.2-386.22 through 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently effective and as it shall become**  
 31 **effective, 19.2-392.02, 19.2-392.6, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1,**  
 32 **53.1-231.2, 54.1-2903, 58.1-301, and 59.1-200, as it is currently effective and as it shall become effective,**  
 33 **of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by**  
 34 **adding in Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1**  
 35 **chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding**  
 36 **sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117,**  
 37 **4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered**  
 38 **4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301,**  
 39 **and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403**  
 40 **through 4.1-1406, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by**  
 41 **adding in Chapter 44 of Title 54.1 a section numbered 54.1-4426 as follows:**

42 **§ 2.2-2499.8. Cannabis Equity Reinvestment Fund.**

43 There is hereby created in the state treasury a special nonreverting fund to be known as the Cannabis  
 44 Equity Reinvestment Fund, referred to in this section as "the Fund." The Fund shall be established on the  
 45 books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests,  
 46 and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest  
 47 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the  
 48 Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall  
 49 remain in the Fund. Moneys in the Fund shall be used solely for the purposes of:

50 1. Supporting persons, families, and communities historically and disproportionately targeted and affected  
51 by drug enforcement;52 2. Providing scholarship opportunities and educational and vocational resources for historically  
53 marginalized persons, including persons in foster care, who have been adversely impacted by substance use  
54 individually, in their families, or in their communities;55 3. Awarding grants to support workforce development, mentoring programs, job training and placement  
56 services, apprenticeships, and reentry services that serve persons and communities historically and

57 disproportionately targeted by drug enforcement.

58 4. Contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-163.01; and

59 5. Contributing to the Virginia Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501.

60 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by  
61 the Comptroller upon written request signed by (i) the Director of Diversity, Equity, and Inclusion or (ii) a  
62 majority of the members of the Cannabis Equity Reinvestment Board established pursuant to § 2.2-2499.5.

63 **§ 3.2-4113. Production of industrial hemp lawful.**

64 A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a handler or his  
65 agent to handle, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful  
66 purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under Chapter 11 (§  
67 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the possession  
68 or growing of industrial hemp or any Cannabis sativa with a tetrahydrocannabinol concentration that does not  
69 exceed the total tetrahydrocannabinol concentration percentage established in federal regulations applicable  
70 to negligent violations located at 7 C.F.R. § 990.6(b)(3). No handler or his agent or processor or his agent  
71 shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01,  
72 ~~18.2-248.1~~, or 18.2-250 or issued a summons or judgment for the possession, handling, or processing of  
73 industrial hemp. In any complaint, information, or indictment, and in any action or proceeding brought for the  
74 enforcement of any provision of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*, Article 1 (§ 18.2-247 et seq.) of  
75 Chapter 7 of Title 18.2, or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any  
76 exception, excuse, proviso, or exemption contained in this article or the Drug Control Act, and the burden of  
77 proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

78 B. Nothing in this article shall be construed to authorize any person to violate any federal law or  
79 regulation.

80 C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~,  
81 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the involuntary growth of industrial hemp through the  
82 inadvertent natural spread of seeds or pollen as a result of proximity to a production field, handler's storage  
83 site, or process site.

84 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

85 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the  
86 Department of Forensic Science, when signed by him, shall be *admissible as evidence in all prosecutions for*  
87 ~~violations of this subtitle and all controversies in any judicial proceedings touching the mixture analyzed by~~  
88 ~~him of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the~~  
89 ~~requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the~~  
90 ~~admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding.~~ On  
91 motion of the accused or any party in interest, the court may require the forensic scientist making the analysis  
92 to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable  
93 time prior to the day on which the case is set for trial.

94 **§ 4.1-600. Definitions.**

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

96 "Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction that is  
97 calculated to induce sales of ~~retail~~ marijuana, ~~retail~~ marijuana products, marijuana plants, or marijuana seeds,  
98 including any written, printed, graphic, digital, electronic, or other material, billboard, sign, or other outdoor  
99 display, publication, or radio or television broadcast.

100 "Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

101 "Board" means the Board of Directors of the Virginia Cannabis Control Authority.

102 "Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

103 "*Canopy*" means the space used by a licensee to produce flowering marijuana plants, including areas  
104 between plants, pathways, walkways, and empty space between rows that allow for airflow, light, growth,  
105 access for watering, trimming, and other activities associated with marijuana cultivation. "*Canopy*" does not  
106 include space used for mother plants, clones, immature or nonflowering plants, processing, drying, curing,  
107 trimming, storage, offices, hallways, work areas, or other administrative and nonproduction uses. If  
108 flowering marijuana plants are cultivated using a shelving or other layered system, the surface area of each  
109 level shall be included for purposes of calculating canopy.

110 "Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to  
111 be significantly difficult for a typical child under five years of age to open and not to be significantly difficult  
112 for a typical adult to open and reseal and (ii) for any product intended for more than a single use or that  
113 contains multiple servings, resealable.

114 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading,  
115 trimming, *packaging*, or other similar ~~processing~~ *manufacturing* of marijuana for use or sale. "Cultivation" or  
116 "cultivate" does not include ~~manufacturing~~ *processing* or testing.

117 "*Edible hemp product*" means the same as that term is defined in § 3.2-4112.

118 "Edible marijuana product" means a marijuana product intended to be consumed orally, including

119 marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.  
120 *"Hemp product" means the same as that term is defined in § 3.2-4112.*  
121 *"Historically economically disadvantaged community" means either (i) a jurisdiction identified by the*  
122 *Board utilizing census tract data made available by the United States Census Bureau in which offenses for*  
123 *marijuana possession were committed at a rate in excess of 150 percent of the statewide average for*  
124 *marijuana possession offenses during the 10-year period of 2009 to 2019 or (ii) a historically underutilized*  
125 *business zone as defined in 15 U.S.C. § 657a.*  
126 *"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider*  
127 *than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.*  
128 *"Industrial hemp" means the same as that term is defined in § 3.2-4112.*  
129 *"Industrial hemp extract" means the same as that term is defined in § 3.2-5145.1.*  
130 *"Licensed" means the holding of a valid license granted by the Authority.*  
131 *"Licensee" means any person to whom a license has been granted by the Authority.*  
132 ~~*"Manufacturing" or "manufacture" means the production of marijuana products or the blending, infusing,*~~  
133 ~~*compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or*~~  
134 ~~*preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation*~~  
135 ~~*or testing.*~~  
136 *"Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin;*  
137 *and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin,*  
138 *or any extract containing one or more cannabinoids. "Marijuana" does not include (i) the mature stalks of*  
139 *such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such*  
140 *stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis; (ii) industrial hemp; as*  
141 ~~*defined in § 3.2-4112,*~~ *that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his*  
142 ~~*agent; (iii) industrial hemp; as defined in § 3.2-4112,*~~ *that is possessed by a person who holds a hemp*  
143 *producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp*  
144 ~~*product; as defined in § 3.2-4112; (v) an industrial hemp extract; as defined in § 3.2-5145.1; or (vi) any*~~  
145 *substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether*  
146 *that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act (§*  
147 *54.1-3400 et seq.) pursuant to § 54.1-3443.*  
148 *"Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active*  
149 *cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant*  
150 *is a concentrate for purposes of this subtitle.*  
151 ~~*"Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and*~~  
152 ~~*package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana*~~  
153 ~~*cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and*~~  
154 ~~*marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail*~~  
155 ~~*marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer*~~  
156 ~~*possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana*~~  
157 ~~*plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use §*~~  
158 ~~*4.1-800.*~~  
159 *"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana*  
160 ~~*manufacturing processing facility, a marijuana wholesaler transporter, or a retail marijuana store.*~~  
161 ~~*"Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label, and*~~  
162 ~~*package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana*~~  
163 ~~*from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession*~~  
164 ~~*of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or*~~  
165 ~~*other marijuana manufacturing facilities.*~~  
166 *"Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either*  
167 *designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting,*  
168 *manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,*  
169 *packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the*  
170 *human body marijuana.*  
171 *"Marijuana processing facility" means a facility licensed under § 4.1-801.*  
172 *"Marijuana products" means (i) products that are composed of marijuana and other ingredients and are*  
173 *intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.*  
174 ~~*"Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test*~~  
175 ~~*marijuana, marijuana products, and other substances § 4.1-804.*~~  
176 ~~*"Marijuana wholesaler transporter" means a facility licensed under this subtitle to purchase or take*~~  
177 ~~*possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds*~~  
178 ~~*from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and*~~  
179 ~~*to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants,*~~  
180 ~~*and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana*~~

181 store, or another marijuana wholesaler § 4.1-803.

182 "Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed  
183 marijuana establishment.

184 "Non-retail marijuana products" means marijuana products that are not manufactured and sold by a  
185 licensed marijuana establishment.

186 "Micro business" means a licensee that meets the criteria set forth in subdivision B 13 of § 4.1-606.

187 "Outdoor cultivation" means cultivation in an area exposed to natural sunlight and open to environmental  
188 conditions, including variable temperature, precipitation, and wind.

189 "Place or premises" means the real estate, together with any buildings or other improvements thereon,  
190 designated in the application for a license as the place at which the cultivation, ~~manufacture~~ processing, sale,  
191 or testing of ~~retail~~ marijuana or ~~retail~~ marijuana products shall be performed, except that portion of any such  
192 building or other improvement actually and exclusively used as a private residence.

193 "Processing" or "process" means the production of marijuana products or the blending, infusing,  
194 compounding, or other preparation of marijuana or marijuana products, including marijuana extraction or  
195 preparation by means of chemical synthesis. "Processing" or "process" does not include cultivation or  
196 testing.

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

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

203 "Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana  
204 establishment.

205 "Retail marijuana products" means marijuana products that are manufactured and sold by a licensed  
206 marijuana establishment.

207 "Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of  
208 retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana  
209 cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana,  
210 retail marijuana products, immature marijuana plants, or marijuana seeds to consumers § 4.1-802.

211 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale;  
212 peddling, exchanging, or bartering; or delivering otherwise other than gratuitously, by any means; ~~retail~~  
213 marijuana or retail marijuana products.

214 "Secure agricultural greenhouse" means an enclosed structure that has transparent walls and roofing and  
215 is used for controlled-environment agriculture.

216 "Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has  
217 designated as a law-enforcement officer pursuant to this subtitle.

218 "Testing" or "test" means the research and analysis of marijuana, marijuana products, or other substances  
219 for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or ~~manufacturing~~  
220 processing.

221 "Tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

222 "Total tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

223 **§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.**

224 A. The General Assembly has determined that there exists in the Commonwealth a need to control the  
225 possession, sale, transportation, distribution, and delivery of ~~retail~~ marijuana and ~~retail~~ marijuana products in  
226 the Commonwealth. Further, the General Assembly determines that the creation of an authority for this  
227 purpose is in the public interest, serves a public purpose, and will promote the health, safety, welfare,  
228 convenience, and prosperity of the people of the Commonwealth. To achieve this objective, there is hereby  
229 created an independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or  
230 judicial branches of state government, to be known as the Virginia Cannabis Control Authority. The  
231 Authority's exercise of powers and duties conferred by this subtitle shall be deemed the performance of an  
232 essential governmental function and a matter of public necessity for which public moneys may be spent.

233 B. The Board of Directors of the Authority is vested with control of the possession, sale, transportation,  
234 distribution, and delivery of ~~retail~~ marijuana and ~~retail~~ marijuana products in the Commonwealth, with  
235 plenary power to prescribe and enforce regulations and conditions under which ~~retail~~ marijuana and ~~retail~~  
236 marijuana products are possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt,  
237 incompetent, dishonest, or unprincipled practices and to promote the health, safety, welfare, convenience, and  
238 prosperity of the people of the Commonwealth. The exercise of the powers granted by this subtitle shall be in  
239 all respects for the benefit of the citizens of the Commonwealth and for the promotion of their safety, health,  
240 welfare, and convenience. No part of the assets or net earnings of the Authority shall inure to the benefit of,  
241 or be distributable to, any private individual, except that reasonable compensation may be paid for services  
242 rendered to or for the Authority affecting one or more of its purposes, and benefits may be conferred that are

243 in conformity with said purposes, and no private individual shall be entitled to share in the distribution of any  
 244 of the corporate assets on dissolution of the Authority.

245 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings;**  
 246 **compensation and expenses; duties.**

247 A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an advisory  
 248 council to the Board. The purpose of the Advisory Council is to assess and monitor public health issues,  
 249 trends, and impacts related to marijuana and marijuana legalization and make recommendations regarding  
 250 health warnings; ~~retail~~; marijuana and ~~retail~~ marijuana products safety and product composition; and public  
 251 health awareness, programming, and related resource needs.

252 B. The Advisory Council shall have a total membership of 21 members that shall consist of 14  
 253 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the Council  
 254 shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic diversity of  
 255 the Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be appointed by  
 256 the Senate Committee on Rules, one of whom shall be a representative from the Virginia Foundation for  
 257 Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the American Academy  
 258 of Pediatrics, one of whom shall be a representative from the Medical Society of Virginia, and one of whom  
 259 shall be a representative from the Virginia Pharmacists Association; six to be appointed by the Speaker of the  
 260 House of Delegates, one of whom shall be a representative from a community services board, one of whom  
 261 shall be a person or health care provider with expertise in substance use disorder treatment and recovery, one  
 262 of whom shall be a person or health care provider with expertise in substance use disorder prevention, one of  
 263 whom shall be a person with experience in disability rights advocacy, one of whom shall be a person with  
 264 experience in veterans health care, and one of whom shall be a person with a social or health equity  
 265 background; and four to be appointed by the Governor, subject to confirmation by the General Assembly, one  
 266 of whom shall be a representative of a local health district, one of whom shall be a person who is part of the  
 267 cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, and one of  
 268 whom shall be a registered medical cannabis patient.

269 The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of  
 270 Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer Services,  
 271 the Director of the Department of Health Professions, the Director of the Department of Forensic Science,  
 272 and the Chief Executive Officer of the Virginia Cannabis Control Authority, or their designees, shall serve ex  
 273 officio with voting privileges. Ex officio members of the Advisory Council shall serve terms coincident with  
 274 their terms of office.

275 After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four  
 276 years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms.  
 277 Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

278 ~~The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee.~~  
 279 The Advisory Council shall select a *chairman and vice-chairman* from among its membership. A majority of  
 280 the members shall constitute a quorum *unless the Advisory Council adopts a policy by the affirmative vote of*  
 281 *a majority of the Advisory Council members that allows for a lesser number of members to constitute a*  
 282 *quorum, which shall be no less than nine members.* The Advisory Council shall meet at least two times each  
 283 year and shall meet at the call of the chairman ~~or~~, whenever the majority of the members so request, *or upon*  
 284 *the Board's submission of regulations to the Advisory Council for approval.*

285 The Advisory Council shall have the authority to create subgroups with additional stakeholders, experts,  
 286 and state agency representatives.

287 C. Members shall receive no compensation for the performance of their duties but shall be reimbursed for  
 288 all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813  
 289 and 2.2-2825.

290 D. The Advisory Council shall have the following duties, in addition to duties that may be necessary to  
 291 fulfill its purpose as described in subsection A:

292 1. To review multi-agency efforts to support collaboration and a unified approach on public health  
 293 responses related to marijuana and marijuana legalization in the Commonwealth and to develop  
 294 recommendations as necessary.

295 2. To monitor changes in drug use data related to marijuana and marijuana legalization in the  
 296 Commonwealth and the science and medical information relevant to the potential health risks associated with  
 297 such drug use, and make appropriate recommendations to the Department of Health and the Board.

298 3. ~~Submit~~ *To review and approve Board regulations related to public health pursuant to subsection F of §*  
 299 *4.1-606. The Advisory Council shall approve or deny such regulations within 30 calendar days of the Board's*  
 300 *submission of the regulations to the Advisory Council. If the Advisory Council fails to approve or deny a*  
 301 *regulation within 30 calendar days, the Board may adopt such regulation without approval by the Advisory*  
 302 *Council.*

303 4. *To submit* an annual report to the Governor and the General Assembly for publication as a report  
 304 document as provided in the procedures of the Division of Legislative Automated Systems for the processing

305 of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly  
 306 an annual executive summary of the interim activity and work of the Advisory Council no later than the first  
 307 day of each regular session of the General Assembly. The executive summary shall be submitted as a report  
 308 document as provided in the procedures of the Division of Legislative Automated Systems for the processing  
 309 of legislative documents and reports and shall be posted on the General Assembly's website.

310 **§ 4.1-604. Powers and duties of the Board.**

311 The Board shall have the following powers and duties:

312 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and §  
 313 4.1-606;

314 2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;

315 3. Grant, suspend, restrict, revoke, or refuse to grant or renew any license or permit issued or authorized  
 316 pursuant to this subtitle;

317 4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be  
 318 kept or sold and prescribe the form and content of all labels and seals to be placed thereon;

319 5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

320 6. Establish standards and implement an online course for employees of retail marijuana stores that trains  
 321 employees on how to educate consumers on the potential risks of marijuana use;

322 7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar  
 323 document regarding the potential risks of marijuana use to be prominently displayed and made available to  
 324 consumers;

325 8. Establish a position for a Cannabis ~~Social Equity~~ *Micro Business* Liaison who shall lead the Cannabis  
 326 *Micro Business Equity and Diversity* Support Team and liaise with the Director of Diversity, Equity, and  
 327 Inclusion on matters related to ~~diversity, equity, and inclusion standards~~ *micro business participation* in the  
 328 marijuana industry;

329 9. Establish a Cannabis *Micro Business Equity and Diversity* Support Team, which shall (i) develop  
 330 requirements for the creation and submission of ~~diversity, equity, and inclusion~~ *micro cannabis business*  
 331 *accelerator* plans by persons who wish to possess a license in more than one license category pursuant to  
 332 subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity  
 333 apprenticeship plan, and an approval process and requirements for implementation of such plans; (ii) be  
 334 responsible for conducting an analysis of potential barriers to entry for ~~small, women-owned, and minority-~~  
 335 ~~owned businesses and veteran-owned~~ *micro* businesses interested in participating in the marijuana industry  
 336 and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with  
 337 business planning for potential marijuana establishment licensees; (iv) spread awareness of business  
 338 opportunities related to the marijuana marketplace in ~~areas disproportionately impacted by marijuana~~  
 339 ~~prohibition and enforcement~~ *historically economically disadvantaged communities*; (v) provide technical  
 340 assistance in navigating the administrative process to potential marijuana establishment licensees; and (vi)  
 341 conduct other outreach initiatives in ~~areas disproportionately impacted by marijuana prohibition and~~  
 342 ~~enforcement~~ *historically economically disadvantaged communities* as necessary;

343 10. Establish a position for an individual with professional experience in a health related field who shall  
 344 staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the Office  
 345 of the Secretary of Health and Human Resources and relevant health and human services agencies and  
 346 organizations, and perform other duties as needed;

347 11. Establish and implement a plan, in coordination with the Cannabis ~~Social Equity~~ *Micro Business*  
 348 *Liaison* and the ~~Director of Diversity, Equity, and Inclusion~~, to promote and encourage participation in the  
 349 marijuana industry by people from *historically economically disadvantaged* communities ~~that have been~~  
 350 ~~disproportionately impacted by marijuana prohibition and enforcement~~ and to positively impact those  
 351 communities;

352 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

353 13. Adopt, use, and alter at will a common seal;

354 14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale  
 355 of products of, or services rendered by the Authority at rates to be determined by the Authority for the  
 356 purpose of providing for the payment of the expenses of the Authority;

357 15. Make and enter into all contracts and agreements necessary or incidental to the performance of its  
 358 duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including  
 359 agreements with any person or federal agency;

360 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,  
 361 investment bankers, superintendents, managers, and such other employees and special agents as may be  
 362 necessary and fix their compensation to be payable from funds made available to the Authority. ~~Legal~~ *The*  
 363 *Board may employ or retain legal counsel of its choice to advise or represent the Authority in hearings,*  
 364 *controversies, or other matters involving the interests of the Authority; however, upon request by the Board,*  
 365 *the Attorney General shall provide legal services for the Authority shall be provided by the Attorney General*  
 366 in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

367 17. Receive and accept from any federal or private agency, foundation, corporation, association, or person  
 368 grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept  
 369 from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or  
 370 from any other source aid or contributions of either money, property, or other things of value, to be held,  
 371 used, and applied only for the purposes for which such grants and contributions may be made. All federal  
 372 moneys accepted under this section shall be accepted and expended by the Authority upon such terms and  
 373 conditions as are prescribed by the United States and as are consistent with state law, and all state moneys  
 374 accepted under this section shall be expended by the Authority upon such terms and conditions as are  
 375 prescribed by the Commonwealth;

376 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business  
 377 shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties  
 378 performed. The Board may delegate or assign any duty or task to be performed by the Authority to any  
 379 officer or employee of the Authority. The Board shall remain responsible for the performance of any such  
 380 duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by  
 381 written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall  
 382 require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the  
 383 Board of the responsibility to ensure faithful performance of the duties and tasks;

384 19. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's  
 385 purposes or necessary or convenient to exercise its powers;

386 20. Develop policies and procedures generally applicable to the procurement of goods, services, and  
 387 construction, based upon competitive principles;

388 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title  
 389 2.2;

390 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,  
 391 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the  
 392 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,  
 393 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to  
 394 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time  
 395 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms  
 396 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or  
 397 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such  
 398 terms and conditions as may be determined by the Board; and occupy and improve any land or building  
 399 required for the purposes of this subtitle;

400 23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered  
 401 necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and  
 402 processing plants;

403 24. Appoint every agent and employee required for its operations, require any or all of them to give bonds  
 404 payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of  
 405 experts and professionals;

406 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production  
 407 of records, memoranda, papers, and other documents before the Board or any agent of the Board, and  
 408 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the  
 409 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and  
 410 decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may  
 411 enter into consent agreements and may request and accept from any applicant, licensee, or permittee a  
 412 consent agreement in lieu of proceedings on (i) objections to the issuance of a license or permit or (ii)  
 413 disciplinary action. Any such consent agreement (a) shall include findings of fact and provisions regarding  
 414 whether the terms of the consent agreement are confidential and (b) may include an admission or a finding of  
 415 a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject  
 416 to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be  
 417 considered by the Board in future disciplinary proceedings;

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

423 27. Take appropriate disciplinary action and assess and collect civil penalties and civil charges for  
 424 violations of this subtitle and Board regulations;

425 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive  
 426 Officer as the Board deems appropriate;

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

429 30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with  
430 applications for such permits;

431 31. Develop and make available on its website guidance documents regarding compliance and safe  
432 practices for persons who cultivate marijuana at home for personal use, which shall include information  
433 regarding cultivation practices that promote personal and public safety, including child protection, and  
434 discourage practices that create a nuisance;

435 32. Develop and make available on its website a resource that provides information regarding (i)  
436 responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana  
437 consumption, including inability to operate a motor vehicle and other types of transportation and equipment;  
438 and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment  
439 opportunities. The Board shall require that the web address for such resource be included on the label of all  
440 ~~retail~~ marijuana and ~~retail~~ marijuana product as provided in § 4.1-1402; ~~and~~

441 33. *Access during business hours any facility governed by this subtitle and any business that offers for*  
442 *sale or sells at retail a substance intended for human consumption, orally or by inhalation, that is advertised*  
443 *or labeled as containing a cannabinoid for the purpose of conducting an inspection or securing samples to*  
444 *identify potential violations of this subtitle;*

445 34. *Issue a quarterly report that contains information regarding (i) license fees waived or reduced*  
446 *pursuant to § 4.1-606; (ii) licenses issued to or renewed for persons identified in subdivision B 13 of §*  
447 *4.1-606; (iii) public education initiatives, including public awareness campaigns regarding driving under the*  
448 *influence, underage consumption and youth awareness, and health risks; (iv) community engagement*  
449 *initiatives; (v) sales and tax revenue; (vi) programs funded by cannabis tax revenue; (vii) efforts made*  
450 *pursuant to subdivisions 8, 9, 11, and 32; and (viii) license denials and disciplinary actions taken.*

451 35. *Coordinate with the Department of Criminal Justice Services to ensure the exchange of any*  
452 *information necessary to comply with the reporting requirements of the Community Policing Reporting*  
453 *Database established pursuant to § 52-30.3; and*

454 36. Do all acts necessary or advisable to carry out the purposes of this subtitle.

455 **§ 4.1-606. Regulations of the Board.**

456 A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general  
457 laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and to prevent  
458 the illegal cultivation, ~~manufacture~~ *processing, transportation, distribution, sale, and testing of marijuana and*  
459 *marijuana products. The Board may amend or repeal such regulations. ~~Such~~ *Except as otherwise provided by*  
460 *law, such regulations shall be promulgated, amended, or repealed in accordance with the Administrative*  
461 *Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.**

462 B. The Board shall promulgate regulations that:

463 1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including  
464 security requirements to include lighting, physical security, and alarm requirements, provided that such  
465 requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

466 2. Establish requirements for securely transporting marijuana between marijuana establishments;

467 3. Establish sanitary standards for ~~retail~~ marijuana product preparation;

468 4. Establish a testing program for ~~retail~~ marijuana and ~~retail~~ marijuana products pursuant to Chapter 14 (§  
469 4.1-1400 et seq.);

470 5. Establish an application process for licensure as a marijuana establishment pursuant to this subtitle in a  
471 way that, when possible, prevents disparate impacts on historically *economically* disadvantaged communities;

472 6. Establish requirements for health and safety warning labels to be placed on ~~retail~~ marijuana and ~~retail~~  
473 marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the  
474 provisions of this subtitle;

475 7. Establish a maximum tetrahydrocannabinol level for ~~retail~~ marijuana products, which shall not exceed  
476 (i) ~~five~~ *10* milligrams per serving for edible marijuana products and where practicable an equivalent amount  
477 for other marijuana products or (ii) ~~50~~ *100* milligrams per package for edible marijuana products and where  
478 practicable an equivalent amount for other marijuana products. Such regulations may include other product  
479 and dispensing limitations on tetrahydrocannabinol;

480 8. Establish requirements for the form, content, and retention of all records and accounts by all licensees;

481 9. Provide alternative methods for licensees to maintain and store business records that are subject to  
482 Board inspection, including methods for Board-approved electronic and offsite storage;

483 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana stores  
484 in the community and (ii) metrics that have similarly shown an association with negative community-level  
485 health outcomes or health disparities. In promulgating such regulations, the Board shall coordinate with the  
486 Cannabis Public Health Advisory Council established pursuant to § 4.1-603. *Such regulations shall ensure*  
487 *that marijuana establishment licenses are, as possible and practicable, issued evenly among all areas of the*  
488 *Commonwealth;*

489 11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer  
490 within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the



491 address on record with the Board by certified mail, return receipt requested, and by regular mail;  
492 12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to  
493 subsection C of § 4.1-1002;

494 13. Establish criteria by which to ~~evaluate social equity~~ *identify micro business* license applicants, which  
495 shall be an applicant ~~who has lived or been domiciled for at least 12 months in the Commonwealth and is~~  
496 ~~either (i) an applicant with that has at least 66 percent ownership and direct control by a person or persons~~  
497 ~~who (i) have been convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1,~~  
498 ~~former § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (ii) an applicant with at least~~  
499 ~~66 percent ownership by a person or persons who is are the parent, child, sibling, or spouse of a person who~~  
500 ~~has been convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former §~~  
501 ~~18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (iii) an applicant with at least 66~~  
502 ~~percent ownership by a person or persons who have resided for at least three of the past five years in a~~  
503 ~~jurisdiction that is determined by the Board after utilizing census tract data made available by the United~~  
504 ~~States Census Bureau to have been disproportionately policed for marijuana crimes; (iv) an applicant with at~~  
505 ~~least 66 percent ownership by a person or persons who have resided for at least three of the last five years in a~~  
506 ~~jurisdiction determined by the Board after utilizing census tract data made available by the United States~~  
507 ~~Census Bureau to be economically distressed; or (v) an applicant with at least 66 percent ownership by a~~  
508 ~~person or persons who graduated from a historically black historically economically disadvantaged~~  
509 ~~community; (iv) have attended for at least five years a public elementary or secondary school located in a~~  
510 ~~historically economically disadvantaged community; (v) have received a Federal Pell Grant or attended for~~  
511 ~~at least two years a college or university located in the Commonwealth at which at least 30 percent of the~~  
512 ~~students, on average, are eligible for a Federal Pell Grant; or (vi) is a veteran of the Armed Forces of the~~  
513 ~~United States;~~

514 14. ~~For the purposes of establishing criteria by which to evaluate social equity license applicants, establish~~  
515 ~~standards by which to determine (i) which jurisdictions have been disproportionately policed for marijuana~~  
516 ~~crimes and (ii) which jurisdictions are economically distressed;~~

517 ~~15. Establish~~ *For applicants that meet the criteria set forth in subdivision 13, establish standards and*  
518 *requirements for (i) any a preference in the licensing process for qualified social equity applicants;* (ii) *what*  
519 *percentage of application or license fees are waived for a qualified social equity applicant, and to promote*  
520 *participation by micro businesses with an inability to pay standard application and license fees;* (iii) *a*  
521 *low-interest business loan program for qualified social equity applicants;* (iv) *a waiver of any requirements to*  
522 *show proof of funds or current possession and control of the proposed licensed premises at the time of*  
523 *application; and (v) to the extent practicable, the proportional distribution of licenses among the applicants*  
524 *set forth in clauses (i) through (vi) of subdivision 13. The Board shall establish a process that prioritizes such*  
525 *applicants based on the number of subdivision 13 criteria categories met and ensures that increased priority*  
526 *is provided to applicants that meet the most criteria categories;*

527 ~~16. 15. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal~~  
528 ~~cultivation of marijuana that promote personal and public safety, including child protection, and discourage~~  
529 ~~personal cultivation practices that create a nuisance, including a nuisance caused by odor;~~

530 ~~17. 16. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail marijuana~~  
531 ~~or retail marijuana products, not inconsistent with the provisions of this chapter, so that such advertising~~  
532 ~~displaces the illicit market and notifies the public of the location of marijuana establishments. Such~~  
533 ~~regulations shall be promulgated in accordance with § 4.1-1404;~~

534 ~~18. 17. Establish restrictions on the number of licenses that a person may be granted to operate a~~  
535 ~~marijuana establishment in single locality or region; and~~

536 ~~19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have been~~  
537 ~~granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure all~~  
538 ~~licensees have an equal and meaningful opportunity to participate in the market. Such regulations may limit~~  
539 ~~the amount of products cultivated or manufactured by the pharmaceutical processor or industrial hemp~~  
540 ~~processor that such processor may offer for sale in its retail marijuana stores~~

541 18. *Allow micro business licensees to (i) enter into cooperative agreements with other micro business*  
542 *licensees and (ii) lease space and equipment and cultivate, manufacture, and sell marijuana and marijuana*  
543 *products on the premises of another licensee.*

544 C. The Board may promulgate regulations that:

545 1. Limit the number of licenses issued by type or class to operate a marijuana establishment; however, the  
546 number of licenses issued shall not exceed the following limits:

- 547 a. Retail marijuana stores, ~~400~~ 350;
- 548 b. ~~Marijuana wholesalers, 25;~~
- 549 c. ~~Marijuana manufacturing processing facilities, 60~~ 100; and
- 550 d. ~~Marijuana~~ c. Tier I marijuana cultivation facilities, 450 50;
- 551 d. Tier II marijuana cultivation facilities, 50;
- 552 e. Tier III marijuana cultivation facilities, 10;

553 *f. Tier IV marijuana cultivation facilities, 5;*

554 *g. Tier V marijuana cultivation facilities, 10; and*

555 *h. Marijuana testing facilities, the maximum number of licenses permitted under Board regulations.*

556 In determining the number of licenses issued pursuant to this subdivision, the Board shall not consider any  
557 license granted pursuant to subsection C of § 4.1-805 to (i) a pharmaceutical processor that has been issued a  
558 permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or  
559 (ii) an industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services  
560 pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

561 2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-1003 and  
562 4.1-1004, including method of filing a return, information required on a return, and form of payment.

563 3. Limit the allowable square footage of a retail marijuana store, which shall not exceed ~~1,500~~ 2,500  
564 square feet of retail floor space.

565 4. Allow certain persons to be granted or have interest in a license in more than one of the following  
566 license categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana  
567 wholesaler license, or retail marijuana store license. Such regulations shall be drawn narrowly to limit vertical  
568 integration to small businesses and ensure that all licensees have an equal and meaningful opportunity to  
569 participate in the market.

570 D. Board regulations shall be uniform in their application, except those relating to hours of sale for  
571 licensees.

572 E. Courts shall take judicial notice of Board regulations.

573 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any  
574 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6, 7,  
575 10, or ~~16~~ 15, and, *except as otherwise provided in § 4.1-603*, shall not promulgate any such regulation that  
576 has not been approved by a majority of the members of the Cannabis Public Health Advisory Council.

577 G. With regard to regulations governing licensees that have been issued a permit by the Board of  
578 Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2 (§  
579 54.1-3442.5 et seq.) of the Drug Control Act Chapter 16 (§ 4.1-1600 et seq.), the Board shall make  
580 reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board of  
581 Pharmacy that establish health, safety, and security requirements for pharmaceutical processors and cannabis  
582 dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated pursuant to this  
583 subtitle such pharmaceutical processors and cannabis dispensing facilities that have been found to be in  
584 compliance with regulations promulgated by the Board of Pharmacy that mirror or are more extensive in  
585 scope than similar regulations promulgated pursuant to *other provisions* of this subtitle.

586 H. The Board's power to regulate shall be broadly construed.

587 **§ 4.1-607. Board membership; terms; compensation.**

588 A. The Authority shall be governed by a Board of Directors, which shall consist of ~~five~~ *seven* citizens at  
589 large *as follows: five members* appointed by the Governor and confirmed by the affirmative vote of a majority  
590 of those voting in each house of the General Assembly *and two members appointed by the Joint Rules*  
591 *Committee and confirmed by the affirmative vote of a majority of those voting in each house of the General*  
592 *Assembly*. Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three  
593 years next preceding his appointment, and his continued residency shall be a condition of his tenure in office;  
594 (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a  
595 minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or  
596 control of a business or legal affairs. *Members shall be appointed in a manner that ensures expertise among*  
597 *the Board members in health, law, agriculture, finance, and law enforcement*. Appointees shall reflect the  
598 racial, ethnic, gender, and geographic diversity of the Commonwealth. Appointees shall be subject to a  
599 background check in accordance with § 4.1-609.

600 B. After the initial staggering of terms, members shall be appointed for a term of five years. All members  
601 shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired  
602 term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms;  
603 however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the  
604 Board may be removed from office by the Governor for cause, including the improper use of its police  
605 powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of  
606 interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the  
607 General Assembly, or refusal to carry out a lawful directive of the Governor.

608 C. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership  
609 of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The  
610 Board may also form committees and advisory councils, which may include representatives who are not  
611 members of the Board, to undertake more extensive study and discussion of the issues before the Board. A  
612 majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no  
613 vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of  
614 the Authority.

615 D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be  
616 held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written  
617 request of a majority of the Board members.

618 E. Members of the Board shall receive annually such salary, compensation, and reimbursement of  
619 expenses for the performance of their official duties as set forth in the general appropriation act for members  
620 of the House of Delegates when the General Assembly is not in session, except that the chairman of the  
621 Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance  
622 of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when  
623 the General Assembly is not in session.

624 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall  
625 apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the  
626 Authority.

627 **§ 4.1-611. Seed-to-sale tracking system.**

628 To ensure that no ~~retail~~ marijuana or ~~retail~~ marijuana products grown or processed by a marijuana  
629 establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and  
630 maintain a seed-to-sale tracking system that tracks ~~retail~~ marijuana from either the seed or immature plant  
631 stage until the ~~retail~~ marijuana or ~~retail~~ marijuana product is sold to a customer at a retail marijuana store.

632 **§ 4.1-614. Disposition of moneys collected by the Board.**

633 A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall  
634 be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of  
635 salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as required by §  
636 2.2-1802.

637 All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall  
638 be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries  
639 and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses  
640 incurred in the administration of this subtitle.

641 B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller to  
642 the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as otherwise  
643 provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits  
644 quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with  
645 the administration of this subtitle and to provide for the depreciation on the buildings, plants, and equipment  
646 owned, held, or operated by the Board. After accounting for the Authority's expenses as provided in  
647 subsection A, net profits shall be appropriated in the general appropriation act as follows:

- 648 1. ~~Forty~~ Ten percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;
- 649 2. ~~Thirty~~ Sixty percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.8;
- 650 3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which shall  
651 distribute such appropriated funds to community services boards for the purpose of administering substance  
652 use disorder prevention and treatment programs; and
- 653 4. Five percent to public health programs, including public awareness campaigns that are designed to  
654 prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform the  
655 public of other potential risks.

656 C. As used in this section, "net profits" means the total of all moneys collected by the Board, less local  
657 marijuana tax revenues collected under *subsection B of § 4.1-1004* and ~~distributed pursuant to § 4.1-614~~  
658 *4.1-1003* and all costs, expenses, and charges authorized by this section.

659 D. All local tax revenues collected under *subsection B of § 4.1-1004 4.1-1003* shall be paid into the state  
660 treasury as provided in subsection A and credited to a special fund, which is hereby created on the  
661 Comptroller's books under the name "Collections of Local Marijuana Taxes." The revenues shall be credited  
662 to the account of the locality in which they were collected. If revenues were collected from a marijuana  
663 establishment located in more than one locality by reason of the boundary line or lines passing through the  
664 marijuana establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall  
665 provide to the Comptroller any records and assistance necessary for the Comptroller to determine the locality  
666 to which tax revenues are attributable.

667 On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper  
668 amount in favor of each locality entitled to the return of its tax revenues, and such payments shall be charged  
669 to the account of each such locality under the special fund created by this section. If errors are made in any  
670 such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to  
671 some other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.

672 **§ 4.1-621. Certain information not to be made public.**

673 Neither the Board nor its employees shall divulge any information regarding (i) financial reports or  
674 records required pursuant to this subtitle; (ii) the purchase orders and invoices for ~~retail~~ marijuana or ~~retail~~  
675 marijuana products filed with the Board by marijuana wholesaler licensees; (iii) taxes collected from,  
676 refunded to, or adjusted for any person; or (iv) information contained in the seed-to-sale tracking system

677 maintained by the Board pursuant to § 4.1-611. The provisions of § 58.1-3 shall apply, mutatis mutandis, to  
 678 taxes collected pursuant to this subtitle and to purchase orders and invoices for ~~retail~~ marijuana or ~~retail~~  
 679 marijuana products filed with the Board by marijuana wholesaler licensees.

680 Nothing contained in this section shall prohibit the use or release of such information or documents by the  
 681 Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation,  
 682 or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee, nor shall  
 683 this section prohibit the Board or its employees from compiling and disseminating to any member of the  
 684 public aggregate statistical information pertaining to (a) tax collection, as long as such information does not  
 685 reveal or disclose tax collection from any identified licensee; (b) the total amount of ~~retail~~ marijuana or ~~retail~~  
 686 marijuana products sales in the Commonwealth by marijuana wholesaler licensees collectively; or (c) the  
 687 total amount of purchases or sales submitted by licensees, provided that such information does not identify  
 688 the licensee.

689 **§ 4.1-629. Local referendum on prohibition of retail marijuana stores.**

690 A. The governing body of a locality may, by resolution, petition the circuit court for the locality for a  
 691 referendum on the question of whether retail marijuana stores should be prohibited in the locality.

692 Upon the filing of a petition, the circuit court shall order the election officials to conduct a referendum on  
 693 the question on the date fixed in the order. The date set by the order shall comply with the provisions of §  
 694 24.2-682, but in no event shall such date be more than 90 days from the date the order is issued. The clerk of  
 695 the circuit court shall publish notice of the referendum in a newspaper of general circulation in the locality  
 696 once a week for three consecutive weeks prior to the referendum.

697 The question on the ballot shall be:

698 "Shall the operation of retail marijuana stores be prohibited in \_\_\_\_\_ (name of county, city, or  
 699 town)?"

700 The referendum shall be held and the results certified as provided in § 24.2-684. In addition to the  
 701 certifications required by such section, the secretary of the local electoral board shall certify the results of  
 702 the referendum to the Board of Directors of the Virginia Cannabis Control Authority and to the governing  
 703 body of the locality.

704 B. If a majority of the qualified voters voting in such referendum vote "No" on the question of whether  
 705 retail marijuana stores shall be prohibited in the locality, retail marijuana stores shall be permitted to  
 706 operate within the locality 60 days after the results are certified or on January 1, 2026, whichever is later,  
 707 and no subsequent referendum may be held pursuant to this section within such locality.

708 If a majority of the qualified voters voting in such referendum vote "Yes" on the question of whether retail  
 709 marijuana stores shall be prohibited in the locality, retail marijuana stores shall be prohibited in the locality  
 710 effective January 1 of the year immediately following the referendum. A referendum on the same question  
 711 may be held subsequent to a vote to prohibit retail marijuana stores but not earlier than four years following  
 712 the date of the previous referendum. Any subsequent referendum shall be held pursuant to the provisions of  
 713 this section.

714 C. When any referendum is held pursuant to this section in a town, separate and apart from the county in  
 715 which such town or a part thereof is located, such town shall be treated as being separate and apart from  
 716 such county. When any referendum is held pursuant to this section in a county, any town located within such  
 717 county shall be treated as being part of such county.

718 D. The legality of any referendum held pursuant to this section shall be subject to the inquiry,  
 719 determination, and judgment of the circuit court that ordered the referendum. The court shall proceed upon  
 720 the complaint of 15 or more qualified voters of the county, city, or town, filed within 30 days after the date  
 721 the results of the referendum are certified and setting out fully the grounds of contest. The complaint and the  
 722 proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654, and the judgment of the  
 723 court entered of record shall be a final determination of the legality of the referendum.

724 E. Referendums held pursuant to this section shall not apply to or prohibit the licensure and operation of  
 725 a marijuana establishment by and on the premises of a pharmaceutical processor or cannabis dispensing  
 726 facility that holds a valid permit issued by the Board pursuant to Chapter 16 (§ 4.1-1600 et seq.) prior to  
 727 November 1, 2024.

728 **§ 4.1-630. Local ordinances or resolutions regulating marijuana or marijuana products.**

729 A. No county, city, or town shall, except as provided in §§ 4.1-629 and 4.1-631, adopt any ordinance or  
 730 resolution that regulates or prohibits the cultivation, processing, possession, sale, distribution, handling,  
 731 transportation, consumption, use, advertising, or dispensing of marijuana or marijuana products in the  
 732 Commonwealth.

733 B. However, the governing body of any county, city, or town may adopt an ordinance that prohibits in its  
 734 local public parks, playgrounds, public streets, or any sidewalk adjoining any public street the acts described  
 735 in § 4.1-1108 or the acts described in § 4.1-1109 and may provide a penalty for violation thereof.

736 C. Nothing in this chapter shall be construed to supersede or limit the authority of a locality to adopt and  
 737 enforce local ordinances to regulate businesses licensed pursuant to this chapter, including local zoning and  
 738 land use requirements and business license requirements.

739 *D. Except as provided in this section, all local acts, including charter provisions and ordinances of*  
 740 *counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the extent*  
 741 *of such inconsistency.*

742 **§ 4.1-631. Local ordinances regulating time of sale of marijuana and marijuana products.**

743 *The governing body of each county may adopt ordinances effective in that portion of such county not*  
 744 *embraced within the corporate limits of any incorporated town, and the governing body of each city and town*  
 745 *may adopt ordinances effective in such city or town, fixing hours during which marijuana and marijuana*  
 746 *products may be sold. Such governing bodies shall provide for fines and other penalties for violations of any*  
 747 *such ordinances, which shall be enforced as if the violations were Class 1 misdemeanors with a right of*  
 748 *appeal pursuant to § 16.1-106.*

749 *A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the governing*  
 750 *body adopting it and transmitted to the Board.*

751 *On and after the effective date of any ordinance adopted pursuant to this section, no marijuana store shall*  
 752 *sell marijuana or marijuana products during the hours limited by the ordinance.*

753 **CHAPTER 7.**

754 **ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.**

755 **§ 4.1-700. Exemptions from licensure.**

756 *The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or*  
 757 *pharmaceutical processor that has been issued a permit by the Board and is acting in accordance with the*  
 758 *provisions of Chapter 16 (§ 4.1-1600 et seq.); (ii) a handler, grower, or processor of industrial hemp that is*  
 759 *registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§*  
 760 *3.2-4112 et seq.) of Title 3.2 and is acting in accordance with the provisions of Title 3.2; (iii) a person that*  
 761 *has been issued a regulated hemp product retail facility registration and is acting in accordance with the*  
 762 *provisions of Title 3.2; (iv) a manufacturer of an edible hemp product operating in accordance with Article 5*  
 763 *(§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (v) a person who cultivates marijuana at home for*  
 764 *personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a) prevent any person*  
 765 *described in clauses (i) through (iv) from obtaining a license pursuant to this subtitle, provided such person*  
 766 *satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp products from an*  
 767 *industrial hemp processor in accordance with the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2;*  
 768 *or (c) prevent a cultivation, processing, transporter, or retail licensee from operating on the licensed*  
 769 *premises a pharmaceutical processing facility in accordance with Chapter 16 (§ 4.1-1600 et seq.) or an*  
 770 *industrial hemp processing facility in accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.*

771 **§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.**

772 *The privilege of any licensee to cultivate, process, transport, sell, or test marijuana or marijuana products*  
 773 *shall extend to such licensee and to all agents or employees of such licensee for the purpose of operating*  
 774 *under such license. The licensee may be held liable for any violation of this subtitle or any Board regulation*  
 775 *committed by such agents or employees in connection with their employment.*

776 **§ 4.1-702. Separate license for each place of business; transfer or amendment; posting; expiration;**  
 777 **civil penalties.**

778 *A. Each license granted by the Board shall designate the place where the business of the licensee will be*  
 779 *carried on. A separate license shall be required for each separate place of business.*

780 *B. No license shall be transferable from one location to another or from one person to another unless*  
 781 *such transfer is conducted in accordance with Board regulations.*

782 *C. The Board may permit a licensee to amend the classification of an existing license without complying*  
 783 *with the posting and publishing procedures required by § 4.1-1000 if the effect of the amendment is to reduce*  
 784 *materially the privileges of an existing license.*

785 *D. Each license shall be posted in a location conspicuous to the public at the place where the licensee*  
 786 *carries on the business for which the license is granted.*

787 *E. The privileges conferred by any license granted by the Board shall continue until the last day of the*  
 788 *twelfth month next ensuing or the last day of the designated month and year of expiration, except the license*  
 789 *may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a license or*  
 790 *by operation of law, voluntary surrender, or order of the Board.*

791 *The Board may grant licenses for one year or for multiple years, not to exceed three years, based on the*  
 792 *fees set by the Board pursuant to § 4.1-1001. Qualification for a multiyear license shall be determined on the*  
 793 *basis of criteria established by the Board. Fees for multiyear licenses shall not be refundable except as*  
 794 *provided in § 4.1-1002. The Board may provide a discount for two-year or three-year licenses, not to exceed*  
 795 *five percent of the applicable license fee, which extends for one fiscal year and shall not be altered or*  
 796 *rescinded during such period.*

797 *F. The Board may permit a licensee who fails to pay:*

798 *1. The required license fee covering the continuation or reissuance of his license by midnight of the*  
 799 *fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable, to pay the*  
 800 *fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made within 30*

801 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such fee, whichever is  
802 greater; and

803 2. The fee and civil penalty pursuant to subdivision 1 to pay the fee in lieu of posting and publishing  
804 notice and reapplying, provided payment of the fee is made within 45 days following the 30 days specified in  
805 subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such fee, whichever is greater.

806 Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-614.

807 **§ 4.1-703. Records of licensees; inspection of records and places of business.**

808 A. Every licensed marijuana establishment shall keep complete, accurate, and separate records in  
809 accordance with Board regulations of all marijuana and marijuana products it cultivated, purchased,  
810 processed, sold, developed, researched, tested, or shipped.

811 B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in  
812 accordance with Board regulations of all purchases of marijuana products, the prices charged such licensee  
813 therefor, and the names and addresses of the persons from whom purchased. Every licensed retail marijuana  
814 store shall also preserve all invoices showing its purchases for a period as specified by Board regulations.  
815 The licensee shall also keep an accurate account of daily sales, showing quantities of marijuana products  
816 sold and the total price charged by it therefor. Except as otherwise provided in subsections C and D, such  
817 account need not give the names or addresses of the purchasers thereof, except as may be required by Board  
818 regulation.

819 Notwithstanding the provisions of subsection D, electronic records of licensed retail marijuana stores  
820 may be stored off site, provided that such records are readily retrievable and available for electronic  
821 inspection by the Board or its special agents at the licensed premises. However, in the case that such  
822 electronic records are not readily available for electronic inspection on the licensed premises, the licensee  
823 may obtain Board approval, for good cause shown, to permit the licensee to provide the records to a special  
824 agent of the Board within three business days or less, as determined by the Board, after a request is made to  
825 inspect the records.

826 C. Every licensed marijuana testing facility shall keep records of the names and addresses of all licensees  
827 or persons who submit marijuana or marijuana products to the marijuana testing facility.

828 D. The Board and its special agents shall be allowed free access during reasonable hours to every place  
829 in the Commonwealth and to the premises of every licensee or for the purpose of examining and inspecting  
830 such place and all records, invoices, and accounts therein.

831 For the purposes of a Board inspection of the records of any retail marijuana store licensees, "reasonable  
832 hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the  
833 public substantially during the same hours, "reasonable hours" means the business hours when the licensee  
834 is open to the public. At any other time of day, if the retail marijuana store licensee's records are not  
835 available for inspection, the licensee shall provide the records to a special agent of the Board within 24  
836 hours after a request is made to inspect the records.

837 **CHAPTER 8.**

838 **ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.**

839 **§ 4.1-800. Marijuana cultivation facility license.**

840 A. The Board may issue any of the following marijuana cultivation facility licenses, which shall authorize  
841 the licensee to cultivate, label, and package marijuana; to purchase or take possession of marijuana plants  
842 and seeds from other marijuana cultivation facilities; to transfer possession of and sell marijuana, immature  
843 marijuana plants, and marijuana seeds to retail marijuana stores; to transfer possession of marijuana,  
844 immature marijuana plants, and marijuana seeds to marijuana transporters; to transfer possession of and  
845 sell marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; and to  
846 transfer possession of and sell marijuana to marijuana processing facilities:

847 1. Tier I marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana  
848 indoors or outdoors with a canopy that does not exceed 2,000 square feet.

849 2. Tier II marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana  
850 indoors or outdoors with a canopy that does not exceed 10,000 square feet.

851 3. Tier III marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana  
852 indoors with a canopy that does not exceed 25,000 square feet.

853 4. Tier IV marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana  
854 indoors with a canopy that does not exceed 45,000 square feet.

855 5. Tier V marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana  
856 indoors with a canopy that does not exceed 70,000 square feet.

857 The Board may (i) adjust the canopy of marijuana cultivation facilities within the square footage  
858 parameters set forth in this subsection if deemed appropriate by the Board in consideration of (a) market  
859 demand, (b) utilization rates, (c) sales data, (d) product transfers, (e) inventory data, and (f) the volume of  
860 license applications and issuances or (ii) increase the canopy of a marijuana cultivation facility beyond the  
861 square footage parameters set forth in this subsection if the Board determines that such increase will assist  
862 or encourage participation by micro businesses in the industry.

863 *B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall track*  
 864 *the marijuana it cultivates from seed or immature marijuana plant to the point at which the marijuana plant*  
 865 *or the marijuana produced by the marijuana plant is delivered or transferred to a marijuana testing facility,*  
 866 *a marijuana transporter, another marijuana cultivation facility, a marijuana processor, or a retail marijuana*  
 867 *store or is disposed of or destroyed.*

868 *C. The cultivation of marijuana by a marijuana cultivation facility licensee in a secure agricultural*  
 869 *greenhouse shall be considered indoor cultivation and shall be permitted, provided that the secure*  
 870 *agricultural greenhouse is surrounded by a privacy fence that is no less than eight feet tall and is subject to*  
 871 *monitored ingress and egress.*

872 *D. All areas within the licensed premises of a marijuana cultivation facility in which marijuana is*  
 873 *cultivated, labeled, packaged, or stored shall meet all sanitary standards specified in regulations adopted by*  
 874 *the Board.*

875 **§ 4.1-801. Marijuana processing facility license.**

876 *A. The Board may issue marijuana processing facility licenses, which shall authorize the licensee to*  
 877 *process, label, and package marijuana and marijuana products; to purchase or take possession of marijuana*  
 878 *from a marijuana cultivation facility or another marijuana processing facility; to transfer possession of and*  
 879 *sell marijuana and marijuana products to retail marijuana stores or other marijuana processing facilities;*  
 880 *and to transfer possession of marijuana and marijuana products to marijuana transporters.*

881 *B. All areas within the licensed premises of a marijuana processing facility in which marijuana and*  
 882 *marijuana products are processed shall meet all sanitary standards specified in regulations adopted by the*  
 883 *Board. A marijuana processing facility that processes an edible marijuana product shall comply with the*  
 884 *requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and any regulations adopted pursuant thereto.*

885 *C. In accordance with the requirements of § 4.1-611, a marijuana processing facility licensee shall track*  
 886 *the marijuana it uses in its processing from the point the marijuana is delivered or transferred to the*  
 887 *marijuana processing facility by a marijuana transporter licensee to the point the marijuana or marijuana*  
 888 *products produced using the marijuana are delivered or transferred to another marijuana processing facility,*  
 889 *a marijuana testing facility, or a marijuana transporter or are disposed of or destroyed.*

890 **§ 4.1-802. Retail marijuana store license.**

891 *A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to purchase or*  
 892 *take possession of marijuana, marijuana products, immature marijuana plants, or marijuana seeds from a*  
 893 *marijuana cultivation facility or marijuana processing facility; to take possession of marijuana, marijuana*  
 894 *products, immature marijuana plants, or marijuana seeds from a marijuana transporter; and to sell*  
 895 *marijuana, marijuana products, immature marijuana plants, or marijuana seeds to consumers on premises*  
 896 *approved by the Board.*

897 *B. Retail marijuana stores shall be operated in accordance with the following provisions:*

898 *1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.*

899 *2. A retail marijuana store shall be permitted to sell marijuana, marijuana products, immature marijuana*  
 900 *plants, or marijuana seeds to consumers only in a direct, face-to-face exchange. Such store shall not be*  
 901 *permitted to sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds using:*

902 *a. An automated dispensing or vending machine;*

903 *b. A drive-through sales window;*

904 *c. An Internet-based sales platform; or*

905 *d. A delivery service.*

906 *3. A retail marijuana store shall not be permitted to sell more than two and one-half ounces of marijuana*  
 907 *or an equivalent amount of marijuana products as determined by regulation promulgated by the Board*  
 908 *during a single transaction to one person.*

909 *4. A retail marijuana store shall not:*

910 *a. Give away any marijuana or marijuana products, except as otherwise permitted by this subtitle; or*

911 *b. Sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds to any person*  
 912 *when at the time of such sale he knows or has reason to believe that the person attempting to purchase the*  
 913 *marijuana, marijuana product, immature marijuana plant, or marijuana seeds is intoxicated or is attempting*  
 914 *to purchase marijuana for someone younger than 21 years of age.*

915 *5. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all*  
 916 *marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which the*  
 917 *marijuana, marijuana products, immature marijuana plants, or marijuana seeds are delivered or transferred*  
 918 *to the retail marijuana store to the point at which the marijuana, marijuana products, immature marijuana*  
 919 *plants, or marijuana seeds are sold to a consumer, delivered or transferred to a marijuana testing facility, or*  
 920 *disposed of or destroyed.*

921 *6. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et seq.) of*  
 922 *Title 3.2.*

923 *C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the existence of*  
 924 *a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a*

925 means to report crimes or gain assistance. The notice required by this subsection shall (i) be posted in a  
 926 place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of §  
 927 40.1-11.3.

928 D. Each retail marijuana store licensee shall prominently display and make available for dissemination to  
 929 consumers Board-approved information regarding the potential risks of marijuana use.

930 E. Each retail marijuana store licensee shall provide training, established by the Board, to all employees  
 931 educating them on how to discuss the potential risks of marijuana use with consumers.

932 F. Any retail marijuana store license granted to a pharmaceutical processor that has been issued a permit  
 933 by the Board pursuant to Chapter 16 (§ 4.1-1600 et seq.) shall authorize the licensee to exercise any  
 934 privileges set forth in subsection A at the place of business designated in the license, which, notwithstanding  
 935 subsection A of § 4.1-702, may include, upon request by the licensee, up to five additional retail  
 936 establishments of the licensee. Such additional retail establishments shall be located at the five cannabis  
 937 dispensing facilities for which the Board has issued a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) in  
 938 the health service area in which the pharmaceutical processing facility is located.

939 G. All areas within the licensed premises of a retail marijuana store in which marijuana, marijuana  
 940 products, immature marijuana plants, or marijuana seeds are sold or stored shall meet all sanitary standards  
 941 specified in regulations adopted by the Board.

942 **§ 4.1-803. Marijuana transporter license.**

943 A. The Board may issue marijuana transporter licenses, which shall authorize the licensee to take  
 944 possession of marijuana, marijuana products, immature marijuana plants, and marijuana seeds from a  
 945 marijuana cultivation facility, a marijuana processing facility, a retail marijuana store, or another marijuana  
 946 transporter; to transfer possession of marijuana, marijuana products, immature marijuana plants, and  
 947 marijuana seeds to a marijuana cultivation facility, marijuana processing facility, retail marijuana store, or  
 948 another marijuana transporter; and to transport marijuana, marijuana products, immature marijuana plants,  
 949 and marijuana seeds from one licensed establishment to another.

950 B. All areas within the licensed premises of a marijuana transporter in which marijuana and marijuana  
 951 products are stored shall meet all sanitary standards specified in regulations adopted by the Board.

952 C. In accordance with the requirements of § 4.1-611, a marijuana transporter licensee shall track the  
 953 marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which the  
 954 marijuana, marijuana products, plants, or seeds are delivered or transferred to the marijuana transporter to  
 955 the point at which the marijuana, marijuana products, plants, or seeds are transferred to a marijuana  
 956 processor, marijuana transporter, retail marijuana store, or marijuana testing facility or are disposed of or  
 957 destroyed.

958 **§ 4.1-804. Marijuana testing facility license.**

959 A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to develop,  
 960 research, or test marijuana, marijuana products, and other substances.

961 B. A marijuana testing facility may develop, research, or test marijuana and marijuana products for (i)  
 962 that facility, (ii) another licensee, or (iii) a person who intends to use the marijuana or marijuana product for  
 963 personal use as authorized under § 4.1-1100.

964 C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a marijuana  
 965 testing facility from developing, researching, or testing substances that are not marijuana or marijuana  
 966 products for that facility or for another person.

967 D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and  
 968 maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for  
 969 Standardization by a third-party accrediting body.

970 E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track all  
 971 marijuana and marijuana products it receives from a licensee for testing purposes from the point at which the  
 972 marijuana or marijuana products are delivered or transferred to the marijuana testing facility to the point at  
 973 which the marijuana or marijuana products are disposed of or destroyed.

974 F. A person that has an interest in a marijuana testing facility license shall not have any interest in a  
 975 licensed marijuana cultivation facility, a licensed marijuana processing facility, a licensed marijuana  
 976 transporter, or a licensed retail marijuana store.

977 G. All areas within the licensed premises of a marijuana testing facility in which marijuana or marijuana  
 978 products are tested or stored shall meet all sanitary standards specified in regulations adopted by the Board.

979 **§ 4.1-805. Multiple licenses awarded to one person; limitations.**

980 A. As used in this section, "interest" means an equity ownership interest or a partial equity ownership  
 981 interest or any other type of financial interest, including being an investor or serving in a management  
 982 position.

983 B. A person may possess or hold interest in one or any combination of the following licenses pursuant to  
 984 Board regulations: tier I marijuana cultivation facility license, tier II marijuana cultivation facility license,  
 985 tier III marijuana cultivation facility license, tier IV marijuana cultivation facility license, tier V marijuana  
 986 cultivation facility license, marijuana processing facility license, marijuana transporter license, or retail



987 marijuana store license. Board regulations shall be drawn to ensure that all licensees have an equal and  
 988 meaningful opportunity to participate in the market. Moreover, (i) no person shall be granted or hold interest  
 989 in more than five total licenses, not including marijuana transporter licenses, issued pursuant to this subtitle  
 990 or more than one tier V marijuana cultivation facility license and (ii) no person that has been granted or  
 991 holds interest in a marijuana cultivation facility license, marijuana processing facility license, marijuana  
 992 transporter license, or retail marijuana store license shall be issued or hold interest in a marijuana testing  
 993 facility license.

994 **§ 4.1-806. Temporary permits required in certain instances.**

995 A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure, secured  
 996 creditor's, or judicial auction sale the premises or property of a person licensed by the Board and who has  
 997 become lawfully entitled to the possession of the licensed premises to continue to operate the marijuana  
 998 establishment to the same extent as the license holder for a period not to exceed 60 days or for such longer  
 999 period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any  
 1000 licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be  
 1001 issued in advance, conditioned on the requirements in this subsection.

1002 B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board for any  
 1003 cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a temporary  
 1004 permit shall be effective upon service of the order of revocation upon the permittee or upon the expiration of  
 1005 three business days after the order of the revocation has been mailed to the permittee at either his residence  
 1006 or the address given for the business in the permit application. No further notice shall be required.

1007 **§ 4.1-807. Licensee shall maintain possession of premises.**

1008 As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises of  
 1009 the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease, rental  
 1010 agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises. If  
 1011 the licensee fails to maintain possession of the licensed premises, the license shall be revoked by the Board.

1012 **§ 4.1-808. Conditions under which the Board shall or may refuse to grant licenses.**

1013 A. The Board may refuse to grant any license if it has reasonable cause to believe that the granting of the  
 1014 license would be detrimental to the interest, morals, safety, or welfare of the public or would be inconsistent  
 1015 with the provisions of this subtitle.

1016 B. The Board shall refuse to grant any license if it has reasonable cause to believe that:

1017 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an  
 1018 association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the  
 1019 applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital  
 1020 stock, or if the applicant is a limited liability company, any member-manager or any member owning 10  
 1021 percent or more of the membership interest of the limited liability company:

1022 a. Is not 21 years of age or older;

1023 b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude under the  
 1024 laws of any state or of the United States within seven years of the date of the application or has not completed  
 1025 all terms of sentencing and probation resulting from any such conviction;

1026 c. Knowingly employs or allows to volunteer someone younger than 21 years of age;

1027 d. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership  
 1028 interests in the business that have not been disclosed;

1029 e. Has not demonstrated financial responsibility sufficient to meet the requirements of the business  
 1030 proposed to be licensed;

1031 f. Has misrepresented a material fact in applying to the Board for a license;

1032 g. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or  
 1033 governmental agency or authority, by making or filing any report, document, or tax return required by statute  
 1034 or regulation that is fraudulent or contains a false representation of a material fact; or has willfully deceived  
 1035 or attempted to deceive the Board, or any federal, state, or local government or governmental agency or  
 1036 authority, by making or maintaining business records required by statute or regulation that are false or  
 1037 fraudulent;

1038 h. Is violating or allowing the violation of any provision of this subtitle in his establishment at the time his  
 1039 application for a license is pending;

1040 i. Is a full-time or part-time employee of the Department of State Police or of a police department or  
 1041 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof,  
 1042 and who is responsible for the enforcement of the penal, traffic, or motor vehicle laws of the Commonwealth;

1043 j. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the Board  
 1044 for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.); or

1045 k. Is physically unable to carry on the business for which the application for a license is filed or has been  
 1046 adjudicated incapacitated.

1047 2. The applicant is a member or employee of the Board or is a corporation or other business entity in  
 1048 which a member or employee of the Board is a stockholder or has any other economic interest. Whenever any

1049 *other elected or appointed official of the Commonwealth or any political subdivision thereof applies for such*  
 1050 *a license or continuance thereof, he shall state on the application the official position he holds, and whenever*  
 1051 *a corporation or other business entity in which any such official is a stockholder or has any other economic*  
 1052 *interest applies for such a license, it shall state on the application the full economic interests of each such*  
 1053 *official in such corporation or other business entity.*

1054 3. *The place to be occupied by the applicant:*

1055 a. *Does not conform to the requirements of the governing body of the county, city, or town in which such*  
 1056 *place is located with respect to sanitation, health, construction, or equipment, or to any similar requirements*  
 1057 *established by the laws of the Commonwealth or by Board regulation;*

1058 b. *Is so located that granting a license and operation thereunder by the applicant would result in*  
 1059 *violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local*  
 1060 *ordinances relating to peace and good order;*

1061 c. *When the applicant is applying for a retail marijuana store license, is so located with respect to any*  
 1062 *place of religious worship; hospital; public, private, or parochial school or institution of higher education;*  
 1063 *public or private playground or other similar recreational facility; child day program; substance use*  
 1064 *disorder treatment facility; or federal, state, or local government-operated facility that the operation of such*  
 1065 *place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs of*  
 1066 *such facilities, programs, or institutions;*

1067 d. *When the applicant is applying for a retail marijuana store license, is so located with respect to any*  
 1068 *residence or residential area that the operation of such place under such license will adversely affect real*  
 1069 *property values or substantially interfere with the usual quietude and tranquility of such residence or*  
 1070 *residential area;*

1071 e. *When the applicant is applying for a retail marijuana store license, is located within 1,000 feet of an*  
 1072 *existing retail marijuana store;*

1073 f. *When the applicant is applying for a retail marijuana store license, is so constructed, arranged, or*  
 1074 *illuminated that law-enforcement officers and special agents of the Board are prevented from ready access to*  
 1075 *and reasonable observation of any room or area within which marijuana or marijuana products are to be*  
 1076 *sold; or*

1077 g. *Is an establishment where alcoholic beverages, tobacco, or tobacco products are manufactured, sold,*  
 1078 *or used.*

1079 *Nothing in this subdivision 3 shall be construed to require an applicant to have secured a place or*  
 1080 *premises until the final stage of the license approval process.*

1081 4. *The number of licenses existing in the locality is such that the granting of a license is detrimental to the*  
 1082 *interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall consider (i) the*  
 1083 *criteria established by the Board to evaluate new licensees based on the density of retail marijuana stores in*  
 1084 *the community; (ii) the character of, population of, number of similar licenses in, and number of all licenses*  
 1085 *existent in the particular county, city, or town and the immediate neighborhood concerned; (iii) the effect that*  
 1086 *a new license may have on such county, city, town, or neighborhood in conforming with the purposes of this*  
 1087 *subtitle; and (iv) the objections, if any, that may have been filed by a local governing body or local residents.*

1088 5. *There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political*  
 1089 *subdivision thereof that warrants refusal by the Board to grant any license.*

1090 6. *The Board is not authorized under this subtitle to grant such license.*

1091 **§ 4.1-809. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.**

1092 A. *The action of the Board in granting or in refusing to grant any license shall be subject to judicial*  
 1093 *review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in*  
 1094 *subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided by the*  
 1095 *Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from*  
 1096 *any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall*  
 1097 *not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither*  
 1098 *mandamus nor injunction shall lie in any such case.*

1099 B. *The Board may refuse a hearing on any application for the granting of any retail marijuana store*  
 1100 *license, provided that such:*

1101 1. *License for the applicant has been refused or revoked within a period of 12 months;*

1102 2. *License for any premises has been refused or revoked at that location within a period of 12 months; or*

1103 3. *Applicant, within a period of 12 months immediately preceding, has permitted a license granted by the*  
 1104 *Board to expire for nonpayment of license fee, and at the time of expiration of such license, there was a*  
 1105 *pending and unadjudicated charge, either before the Board or in any court, against the licensee alleging a*  
 1106 *violation of this subtitle.*

1107 C. *If an applicant has permitted a license to expire for nonpayment of license fee, and at the time of*  
 1108 *expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the*  
 1109 *Board may refuse a hearing on an application for a new license until after the date on which the suspension*  
 1110 *period would have been executed had the license not been permitted to expire.*

## CHAPTER 9.

## ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

**§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

A. The Board may suspend or revoke any license if it has reasonable cause to believe that:

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

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

b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.), or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

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

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

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

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

g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana product except as provided under this subtitle;

j. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

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

m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 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 (§ 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 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 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 violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety;

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

o. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the Board for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.).

2. The place occupied by the licensee:

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

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

1173 *c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,*  
 1174 *prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are*  
 1175 *regularly used or distributed. The Board may consider the general reputation in the community of such*  
 1176 *establishment in addition to any other competent evidence in making such determination.*

1177 *3. The licensee or any employee of the licensee discriminated against any member of the Armed Forces of*  
 1178 *the United States by prices charged or otherwise.*

1179 *4. Any cause exists for which the Board would have been entitled to refuse to grant such license had the*  
 1180 *facts been known.*

1181 *5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties*  
 1182 *or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified*  
 1183 *by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding*  
 1184 *amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with*  
 1185 *respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by*  
 1186 *the same locality to settle the outstanding liability.*

1187 *6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its*  
 1188 *agents or employees constituting a pattern or practice of employing unauthorized aliens on the licensed*  
 1189 *premises in the Commonwealth.*

1190 *7. Any other cause authorized by this subtitle.*

1191 *B. The Board shall promulgate regulations regarding suspension and revocation standards and protocols.*

1192 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

1193 *A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the Administrative*  
 1194 *Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or permit if it has*  
 1195 *reasonable cause to believe that an act of violence resulting in death or serious bodily injury, or a recurrence*  
 1196 *of such acts, has occurred on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed*  
 1197 *premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent*  
 1198 *to the licensed premises, and the Board finds that there exists a continuing threat to public safety and that*  
 1199 *summary suspension of the license or permit is justified to protect the health, safety, or welfare of the public.*

1200 *B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall*  
 1201 *conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of any*  
 1202 *such act of violence. If the Board determines suspension is warranted, it shall immediately notify the licensee*  
 1203 *of its intention to temporarily suspend his license pending the outcome of a formal investigation. Such*  
 1204 *temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period, the*  
 1205 *licensee may petition the Board for a restricted license pending the results of the formal investigation and*  
 1206 *proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the Board*  
 1207 *shall have discretion to impose appropriate restrictions based on the facts presented.*

1208 *C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a*  
 1209 *formal investigation. The formal investigation shall be completed within 10 days of its commencement and*  
 1210 *the findings reported immediately to the Secretary of the Board. If, following the formal investigation, the*  
 1211 *Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held within*  
 1212 *five days of the completion of the formal investigation. A decision shall be rendered within 10 days of the*  
 1213 *conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the hearing, the*  
 1214 *order of suspension shall be vacated and the license reinstated. Any appeal by the licensee shall be filed*  
 1215 *within 10 days of the decision and heard by the Board within 20 days of the decision. The Board shall render*  
 1216 *a decision on the appeal within 10 days of the conclusion of the appeal hearing.*

1217 *D. Service of any order of suspension issued pursuant to this section shall be made by a special agent of*  
 1218 *the Board in person and by certified mail to the licensee. The order of suspension shall take effect*  
 1219 *immediately upon service.*

1220 *E. This section shall not apply to temporary permits granted under § 4.1-806.*

1221 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

1222 *The Board shall suspend or revoke any license if it finds that:*

1223 *1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a*  
 1224 *gambling device, upon the premises for which the Board has granted a retail marijuana store license.*

1225 *2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local government*  
 1226 *or governmental agency or authority, by making or filing any report, document, or tax return required by*  
 1227 *statute or regulation that is fraudulent or contains a willful or knowing false representation of a material fact*  
 1228 *or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or*  
 1229 *governmental agency or authority, by making or maintaining business records required by statute or*  
 1230 *regulation that are false or fraudulent.*

1231 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.**

1232 *A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or*  
 1233 *contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the*  
 1234 *Administrative Process Act (§ 2.2-4000 et seq.).*

1235 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee,  
 1236 permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the  
 1237 licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or  
 1238 present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board  
 1239 and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle  
 1240 against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or  
 1241 copies or portions thereof, that are within the possession, custody, or control of the Board and upon which  
 1242 the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee.  
 1243 In addition, any subpoena for the production of documents issued to any person at the request of the licensee  
 1244 or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought within 10  
 1245 working days, notwithstanding anything to the contrary in § 4.1-604.

1246 If the Board fails to provide for inspection or copying under this section for the licensee after a written  
 1247 request, the Board shall be prohibited from introducing into evidence any items the licensee would have  
 1248 lawfully been entitled to inspect or copy under this section.

1249 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall be  
 1250 subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such review  
 1251 shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the  
 1252 Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court.  
 1253 Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed,  
 1254 or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction  
 1255 shall lie in any such case.

1256 B. In suspending any license, the Board may impose, as a condition precedent to the removal of such  
 1257 suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in  
 1258 investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and  
 1259 collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty  
 1260 exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the  
 1261 violation or \$5,000 for the second or subsequent violation occurring within five years immediately preceding  
 1262 the date of the second or subsequent violation. However, if the violation involved selling marijuana or  
 1263 marijuana products to a person prohibited from purchasing marijuana or marijuana products or allowing  
 1264 consumption of marijuana or marijuana products, the Board may impose a civil penalty not to exceed \$3,000  
 1265 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000  
 1266 for a second or subsequent violation occurring within five years immediately preceding the date of the second  
 1267 or subsequent violation in lieu of such suspension or any portion thereof, or both. The Board may also  
 1268 impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in  
 1269 investigating the licensee and in holding the proceeding resulting in the violation in addition to any  
 1270 suspension or civil penalty incurred.

1271 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his  
 1272 license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent  
 1273 agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the option to (a)  
 1274 admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal  
 1275 under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed restrictions for  
 1276 operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's  
 1277 parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as  
 1278 applicable, or (4) proceed to a hearing.

1279 D. The Board shall, by regulation or written order:

1280 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial  
 1281 hearing;

1282 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of  
 1283 suspension may be accepted for a first offense occurring within three years immediately preceding the date of  
 1284 the violation;

1285 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil  
 1286 penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to its  
 1287 employees marijuana seller training certified in advance by the Board;

1288 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license  
 1289 and the civil charge acceptable in lieu of such suspension; and

1290 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee  
 1291 has had no prior violations within five years immediately preceding the date of the violation. No waiver shall  
 1292 be granted by the Board, however, for a licensee's willful and knowing violation of this subtitle or Board  
 1293 regulations.

1294 **§ 4.1-904. Suspension or revocation; disposition of marijuana or marijuana products on hand;**  
 1295 **termination.**

1296 A. Marijuana or marijuana products owned by or in the possession of or for sale by any licensee at the

1297 *time the license of such person is suspended or revoked may be disposed of as follows:*

1298 *1. Sold to persons in the Commonwealth licensed to sell such marijuana or marijuana products upon*  
 1299 *permits granted by the Board in accordance with § 4.1-806 and conditions specified by the Board; or*

1300 *2. Destroyed by the Board or its designee.*

1301 *B. All marijuana or marijuana products owned by or in the possession of any person whose license is*  
 1302 *suspended or revoked shall be disposed of by such person in accordance with the provisions of this section*  
 1303 *within 60 days from the date of such suspension or revocation.*

1304 *C. Marijuana or marijuana products owned by or in the possession of or for sale by persons whose*  
 1305 *licenses have been terminated other than by suspension or revocation may be disposed of in accordance with*  
 1306 *subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.*

1307 *D. All marijuana or marijuana products owned by or remaining in the possession of any person described*  
 1308 *in subsection A or C after the expiration of such period shall be deemed contraband and forfeited to the*  
 1309 *Commonwealth in accordance with the provisions of § 4.1-1303.*

#### 1310 **CHAPTER 10.**

#### 1311 **ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.**

#### 1312 **§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.**

1313 *A. Every person intending to apply for any license authorized by this subtitle shall file with the Board an*  
 1314 *application on forms provided by the Board and a statement in writing by the applicant swearing and*  
 1315 *affirming that all of the information contained therein is true.*

1316 *B. Such applications, including applications for renewal, shall include any information necessary for the*  
 1317 *Board to determine whether the applicant meets or continues to meet the criteria set forth in subdivision B 13*  
 1318 *of § 4.1-606.*

1319 *C. Applicants for licenses for establishments that are otherwise required to obtain an inspection by the*  
 1320 *Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a pending*  
 1321 *request for such inspection. If the applicant provides proof of inspection or proof of a pending request for an*  
 1322 *inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending*  
 1323 *application or inspection, such license shall authorize the licensee to purchase marijuana, marijuana*  
 1324 *products, immature marijuana plants, or marijuana seeds in accordance with the provisions of this subtitle;*  
 1325 *however, the licensee shall not sell marijuana, marijuana products, immature marijuana plants, or marijuana*  
 1326 *seeds until an inspection is completed.*

1327 *D. Each applicant for a license under the provisions of this subtitle shall post a notice of his application*  
 1328 *with the Board on the front door of the building, place, or room where he proposes to engage in such*  
 1329 *business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such*  
 1330 *information as required by the Board, including a statement that any objections shall be submitted to the*  
 1331 *Board not more than 30 days following initial posting of the notice required pursuant to this subsection.*

1332 *The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a*  
 1333 *newspaper published in or having a general circulation in the county, city, or town wherein such applicant*  
 1334 *proposes to engage in such business. Such notice shall contain such information as required by the Board,*  
 1335 *including a statement that any objections to the issuance of the license be submitted to the Board not later*  
 1336 *than 30 days from the date of the initial newspaper publication.*

1337 *E. The Board shall conduct a background investigation on each license applicant, which shall include a*  
 1338 *criminal history records search and may include a fingerprint-based national criminal history records search*  
 1339 *and a requirement for the provision of personal descriptive information to be forwarded through the Central*  
 1340 *Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal*  
 1341 *history record information regarding such applicant. The Central Criminal Records Exchange shall forward*  
 1342 *the results of the criminal history background check to the Board or its designee, which shall be a*  
 1343 *governmental entity.*

1344 *However, the Board may waive, for good cause shown, the requirement for a criminal history records*  
 1345 *search and completed personal data form for officers, directors, nonmanaging members, or limited partners*  
 1346 *of any applicant corporation, limited liability company, or limited partnership. In considering criminal*  
 1347 *history record information, the Board shall not disqualify an applicant because of a past conviction for a*  
 1348 *marijuana-related offense.*

1349 *F. The Board shall notify the local governing body of each license application through the town manager,*  
 1350 *city manager, county administrator, or other designee of the locality. Local governing bodies shall submit*  
 1351 *objections to the granting of a license within 30 days of the filing of the application.*

1352 *G. Each applicant shall pay the required application fee at the time the application is filed. The license*  
 1353 *application fee shall be determined by the Board and shall be in addition to the actual cost charged to the*  
 1354 *Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records*  
 1355 *Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central*  
 1356 *Criminal Records Exchange for each criminal history records search required by the Board. Application fees*  
 1357 *shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.*

1358 *H. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however, all*

1359 licensees shall file and maintain with the Board a current, accurate record of the information required by the  
 1360 Board pursuant to subsection A and notify the Board of any changes to such information in accordance with  
 1361 Board regulations.

1362 I. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the Board.  
 1363 Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as  
 1364 otherwise provided by law.

1365 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for  
 1366 applicable licenses to sell marijuana or marijuana products computed to the nearest cent and multiplied by  
 1367 the number of months for which the permit is granted.

1368 J. The Board shall have the authority to increase state license fees. The Board shall set the amount of  
 1369 such increases on the basis of the consumer price index and shall not increase fees more than once every  
 1370 three years. Prior to implementing any state license fee increase, the Board shall provide notice to all  
 1371 licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that  
 1372 would be required for any license affected by the Board's proposed fee increases. Such notice shall be  
 1373 provided on or before November 1 in any year in which the Board has decided to increase state license fees,  
 1374 and such increases shall become effective July 1 of the following year.

1375 **§ 4.1-1001. Fees for state licenses.**

1376 A. Annual fees on state licenses shall be established by the Board in an amount sufficient to cover the  
 1377 costs of regulating the marijuana establishment.

1378 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal  
 1379 to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by the number of  
 1380 months in the license period, and then increased by five percent. Such fee shall not be refundable, except as  
 1381 provided in § 4.1-1002.

1382 C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state restaurant  
 1383 license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this subtitle, shall  
 1384 be liable to state merchants' license taxation, state restaurant license taxation, and other state taxation.

1385 D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license purchased in  
 1386 person from the Board if such license is available for purchase online.

1387 **§ 4.1-1002. Refund of state license fee.**

1388 A. The Board may (i) correct erroneous assessments made by it against any person, (ii) refund any  
 1389 amounts collected through erroneous assessments or collected as fees on licenses applications that are  
 1390 subsequently refused or withdrawn, and (iii) allow credit for any license fees paid for any license that is  
 1391 subsequently merged or changed into another license during the same license period. No refund shall be  
 1392 made of any such amount, however, unless made within three years from the date of collection of the same.

1393 B. In any case where a licensee has changed its name or form of organization during a license period  
 1394 without any change being made in its ownership, and because of such change is required to pay an additional  
 1395 license fee for such period, the Board shall refund to such licensee the amount of such fee so paid in excess of  
 1396 the required license fee for such period.

1397 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of  
 1398 state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the license  
 1399 is destroyed by an act of God, including a fire, earthquake, hurricane, storm, or similar natural disaster or  
 1400 phenomenon.

1401 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of  
 1402 moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

1403 **§ 4.1-1003. Marijuana taxes; exceptions.**

1404 A. A tax of eight percent is levied on the sale in the Commonwealth of any marijuana, marijuana  
 1405 products, or marijuana paraphernalia. Subject to the provisions of subsection C, the tax shall be in addition  
 1406 to any tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) or any other  
 1407 provision of federal, state, or local law. The tax shall not apply to any sale:

1408 1. From a marijuana establishment to another marijuana establishment.

1409 2. Of cannabis products for treatment under the provisions of Chapter 16 (§ 4.1-1600 et seq.).

1410 3. Of industrial hemp by a grower, processor, or handler under the provisions of Chapter 41.1 (§  
 1411 3.2-4112 et seq.) of Title 3.2.

1412 4. Of a hemp product.

1413 B. Any locality may by ordinance levy a 2.5 percent tax on any sale taxable under subsection A. Subject to  
 1414 subsection C, the tax shall be in addition to any local sales tax imposed under the Virginia Retail Sales and  
 1415 Use Tax Act (§ 58.1-600 et seq.), any food and beverage tax imposed under Article 7.1 (§ 58.1-3833 et seq.)  
 1416 of Chapter 38 of Title 58.1, and any excise tax imposed on meals under § 58.1-3840. Other than the taxes  
 1417 authorized and identified in this subsection, a locality shall not impose any other tax on a sale taxable under  
 1418 subsection A. Nothing in this subsection shall be construed to (i) prohibit a locality from imposing any tax  
 1419 authorized by law on a person or property regulated under this subtitle or (ii) limit the authority of any  
 1420 locality to impose a license or privilege tax or fee on a business engaged in whole or in part in sales taxable

1421 *under subsection A if such tax or fee is (a) based on an annual or per-event flat fee authorized by law or (b)*  
 1422 *an annual license or privilege tax authorized by law and such tax includes sales or receipts taxable under*  
 1423 *subsection A in its taxable measure.*

1424 *If a locality imposes a tax under this subsection, such tax shall be irrevocable. If a town imposes a tax*  
 1425 *under this subsection, any tax imposed by its surrounding county under this subsection shall not apply within*  
 1426 *the limits of the town.*

1427 *Any locality that enacts an ordinance pursuant to this subsection shall, within 30 days, notify the*  
 1428 *Authority and any retail marijuana store in such locality of the ordinance's enactment. The ordinance shall*  
 1429 *take effect on the first day of the second month following its enactment.*

1430 *C. Any tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) on a sale taxable*  
 1431 *under subsection A shall be limited to a 1.125 percent tax, which shall be distributed as follows: (i) the*  
 1432 *revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C, and D of*  
 1433 *§ 58.1-638 and (ii) the revenue from the tax at the rate of 0.125 percent shall be distributed as provided in*  
 1434 *subdivision F 2 of § 58.1-638. No other tax shall be levied pursuant to the Virginia Retail Sales and Use Tax*  
 1435 *Act (§ 58.1-600 et seq.) on a sale taxable under subsection A.*

1436 *D. All revenues remitted to the Authority under this subsection shall be disposed of as provided in §*  
 1437 *4.1-614.*

1438 **§ 4.1-1004. Tax returns and payments; commissions; interest.**

1439 *A. For any sale taxable under § 4.1-1003, the seller shall be liable for collecting any taxes due. All taxes*  
 1440 *collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not be liable*  
 1441 *for collecting or remitting the taxes or filing a return.*

1442 *B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 shall file a*  
 1443 *return under oath with the Authority and pay any taxes due. Upon written application by a person filing a*  
 1444 *return, the Authority may, if it determines good cause exists, grant an extension to the end of the calendar*  
 1445 *month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the accrual of*  
 1446 *any interest or penalties under § 4.1-1007.*

1447 *C. The Authority may accept payment by any commercially acceptable means, including cash, checks,*  
 1448 *credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under this*  
 1449 *subtitle. The Board may assess a service charge for the use of a credit or debit card.*

1450 *D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit card, or*  
 1451 *automated clearinghouse transfer information and use such information for future payments of taxes,*  
 1452 *interest, or penalties due under this subtitle. The Authority may assess a service charge for any payments*  
 1453 *made under this subsection. The Authority may procure the services of a third-party vendor for the secure*  
 1454 *storage of information collected pursuant to this subsection.*

1455 *E. If any person liable for tax under § 4.1-1003 sells out his business or stock of goods or quits the*  
 1456 *business, such person shall make a final return and payment within 15 days after the date of selling or*  
 1457 *quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase*  
 1458 *money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner*  
 1459 *produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or*  
 1460 *interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as provided*  
 1461 *in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties due and*  
 1462 *unpaid on account of the operation of the business by any former owner.*

1463 *F. When any person fails to timely pay the full amount of tax due under § 4.1-1003, interest at a rate*  
 1464 *determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under §*  
 1465 *4.1-1003 shall, if applicable, be subject to penalties as provided in §§ 4.1-1205 and 4.1-1206.*

1466 **§ 4.1-1005. Bonds.**

1467 *The Authority may, when deemed necessary and advisable to do so in order to secure the collection of the*  
 1468 *taxes levied under § 4.1-1003, require any person subject to such tax to file a bond, with such surety as it*  
 1469 *determines is necessary to secure the payment of any tax, penalty, or interest due or that may become due*  
 1470 *from such person. In lieu of such bond, securities approved by the Authority may be deposited with the State*  
 1471 *Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold by the State*  
 1472 *Treasurer at the request of the Authority at public or private sale if it becomes necessary to do so in order to*  
 1473 *recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the surplus, if any, above*  
 1474 *the amounts due shall be returned to the person who deposited the securities.*

1475 **§ 4.1-1006. Refunds.**

1476 *A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to § 4.1-1003*  
 1477 *have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise deemed to be*  
 1478 *unsalable by reason of fire or any other providential cause before sale to the consumer; (ii) destroyed*  
 1479 *voluntarily, after notice to and approval by the Authority of such destruction, because the taxable items were*  
 1480 *defective; or (iii) destroyed in any manner while in the possession of a common, private, or contract carrier,*  
 1481 *the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state*  
 1482 *treasury to such extent as may be proper.*



1483 *B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable items*  
 1484 *that have been sold by such person in such manner as to be exempt from the tax, the Authority shall certify*  
 1485 *such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may*  
 1486 *be proper.*

1487 *C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-1003 has*  
 1488 *been collected or charged to the account of the buyer, the seller shall be entitled to a refund of the amount of*  
 1489 *tax so collected or charged in the manner prescribed by the Authority. The amount of tax so refunded to the*  
 1490 *seller shall not, however, include the tax paid upon any amount retained by the seller after such return of*  
 1491 *merchandise. In case the tax has not been remitted by the seller, the seller may deduct the same in submitting*  
 1492 *his return.*

1493 **§ 4.1-1007. Statute of limitations; civil remedies for collecting past-due taxes, interest, and penalties.**

1494 *A. The taxes imposed under § 4.1-1003 shall be assessed within three years from the date on which such*  
 1495 *taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the*  
 1496 *Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the*  
 1497 *collection of such taxes may be begun without assessment, at any time within six years from such date. The*  
 1498 *Authority shall not examine any person's records beyond the three-year period of limitations unless it has*  
 1499 *reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a*  
 1500 *return and failed to do so.*

1501 *B. If any person fails to file a return as required by this section, or files a return that is false or*  
 1502 *fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person and*  
 1503 *assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10 days'*  
 1504 *notice requiring such person to provide any records as it may require relating to the business of such person*  
 1505 *for the taxable period. The Authority may require such person or the agents and employees of such person to*  
 1506 *give testimony or to answer interrogatories under oath administered by the Authority respecting taxable*  
 1507 *sales, the filing of the return, and any other relevant information. If any person fails to file a required return,*  
 1508 *refuses to provide required records, or refuses to answer interrogatories from the Authority, the Authority*  
 1509 *may make an estimated assessment based upon the information available to it and issue a memorandum of*  
 1510 *lien under subsection C for the collection of any taxes, interest, or penalties. The estimated assessment shall*  
 1511 *be deemed prima facie correct.*

1512 *C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay*  
 1513 *within 30 days after the due date, taking into account any extensions granted by the Authority, the Authority*  
 1514 *may file a memorandum of lien in the circuit court clerk's office of the county or city in which the person's*  
 1515 *place of business is located or in which the person resides. If the person has no place of business or residence*  
 1516 *within the Commonwealth, the memorandum may be filed in the Circuit Court of the City of Richmond. A*  
 1517 *copy of the memorandum may also be filed in the clerk's office of all counties and cities in which the person*  
 1518 *owns real estate. Such memorandum shall be recorded in the judgment docket book and shall have the effect*  
 1519 *of a judgment in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of*  
 1520 *Chapter 3 of Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed.*  
 1521 *The lien on real estate shall become effective at the time the memorandum is filed in the jurisdiction in which*  
 1522 *the real estate is located. No memorandum of lien shall be filed unless the person is first given 10 or more*  
 1523 *days' prior notice of intent to file a lien; however, in those instances where the Authority determines that the*  
 1524 *collection of any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the*  
 1525 *provision of such notice, notification may be provided to the person concurrent with the filing of the*  
 1526 *memorandum of lien. Such notice shall be given to the person at his last known address.*

1527 *2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal*  
 1528 *under § 4.1-1008.*

1529 *3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the*  
 1530 *Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or*  
 1531 *paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the*  
 1532 *doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or satisfactory*  
 1533 *arrangements for payment have not been made, the Authority may cause a writ of fieri facias to be issued. It*  
 1534 *shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the*  
 1535 *Authority. In the event that the person against whom the distraint has been applied subsequently appeals*  
 1536 *under § 4.1-1008, the person shall have the right to post bond equaling the amount of liability in lieu of*  
 1537 *payment until the appeal is resolved.*

1538 *4. A person may petition the Authority after a memorandum of lien has been filed under this subsection if*  
 1539 *the person alleges an error in the filing of the lien. The Authority shall make a determination on such petition*  
 1540 *within 14 days. If the Authority determines that the filing was erroneous, it shall issue a certificate of release*  
 1541 *of the lien within seven days after such determination is made.*

1542 **§ 4.1-1008. Appeals.**

1543 *Any tax imposed under § 4.1-1003, any interest imposed under § 4.1-1007, any action of the Authority*  
 1544 *under § 4.1-1204, and any penalty imposed under § 4.1-1205 or 4.1-1206 shall be subject to review under the*

1545 *Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of*  
 1546 *the proceedings provided by the Authority in accordance with the Administrative Process Act. An appeal*  
 1547 *shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding § 8.01-676.1, the final*  
 1548 *judgment or order of a circuit court shall not be suspended, stayed, or modified by such circuit court pending*  
 1549 *appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.*

1550 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or**  
 1551 **older lawful; penalties.**

1552 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person  
 1553 21 years of age or older may lawfully possess on his person or in any public place not more than ~~one ounce~~  
 1554 *two and one-half ounces* of marijuana or an equivalent amount of marijuana product as determined by  
 1555 regulation promulgated by the Board.

1556 B. Any person who possesses on his person or in any public place marijuana or marijuana products in  
 1557 excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25 except as  
 1558 otherwise provided in this section. The penalty for any violations of this section by an adult shall be  
 1559 prepayable according to the procedures in § 16.1-69.40:2.

1560 C. With the exception of possession by a person in his residence or possession by a licensee in the course  
 1561 of his duties related to such licensee's marijuana establishment, any person who possesses on his person or in  
 1562 any public place (i) more than four ounces but not more than one pound of marijuana or an equivalent amount  
 1563 of marijuana product as determined by regulation promulgated by the Board is guilty of a Class 3  
 1564 misdemeanor and, for a second or subsequent offense, a Class 2 misdemeanor and (ii) more than one pound  
 1565 of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the  
 1566 Board is guilty of a felony punishable by a term of imprisonment of not less than one year nor more than 10  
 1567 years and a fine of not more than \$250,000, or both.

1568 D. The provisions of this section shall not apply to members of federal, state, county, city, or town  
 1569 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of  
 1570 dogs trained in the detection of controlled substances when possession of marijuana is necessary for the  
 1571 performance of their duties.

1572 **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

1573 A. ~~Notwithstanding the provisions of subdivision (e) of § 18.2-248.1, a~~ A person 21 years of age or older  
 1574 may cultivate up to four marijuana plants for personal use at their place of residence; however, at no point  
 1575 shall a household contain more than four marijuana plants. For purposes of this section, a "household" means  
 1576 those individuals, whether related or not, who live in the same house or other place of residence.

1577 A person may only cultivate marijuana plants pursuant to this section at such person's main place of  
 1578 residence.

1579 A violation of this subsection shall be punishable as follows:

1580 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a civil  
 1581 penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2  
 1582 misdemeanor for a third and any subsequent offense;

1583 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

1584 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

1585 4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of  
 1586 not less than one year nor more than 10 years or a fine of not more than \$250,000, or both.

1587 B. A person who cultivates marijuana for personal use pursuant to this section shall:

1588 1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars, or  
 1589 other optical aids;

1590 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

1591 3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or  
 1592 identification number, and a notation that the marijuana plant is being grown for personal use as authorized  
 1593 under this section.

1594 Any person who violates this subsection is subject to a civil penalty of no more than \$25. The penalty for  
 1595 any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

1596 ~~C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner of a~~  
 1597 ~~property or parcel or tract of land may not intentionally or knowingly allow another person to manufacture~~  
 1598 ~~marijuana concentrate from home-cultivated marijuana within or on that property or land.~~

1599 **§ 4.1-1102. Illegal cultivation or processing of marijuana or marijuana products; conspiracy; penalties.**

1600 A. *Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate or process*  
 1601 *marijuana or marijuana products in the Commonwealth without being licensed to cultivate or process such*  
 1602 *marijuana or marijuana products.*

1603 B. *Any person convicted of a violation of this section is guilty of a Class 6 felony.*

1604 C. *If two or more persons conspire together to do any act that is in violation of subsection A, and one or*  
 1605 *more of such persons does any act to effect the object of the conspiracy, each of the parties to such*  
 1606 *conspiracy is guilty of a Class 6 felony.*

1607 **§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

1608 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who  
1609 are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i)  
1610 marijuana is given away contemporaneously with another reciprocal transaction between the same parties;  
1611 (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services;  
1612 or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

1613 B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give, or  
1614 distribute any marijuana or marijuana products except as permitted by this chapter or provided in subsection  
1615 C, he is guilty of a Class 2 misdemeanor.

1616 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

1617 C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not  
1618 exceed two and one-half ounces or of an equivalent amount of marijuana products.

1619 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal age;**  
1620 **penalties.**

1621 A. No person shall, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), sell, give, or  
1622 distribute any marijuana or marijuana products to any individual when at the time of such sale he knows or  
1623 has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age or (ii)  
1624 intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1625 B. Any person who sells, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), any  
1626 marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of the  
1627 sale does not require the individual to present bona fide evidence of legal age indicating that the individual is  
1628 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to  
1629 any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the  
1630 United States or the District of Columbia, military identification card, United States passport or foreign  
1631 government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any  
1632 other valid government-issued identification card bearing the individual's photograph, signature, height,  
1633 weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of  
1634 the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes  
1635 of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.

1636 C. No person shall be convicted of both subsections A and B for the same sale.

1637 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**  
1638 **exceptions; penalties; forfeiture; treatment and education programs and services.**

1639 A. No person to whom marijuana or marijuana products may not lawfully be sold under § 4.1-1104 shall  
1640 consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or marijuana  
1641 products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-enforcement officer or his  
1642 agent when possession of marijuana or marijuana products is necessary in the performance of his duties.  
1643 Such person may be prosecuted either in the county or city in which the marijuana or marijuana products  
1644 were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia  
1645 of consumption of marijuana or marijuana products.

1646 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more  
1647 than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if  
1648 available, that in the opinion of the court best suits the needs of the accused.

1649 C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who violates  
1650 subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter  
1651 a substance abuse treatment or education program or both, if available, that in the opinion of the court best  
1652 suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and  
1653 16.1-278.9, the court shall treat the juvenile as delinquent.

1654 D. Any such substance abuse treatment or education program to which a juvenile is ordered pursuant to  
1655 this section shall be provided by (i) a program licensed by the Department of Behavioral Health and  
1656 Developmental Services or (ii) a similar program available through a facility or program operated by or  
1657 under contract with the Department of Juvenile Justice or a locally operated court services unit or a program  
1658 funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.). Any such  
1659 substance abuse treatment or education program to which a person 18 years of age or older is ordered  
1660 pursuant to this section shall be provided by (a) a program licensed by the Department of Behavioral Health  
1661 and Developmental Services or (b) a program or services made available through a community-based  
1662 probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one  
1663 has been established for the locality. When an offender is ordered to a local community-based probation  
1664 services agency, the local community-based probation services agency shall be responsible for providing for  
1665 services or referring the offender to education or treatment services as a condition of probation.

1666 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender  
1667 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years of  
1668 age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor

1669 vehicle; (ii) altered, fictitious, facsimile, or simulated document, including a birth certificate or student  
 1670 identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3 (§  
 1671 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student  
 1672 identification card of another person in order to establish a false identification or false age for himself to  
 1673 consume, purchase, or attempt to consume or purchase marijuana or marijuana products. Any person  
 1674 convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1675 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be  
 1676 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.

1677 G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or local  
 1678 law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from  
 1679 an administrative penalty for a violation of § 4.1-1104.

1680 **§ 4.1-1106. Purchasing marijuana or marijuana products for one to whom they may not be sold;**  
 1681 **penalties; forfeiture.**

1682 A. Any person who purchases marijuana or marijuana products for another person and at the time of such  
 1683 purchase knows or has reason to believe that the person for whom the marijuana or marijuana products were  
 1684 purchased was intoxicated is guilty of a Class 1 misdemeanor.

1685 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of marijuana or  
 1686 marijuana products to, another person when he knows or has reason to know that such person is younger  
 1687 than 21 years of age, except by any federal, state, or local law-enforcement officer when possession of  
 1688 marijuana or marijuana products is necessary in the performance of his duties, is guilty of a Class 1  
 1689 misdemeanor.

1690 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed  
 1691 contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.

1692 **§ 4.1-1113. Maintaining common nuisances; penalties.**

1693 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of every  
 1694 description where marijuana or marijuana products are manufactured, processed, stored, sold, dispensed,  
 1695 given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed common  
 1696 nuisances.

1697 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common  
 1698 nuisance.

1699 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1700 B. In addition, after due notice and an opportunity to be heard on the part of any owner or lessor not  
 1701 involved in the original offense, by a proceeding analogous to that provided in § 4.1-1303 and upon proof of  
 1702 guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or other place, or  
 1703 any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the penalty of  
 1704 not less than \$500 and with security to be approved by the court, conditioned that the premises shall not be  
 1705 used for unlawful purposes, or in violation of the provisions of this subtitle for a period of five years, turn the  
 1706 same over to its owner or lessor, or proceeding may be had in equity as provided in § 4.1-1300.

1707 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or  
 1708 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii) had  
 1709 the right, because of such unlawful use, to enter and repossess the property.

1710 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

1711 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,  
 1712 dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its  
 1713 original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-  
 1714 enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,  
 1715 processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a  
 1716 fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5  
 1717 felony.

1718 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

1719 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or any  
 1720 agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum of any  
 1721 hearing held and conducted by the Board, any Board member, or any agent authorized by the Board to hold  
 1722 and conduct such hearing.

1723 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1724 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

1725 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional  
 1726 correctional facility or any person committed to the Department of Juvenile Justice in any juvenile  
 1727 correctional center any marijuana or marijuana products.

1728 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1729 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

1730 A. No person shall separate plant resin by butane extraction or another method that utilizes a substance

1731 *with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of*  
 1732 *any residential structure.*

1733 *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

1734 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

1735 *No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another in*  
 1736 *doing, or attempting to do, any of the things prohibited by this subtitle.*

1737 *On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may find*  
 1738 *the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the*  
 1739 *defendant were solely guilty of such violation.*

1740 **§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

1741 *Any violation under this subtitle that is subject to a civil penalty is a civil offense and, except in the case*  
 1742 *of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be proceeded*  
 1743 *against pursuant to § 16.1-260, shall be charged by summons. A summons for a violation under this subtitle*  
 1744 *that is subject to a civil penalty may be executed by a law-enforcement officer when such violation is*  
 1745 *observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in*  
 1746 *a form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to §*  
 1747 *46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the Drug Offender*  
 1748 *Assessment and Treatment Fund established pursuant to § 18.2-251.02.*

#### CHAPTER 12.

#### PROHIBITED PRACTICES BY LICENSEES.

1751 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

1752 *A. No licensee or any agent or employee of such licensee shall:*

1753 *1. Cultivate, process, transport, sell, or test any marijuana or marijuana products of a kind other than*  
 1754 *that which such license or this subtitle authorizes him to cultivate, process, transport, sell, or test;*

1755 *2. Sell marijuana or marijuana products to any person other than a person to whom such license or this*  
 1756 *subtitle authorizes him to sell;*

1757 *3. Cultivate, process, transport, sell, or test marijuana or marijuana products that such license or this*  
 1758 *subtitle authorizes him to sell, but in any place or in any manner other than such license or this subtitle*  
 1759 *authorizes him to cultivate, process, transport, sell, or test;*

1760 *4. Cultivate, process, transport, sell, or test any marijuana or marijuana products when forbidden by this*  
 1761 *subtitle;*

1762 *5. Keep or allow to be kept, other than in his residence and for his personal use, any marijuana or*  
 1763 *marijuana products other than that which he is authorized to cultivate, process, transport, sell, or test by*  
 1764 *such license or by this subtitle;*

1765 *6. Keep any marijuana or marijuana product other than in the container in which it was purchased by*  
 1766 *him; or*

1767 *7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee.*

1768 *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

1769 **§ 4.1-1201. Prohibited acts by employees of marijuana store licensees; civil penalty.**

1770 *A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or employee*  
 1771 *shall use or consume any marijuana or marijuana products (i) on the licensed premises, except for certain*  
 1772 *sampling for quality control purposes in accordance with Board regulations or (ii) while on duty and in a*  
 1773 *position that is involved in the selling of marijuana or marijuana products to consumers.*

1774 *B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana or*  
 1775 *marijuana products.*

1776 *C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to*  
 1777 *exceed \$500.*

1778 **§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person without a**  
 1779 **license; penalty.**

1780 *Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for resale or*  
 1781 *sell any marijuana, marijuana products, immature marijuana plants, or marijuana seeds purchased from*  
 1782 *anyone other than a marijuana cultivation facility or marijuana processing facility.*

1783 *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

1784 **§ 4.1-1203. Prohibiting transfer of marijuana or marijuana products by licensees; penalty.**

1785 *A. No licensed marijuana establishment shall transfer any marijuana or marijuana products from one*  
 1786 *licensed place of business to another licensed place of business unless such transfer is completed by a*  
 1787 *marijuana transporter licensee.*

1788 *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

1789 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

1790 *No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any*  
 1791 *licensee selling, renting, lending, buying for, or giving to any person any advertising materials or*  
 1792 *decorations under circumstances prohibited by this title or Board regulations.*

1793 Any person found by the Board to have violated this section shall be subject to a civil penalty as  
1794 authorized in § 4.1-903.

1795 **§ 4.1-1205. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or to**  
1796 **allow examination and inspection; penalty.**

1797 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003; (ii) deliver, keep, and  
1798 preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or (iii)  
1799 allow such records, invoices, and accounts or his place of business to be examined and inspected in  
1800 accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1  
1801 misdemeanor.

1802 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority may  
1803 suspend or revoke any license of such licensee that was issued by the Authority.

1804 **§ 4.1-1206. Nonpayment of marijuana tax; penalties.**

1805 A. No person shall make a sale taxable under § 4.1-1003 without paying all applicable taxes due. No  
1806 retail marijuana store licensee shall purchase, receive, transport, store, or sell any marijuana or marijuana  
1807 products on which such retailer has reason to know such tax has not been paid and may not be paid. Any  
1808 person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1809 B. Any person who fails to file a return required for a tax due under § 4.1-1003 is subject to a civil  
1810 penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not more  
1811 than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during which  
1812 the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

1813 C. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of  
1814 any tax due on marijuana or marijuana products, a civil penalty of 50 percent of the amount of the proper tax  
1815 due shall be assessed. Such penalty shall be in addition to any penalty imposed under subsection B. It shall  
1816 be prima facie evidence of willful intent to defraud the Commonwealth when any person reports its taxable  
1817 sales to the Authority at 50 percent or less of the actual amount.

1818 D. If any check tendered for any amount due under § 4.1-1003 or this section is not paid by the bank on  
1819 which it is drawn, and the person that tendered the check fails to pay the Authority the amount due within five  
1820 days after the Authority gives it notice that such check was returned unpaid, the person that tendered the  
1821 check is guilty of a violation of § 18.2-182.1.

1822 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner  
1823 as if they were a part of the tax imposed.

1824 **§ 4.1-1300. Enjoining nuisances.**

1825 A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney for the  
1826 Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in § 4.1-1113  
1827 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common nuisance.

1828 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the knowledge  
1829 or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or marijuana products  
1830 are cultivated, processed, stored, sold, dispensed, given away, or used in such house, building, or other place  
1831 described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction shall be granted as soon as  
1832 the bill is presented to the court. The injunction shall enjoin and restrain the owners and tenants and their  
1833 agents and employees, and any person connected with such house, building, or other place, and all persons  
1834 whomsoever from cultivating, processing, storing, selling, dispensing, giving away, or using marijuana or  
1835 marijuana products on such premises. The injunction shall also restrain all persons from removing any  
1836 marijuana or marijuana products then on such premises until the further order of the court. If the court is  
1837 satisfied that the material allegations of the bill are true, although the premises complained of may not then  
1838 be unlawfully used, it shall continue the injunction against such place for a period of time as the court deems  
1839 proper. The injunction may be dissolved if a proper case is shown for dissolution.

1840 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.**

1841 A. All apparatus and materials for the cultivation or processing of marijuana or marijuana products, all  
1842 marijuana or marijuana products and materials used in their manufacture or processing, and all containers  
1843 in which marijuana or marijuana products may be found that are kept, stored, possessed, or in any manner  
1844 used in violation of the provisions of this subtitle, and any dangerous weapons as described in § 18.2-308  
1845 that may be used or that may be found upon the person, or in any vehicle that such person is using, to aid  
1846 such person in the unlawful cultivation, manufacture, processing, transportation, or sale of marijuana or  
1847 marijuana products, or found in the possession of such person, or any horse, mule, or other beast of burden  
1848 or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the immediate vicinity  
1849 of any place where marijuana or marijuana products are being unlawfully manufactured or processed and  
1850 where such animal or vehicle is being used to aid in the unlawful manufacture or processing, shall be deemed  
1851 contraband and shall be forfeited to the Commonwealth.

1852 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with § 4.1-1303  
1853 for all such property except motor vehicles, which proceedings shall be in accordance with Chapter 22.1 (§  
1854 19.2-386.1 et seq.) of Title 19.2.

1855 **§ 4.1-1303. Confiscation proceedings; disposition of forfeited articles.**

1856 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and  
1857 forfeited to the Commonwealth under this subtitle shall be as provided in this section.

1858 B. Whenever any article declared contraband under the provisions of this subtitle and required to be  
1859 forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with the  
1860 enforcement of this subtitle, he shall produce the contraband article and any person in whose possession it  
1861 was found. In those cases where no person is found in possession of such articles, the return shall so state  
1862 and a copy of the warrant shall be posted on the door of the buildings or room where the articles were found,  
1863 or if there is no door, then in any conspicuous place upon the premises.

1864 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to remove  
1865 such item to a place of safe storage from the place where seized, the seizing officer may destroy such item  
1866 only as necessary to prevent use of all or any part thereof. The destruction shall be in the presence of at least  
1867 one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction  
1868 to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for  
1869 seizure and destruction, an estimate of the fair cash value of the item destroyed, and the materials remaining  
1870 after such destruction. The report shall include a statement that, from facts within their own knowledge, the  
1871 seizing officer and witness have no doubt whatever that the item was set up for use, or had been used in the  
1872 unlawful cultivation, processing, or manufacture of marijuana, and that it was impracticable to remove such  
1873 apparatus to a place of safe storage.

1874 In case of seizure of any quantity of marijuana or marijuana products for any offense involving forfeiture  
1875 of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose  
1876 of unlawful cultivation, processing, or manufacture of marijuana or marijuana products or any other  
1877 violation of this subtitle. The destruction shall be in the presence of at least one credible witness, and such  
1878 witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The  
1879 report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a  
1880 statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever  
1881 that the marijuana or marijuana products were intended for use in the unlawful cultivation, processing, or  
1882 manufacture of marijuana or marijuana products or were intended for use in violation of this subtitle.

1883 C. Upon the return of the warrant as provided in this section, the court shall fix a time not less than 10  
1884 days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on such  
1885 return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept,  
1886 stored, or possessed in violation of this subtitle.

1887 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the  
1888 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn  
1889 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the  
1890 hearing and file a written claim setting forth particularly the character and extent of his interest. The court  
1891 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and  
1892 determine the validity of such claim.

1893 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be  
1894 turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a  
1895 bar to any prosecution under any other provision of this subtitle.

1896 D. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this  
1897 section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be  
1898 paid into the Literary Fund.

1899 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in  
1900 accordance with this section are usable, should not be destroyed, and cannot be sold, or whose sale would be  
1901 impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the  
1902 local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be  
1903 made showing the nature of the foodstuffs and amount given, to whom given, and the date when given and  
1904 shall be kept in the offices of the Board.

1905 **§ 4.1-1304. Contraband marijuana or marijuana products.**

1906 Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the  
1907 Board authorizing the transportation of marijuana or marijuana products within the Commonwealth when  
1908 other Board regulations applicable to such transportation have been complied with shall not be cause for  
1909 deeming such marijuana or marijuana products contraband.

1910 **§ 4.1-1305. Punishment for violations of title or regulations; bond.**

1911 A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to  
1912 the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating  
1913 any Board regulation is guilty of a Class 1 misdemeanor.

1914 B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is  
1915 convicted of a violation of any provision of this subtitle may require such defendant to execute bond based  
1916 upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that

1917 *the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is*  
 1918 *required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged*  
 1919 *by the court, provided that he shall not be confined for a period longer than six months. If any such bond*  
 1920 *required by a court is not given during the term of the court by which conviction is had, it may be given*  
 1921 *before any judge or before the clerk of such court.*

1922 *C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to*  
 1923 *continue the license of any person convicted of a violation of any provision of this subtitle.*

1924 *D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant*  
 1925 *has been notified that such a case is pending.*

1926 **§ 4.1-1306. Witness not excused from testifying because of self-incrimination.**

1927 *No person shall be excused from testifying or from producing books, papers, correspondence,*  
 1928 *memoranda, or other records for the Commonwealth as to any offense alleged to have been committed by*  
 1929 *another under this subtitle by reason of his testimony or other evidence tending to incriminate himself, but*  
 1930 *the testimony given and evidence so produced by such person on behalf of the Commonwealth when called*  
 1931 *for by the trial judge or court trying the case, or by the attorney for the Commonwealth, or when summoned*  
 1932 *by the Commonwealth and sworn as a witness by the court or the clerk and sent before the grand jury, shall*  
 1933 *be in no case used against him nor shall he be prosecuted as to the offense as to which he testifies.*

1934 **§ 4.1-1307. Previous convictions.**

1935 *In any indictment, information, or warrant charging any person with a violation of any provision of this*  
 1936 *subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such*  
 1937 *person has been previously convicted of a violation of this subtitle.*

1938 **§ 4.1-1308. Label on sealed container prima facie evidence of marijuana content.**

1939 *In any prosecution for violations of this subtitle, where a sealed container is labeled as containing*  
 1940 *marijuana or marijuana products, such labeling shall be prima facie evidence of the marijuana content of the*  
 1941 *container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana*  
 1942 *content of a container, whether sealed or not.*

1943 **§ 4.1-1309. No recovery for marijuana or marijuana products illegally sold.**

1944 *No action to recover the price of any marijuana or marijuana products sold in contravention of this*  
 1945 *subtitle may be maintained.*

1946 **§ 4.1-1403. Board to establish regulations for marijuana testing.**

1947 *The Board shall establish a testing program for marijuana and marijuana products. Except as otherwise*  
 1948 *provided in this subtitle or otherwise provided by law, the program shall require a licensee, prior to selling*  
 1949 *or distributing marijuana or a marijuana product to a consumer or to another licensee, to submit a*  
 1950 *representative sample of the marijuana or marijuana product, not to exceed 10 percent of the total harvest or*  
 1951 *batch, to a licensed marijuana testing facility for testing to ensure that the marijuana or marijuana product*  
 1952 *does not exceed the maximum level of allowable contamination for any contaminant that is injurious to*  
 1953 *health and for which testing is required and to ensure correct labeling. The Board shall adopt regulations (i)*  
 1954 *establishing a testing program pursuant to this section; (ii) establishing acceptable testing and research*  
 1955 *practices, including regulations relating to testing practices, methods, and standards; quality control*  
 1956 *analysis; equipment certification and calibration; marijuana testing facility recordkeeping, documentation,*  
 1957 *and business practices; disposal of used, unused, and waste marijuana and marijuana products; and*  
 1958 *reporting of test results; (iii) identifying the types of contaminants that are injurious to health for which*  
 1959 *marijuana and marijuana products shall be tested under this subtitle; and (iv) establishing the maximum*  
 1960 *level of allowable contamination for each contaminant.*

1961 **§ 4.1-1404. Mandatory testing; scope; recordkeeping; notification; additional testing not required;**  
 1962 **required destruction; random testing.**

1963 *A. A licensee may not sell or distribute marijuana or a marijuana product to a consumer or to another*  
 1964 *licensee under this subtitle unless a representative sample of the marijuana or marijuana product has been*  
 1965 *tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and the mandatory testing*  
 1966 *has demonstrated that (i) the marijuana or marijuana product does not exceed the maximum level of*  
 1967 *allowable contamination for any contaminant that is injurious to health and for which testing is required and*  
 1968 *(ii) the labeling on the marijuana or marijuana product is correct.*

1969 *B. Mandatory testing of marijuana and marijuana products under this section shall include testing for:*

- 1970 *1. Residual solvents;*
- 1971 *2. Heavy metals;*
- 1972 *3. Microbiological contaminants;*
- 1973 *4. Mycotoxins;*
- 1974 *5. Pesticide chemical residue; and*
- 1975 *6. Active ingredient analysis.*

1976 *Testing shall be performed on the final form in which the marijuana or marijuana product will be*  
 1977 *consumed.*

1978 *C. A licensee shall maintain a record of all mandatory testing that includes a description of the marijuana*



1979 or marijuana product provided to the marijuana testing facility, the identity of the marijuana testing facility,  
1980 and the results of the mandatory test.

1981 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested marijuana  
1982 or marijuana product exceeds the maximum level of allowable tetrahydrocannabinol or contamination for  
1983 any contaminant that is injurious to health and for which testing is required, the marijuana testing facility  
1984 shall immediately quarantine, document, and properly destroy the marijuana or marijuana product and  
1985 within seven days of completing the test shall notify the Board of the test results.

1986 A marijuana testing facility is not required to notify the Board of the results of any test:

1987 1. Conducted on marijuana or a marijuana product at the direction of a licensee pursuant to this section  
1988 that demonstrates that the marijuana or marijuana product does not exceed the maximum level of allowable  
1989 tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing  
1990 is required;

1991 2. Conducted on marijuana or a marijuana product at the direction of a licensee for research and  
1992 development purposes only, so long as the licensee notifies the marijuana testing facility prior to the  
1993 performance of the test that the testing is for research and development purposes only; or

1994 3. Conducted on marijuana or a marijuana product at the direction of a person who is not a licensee.

1995 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee  
1996 marijuana or a marijuana product that the licensee has not submitted for testing in accordance with this  
1997 subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:

1998 1. The marijuana or marijuana product has previously undergone testing in accordance with this subtitle  
1999 and regulations adopted pursuant to this subtitle at the direction of another licensee and the testing  
2000 demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable  
2001 tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing  
2002 is required;

2003 2. The mandatory testing process and the test results for the marijuana or marijuana product are  
2004 documented in accordance with the requirements of this subtitle and all applicable regulations adopted  
2005 pursuant to this subtitle;

2006 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the  
2007 marijuana or marijuana product and transfers of the marijuana or marijuana product to another licensee or  
2008 to a consumer can be easily identified; and

2009 4. The marijuana or marijuana product has not undergone any further processing, manufacturing, or  
2010 alteration subsequent to the performance of the prior testing under subsection A.

2011 F. Licensees shall be required to destroy harvested batches of marijuana or batches of marijuana  
2012 products whose testing samples indicate noncompliance with the health and safety standards required by this  
2013 subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures can  
2014 bring the marijuana or marijuana product into compliance with such required health and safety standards.

2015 G. A licensee shall comply with all requests for samples of marijuana and marijuana products for the  
2016 purpose of random testing by a state-owned laboratory or state-approved private laboratory.

2017 **§ 4.1-1405. Labeling and packaging requirements; prohibitions.**

2018 A. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer shall be  
2019 labeled with the following information:

2020 1. Identification of the type of marijuana or marijuana product;

2021 2. The license numbers of the marijuana cultivation facility, the marijuana processing facility, and the  
2022 retail marijuana store where the marijuana or marijuana product was cultivated, processed, and offered for  
2023 sale, as applicable;

2024 3. A statement of the net weight of the marijuana or marijuana product;

2025 4. In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients,  
2026 including pharmacologically active ingredients, tetrahydrocannabinol, cannabidiol, and other cannabinoid  
2027 content; (ii) all possible allergens; (iii) the amount of servings in the package; (iv) if the product contains  
2028 tetrahydrocannabinol, the total percentage and milligrams of all tetrahydrocannabinols included in the  
2029 package and the total number of milligrams of all tetrahydrocannabinols contained in each serving; and (v)  
2030 the potency of the tetrahydrocannabinol and other cannabinoid content;

2031 5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

2032 6. Instructions on usage, including information regarding the amount of marijuana or marijuana product  
2033 that constitutes a single serving;

2034 7. A recommended use by date or expiration date;

2035 8. For marijuana and marijuana products, the following statement, prominently displayed in bold print  
2036 and in a clear and legible fashion: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA  
2037 AND TETRAHYDROCANNABINOL (THC). MARIJUANA MAY ONLY BE SOLD TO AND USED BY  
2038 ADULTS 21 YEARS OF AGE OR OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF  
2039 MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT-FORMING.  
2040 MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE

2041 CAUTION AND VISIT \_\_\_\_\_ (website maintained by the Board pursuant to § 4.1-604) FOR MORE  
2042 INFORMATION.";

2043 9. A universal symbol stamped or embossed on the packaging of any marijuana and marijuana products;

2044 10. A certificate of analysis, produced by licensed marijuana testing facility, that states the total  
2045 tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the  
2046 batch from which the substance originates; and

2047 11. Any other information required by Board regulations.

2048 B. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in  
2049 accordance with the provisions of this subtitle shall be packaged in the following manner:

2050 1. Marijuana and marijuana products shall be prepackaged in child-resistant, tamper-evident, and  
2051 resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-  
2052 resistant, tamper-evident, and resealable packaging that is opaque;

2053 2. Packaging for multiserving liquid marijuana products shall include an integral measurement  
2054 component; and

2055 3. Packaging shall comply with any other requirements imposed by Board regulations.

2056 C. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in  
2057 accordance with the provisions of this subtitle shall not:

2058 1. (i) Without authorization, bear, be packaged in a container or wrapper that bears, or otherwise be  
2059 labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying  
2060 mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a  
2061 product intended for human consumption other than the manufacturer, processor, packer, or distributor that  
2062 did in fact so manufacture, process, pack, or distribute such substance or (ii) otherwise be packaged or  
2063 labeled in violation of a federal trademark law or regulation;

2064 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of age;

2065 3. Be labeled or packaged in a manner that obscures identifying information on the label;

2066 4. Be labeled or packaged using a false or misleading label;

2067 5. Depict, model the shape of, or use a label or package that depicts or models the shape of a human,  
2068 animal, vehicle, or fruit; and

2069 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by Board  
2070 regulations.

2071 **§ 4.1-1406. Other health and safety requirements for edible marijuana products and other marijuana**  
2072 **products deemed applicable by the Authority; health and safety regulations.**

2073 A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other  
2074 marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a  
2075 consumer:

2076 1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.3;

2077 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

2078 3. Shall be processed and manufactured in a manner that results in the cannabinoid content within the  
2079 product being homogeneous throughout the product or throughout each element of the product that has a  
2080 cannabinoid content;

2081 4. Shall be processed and manufactured in a manner that results in the amount of marijuana concentrate  
2082 within the product being homogeneous throughout the product or throughout each element of the product  
2083 that contains marijuana concentrate;

2084 5. Shall have a universal symbol stamped or embossed on the packaging of each product;

2085 6. Shall not contain more than 10 milligrams of tetrahydrocannabinol per serving of the product and shall  
2086 not contain more than 100 milligrams of tetrahydrocannabinol per package of the product;

2087 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically designed  
2088 to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to consumers, or (v)  
2089 are specifically designed to make the product appeal particularly to persons younger than 21 years of age;  
2090 and

2091 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when the  
2092 trademarked product is used as a component of or ingredient in the edible marijuana product and the edible  
2093 marijuana product is not advertised or described for sale as containing the trademarked product.

2094 B. The Board shall adopt any additional labeling, packaging, or other health and safety regulations that it  
2095 deems necessary for marijuana and marijuana products to be sold or offered for sale by a licensee to a  
2096 consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection shall establish  
2097 mandatory health and safety standards applicable to the cultivation of marijuana, the processing and  
2098 manufacture of marijuana products, and the packaging and labeling of marijuana and marijuana products  
2099 sold by a licensee to a consumer. Such regulations shall address:

2100 1. Requirements for the storage, warehousing, and transportation of marijuana and marijuana products  
2101 by licensees;

2102 2. Sanitary standards for marijuana establishments, including sanitary standards for the processing and

2103 *manufacture of marijuana and marijuana products; and*

2104 3. *Limitations on the display of marijuana and marijuana products at retail marijuana stores.*

2105 **§ 4.1-1500. Definitions.**

2106 As used in this chapter, unless the context requires a different meaning:

2107 "CDFI" means a community development financial institution that provides credit and financial services  
2108 for underserved communities.

2109 "Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.

2110 "Funding" means loans *and grants* made from the Fund.

2111 "Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.

2112 "~~Social equity qualified cannabis licensee~~" ~~means a person or business who meets the criteria in § 4.1-606~~  
2113 ~~to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined~~  
2114 ~~by the Board, a license to operate a marijuana establishment.~~

2115 **§ 4.1-1501. Virginia Cannabis Equity Business Loan Fund.**

2116 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia  
2117 Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be established  
2118 on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants,  
2119 bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund.  
2120 Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining  
2121 in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but  
2122 shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing *grants*,  
2123 ~~low-interest and loans~~, zero-interest loans, *and other supports and services to social equity qualified cannabis*  
2124 *micro business* licensees in order to foster business ownership and economic growth within communities that  
2125 have been the most disproportionately impacted by the former prohibition of cannabis. Expenditures and  
2126 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller  
2127 upon written request signed by the Chief Executive Officer of the Authority.

2128 **§ 4.1-1502. Program requirements; guidelines for management of the Fund; selection of CDFI.**

2129 A. The Authority shall establish a Program to provide loans, *grants, and other supports and services to*  
2130 ~~qualified social equity cannabis micro business~~ licensees for the purpose of promoting business ownership  
2131 and economic growth by communities that have been disproportionately impacted by the prohibition of  
2132 cannabis. ~~The~~ *For the purposes of issuing loans, the Authority shall* may select and work in collaboration  
2133 with a CDFI ~~to assist in administering the Program and carrying out the purposes of the Fund.~~ *The* ~~If the~~  
2134 ~~Authority utilizes a CDFI for issuing loans, the~~ CDFI selected by the Authority shall have (i) a statewide  
2135 presence in Virginia, (ii) experience in business lending, (iii) a proven track record of working with  
2136 disadvantaged communities, and (iv) the capability to dedicate sufficient staff to manage the Program.  
2137 ~~Working with the selected CDFI, the~~ *The* Authority shall establish monitoring and accountability  
2138 mechanisms for *micro* businesses receiving funding and shall report annually the number of businesses  
2139 funded; the geographic distribution of the businesses; the costs of the Program; and the outcomes, including  
2140 the number and types of jobs created.

2141 B. The Program shall:

2142 1. Identify ~~social equity qualified cannabis micro business~~ licensees who are in need of capital *or other*  
2143 *supports and services* for the start-up of a cannabis business properly licensed pursuant to the provisions of  
2144 this subtitle;

2145 2. Provide loans, *grants, and other supports and services* for the purposes described in subsection A *and §*  
2146 *4.1-1501*;

2147 3. Provide technical assistance; and

2148 4. Bring together community partners to sustain the Program.

2149 **§ 4.1-1601. Certification for use of cannabis for treatment.**

2150 A. A practitioner in the course of his professional practice may issue a written certification for the use of  
2151 cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease  
2152 determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment  
2153 to determine the manner and frequency of patient care and evaluation and may employ the use of  
2154 telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time  
2155 interactive audiovisual technology. No practitioner may issue a written certification while such practitioner is  
2156 on the premises of a pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor  
2157 shall not endorse or promote any practitioner who issues certifications to patients. If a practitioner determines  
2158 it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification  
2159 shall specifically authorize such dispensing. If not specifically included on the initial written certification,  
2160 authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the  
2161 time of dispensing. A practitioner who issues written certifications shall not directly or indirectly accept,  
2162 solicit, or receive anything of value from a pharmaceutical processor, cannabis dispensing facility, or any  
2163 person associated with a pharmaceutical processor, cannabis dispensing facility, or provider of paraphernalia,  
2164 excluding information on products or educational materials on the benefits and risks of cannabis products.

2165 B. The written certification shall be on a form provided by the Authority. Such written certification shall  
 2166 contain the name, address, and telephone number of the practitioner, the name and address of the patient  
 2167 issued the written certification, the date on which the written certification was made, and the signature or  
 2168 authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection A  
 2169 shall expire one year after its issuance unless the practitioner provides in such written certification an earlier  
 2170 expiration. A written certification shall not be issued to a patient by more than one practitioner during any  
 2171 given time period.

2172 C. No practitioner shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.)* or § 18.2-248 ~~or 18.2-248.1~~  
 2173 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the  
 2174 symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to  
 2175 subsection A. Nothing in this section shall preclude a practitioner's professional licensing board from  
 2176 sanctioning the practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise  
 2177 violating the applicable standard of care for evaluating or treating medical conditions.

2178 D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall hold  
 2179 sufficient education and training to exercise appropriate professional judgment in the certification of patients;  
 2180 (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian, or  
 2181 registered agent that is contingent on or encourages the person's decision to use a particular pharmaceutical  
 2182 processor or cannabis product; (iii) shall not issue a certification to himself or his family members,  
 2183 employees, or coworkers; (iv) shall not provide product samples containing cannabis other than those  
 2184 approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a  
 2185 pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of patients to  
 2186 whom a practitioner may issue a written certification. The Board may report information to the applicable  
 2187 licensing board on unusual patterns of certifications issued by a practitioner.

2188 E. No patient shall be required to physically present the written certification after the initial dispensing by  
 2189 any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that  
 2190 the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written  
 2191 certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit on a  
 2192 monthly basis all new written certifications received by the pharmaceutical processor or cannabis dispensing  
 2193 facility to the Authority.

2194 F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's  
 2195 parent or legal guardian, may designate an individual to act as his registered agent for the purposes of  
 2196 receiving cannabis products pursuant to a valid written certification. Such designated individual shall register  
 2197 with the Board unless the individual's name listed on the patient's written certification. An individual may, on  
 2198 the basis of medical need and in the discretion of the patient's registered practitioner, be listed on the patient's  
 2199 written certification upon the patient's request. The Board may set a limit on the number of patients for whom  
 2200 any individual is authorized to act as a registered agent.

2201 G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a  
 2202 designated caregiver facility, any employee or contractor of a designated caregiver facility who is licensed or  
 2203 registered by a health regulatory board and who is authorized to possess, distribute, or administer medications  
 2204 may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the  
 2205 patient or resident and may assist in the administration of the cannabis product to the patient or resident as  
 2206 necessary.

2207 H. Information obtained under the patient certification or agent registration process shall be confidential  
 2208 and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700  
 2209 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the  
 2210 House and Senate Committees for Courts of Justice, (ii) state and federal agencies or local law enforcement  
 2211 for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii)  
 2212 licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug  
 2213 therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or  
 2214 cannabis dispensing facility involved in the treatment of a patient, or (v) a patient's registered agent, but only  
 2215 with respect to information related to such patient.

2216 **§ 4.1-1604. Criminal liability; exceptions.**

2217 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted  
 2218 under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248; ~~18.2-248.1~~, or 18.2-250 for possession or manufacture of  
 2219 marijuana or for possession, manufacture, or distribution of cannabis products, subject to any civil penalty,  
 2220 denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such  
 2221 agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis  
 2222 products in accordance with the provisions of this chapter and Board regulations or (ii) possessed,  
 2223 manufactured, or distributed such cannabis products that are consistent with generally accepted cannabis  
 2224 industry standards in accordance with the provisions of this chapter and Board regulations.

2225 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**  
 2226 **operation.**

2227 Any person who ~~shall operate~~ *operates* any aircraft within the airspace over, above, or upon the lands or  
 2228 waters of ~~this the~~ Commonwealth, while under the influence of intoxicating liquor or of any narcotic or  
 2229 *marijuana* or any habit-forming drugs ~~shall be is~~ guilty of a felony and shall be confined in a state  
 2230 correctional facility not less than one nor more than five years, or, in the discretion of the court or jury trying  
 2231 the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or both such fine  
 2232 and imprisonment.

2233 Any person who ~~shall operate~~ *operates* any aircraft within the airspace over, above, or upon the lands or  
 2234 waters of ~~this the~~ Commonwealth carelessly or heedlessly in willful or wanton disregard of the rights or  
 2235 safety of others, or without due caution and circumspection and in a manner so as to endanger any person or  
 2236 property, ~~shall be is~~ guilty of a misdemeanor.

2237 **§ 6.2-108. Financial services for licensed marijuana establishments.**

2238 A. As used in this section, "licensed" and "marijuana establishment" have the same meanings as provided  
 2239 in § 4.1-600.

2240 B. A bank or credit union that provides a financial service to a licensed marijuana establishment, and the  
 2241 officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to any state  
 2242 law or regulation solely for providing such a financial service or for further investing any income derived  
 2243 from such a financial service.

2244 C. Nothing in this section shall require a bank or credit union to provide financial services to a licensed  
 2245 marijuana establishment.

2246 **§ 9.1-1101. Powers and duties of the Department.**

2247 A. It shall be the responsibility of the Department to provide forensic laboratory services upon request of  
 2248 the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and  
 2249 local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant  
 2250 responsible for law enforcement in the jurisdiction served by him; any local fire department; the head of any  
 2251 private police department that has been designated as a criminal justice agency by the Department of  
 2252 Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal matter. The  
 2253 Department shall provide such services to any federal investigatory agency within available resources.

2254 B. The Department shall:

2255 1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth  
 2256 and provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as  
 2257 needed;

2258 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of  
 2259 Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

2260 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six  
 2261 months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath; *and*

2262 4. *Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in*  
 2263 *substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-3446.*  
 2264 *The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider*  
 2265 *the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the*  
 2266 *total available THC derived from the sum of the THC and THC-A content.*

2267 C. The Department shall have the power and duty to:

2268 1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes  
 2269 of this chapter;

2270 2. Make and enter into all contracts and agreements necessary or incidental to the performance of its  
 2271 duties and execution of its powers under this chapter including, but not limited to, contracts with the United  
 2272 States, units of general local government or combinations thereof in Virginia or other states, and with  
 2273 agencies and departments of the Commonwealth; and

2274 3. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

2275 D. The Director may appoint and employ a deputy director and such other personnel as are needed to  
 2276 carry out the duties and responsibilities conferred by this chapter.

2277 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines; prepayment of local ordinances.**

2279 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed,  
 2280 but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions  
 2281 for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated  
 2282 infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any parallel local  
 2283 ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is  
 2284 listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance  
 2285 whether or not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2  
 2286 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in §  
 2287 46.2-878.3.

2288 Such infractions shall not include:

- 2289 1. Indictable offenses;  
 2290 2. [Repealed.]  
 2291 3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a narcotic  
 2292 or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor,  
 2293 *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his  
 2294 custody or control;  
 2295 4. Reckless driving;  
 2296 5. Leaving the scene of an accident;  
 2297 6. Driving while under suspension or revocation of driving privileges;  
 2298 7. Driving without being licensed to drive.  
 2299 8. [Repealed.]

2300 B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a  
 2301 magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and a  
 2302 plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. He shall,  
 2303 prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of  
 2304 guilty will have the same force and effect as a judgment of court, and that the record of conviction will be  
 2305 sent to the Commissioner of the Department of Motor Vehicles.

2306 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a  
 2307 schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to be imposed,  
 2308 designating each infraction specifically. The schedule, which may from time to time be amended,  
 2309 supplemented or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule  
 2310 shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at  
 2311 the time fixed for trial. The rule of the Supreme Court establishing the schedule shall be prominently posted  
 2312 in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this  
 2313 Code or any rules or regulations promulgated thereunder.

2314 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law and  
 2315 fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B if such  
 2316 ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of each circuit  
 2317 may establish a schedule of the fines, within the limits prescribed by local ordinances, to be imposed for  
 2318 prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be  
 2319 forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The  
 2320 schedule, which from time to time may be amended, supplemented or repealed, shall be uniform in its  
 2321 application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the  
 2322 discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be  
 2323 prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the  
 2324 provisions of this Code or any rules or regulations promulgated thereunder.

2325 **§ 16.1-260. Intake; petition; investigation.**

2326 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a  
 2327 petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be  
 2328 as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of  
 2329 Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing  
 2330 of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the  
 2331 Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated  
 2332 nonattorney employees of the Department of Social Services may complete, sign, and file petitions and  
 2333 motions relating to the establishment, modification, or enforcement of support on forms approved by the  
 2334 Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of  
 2335 social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of  
 2336 Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish  
 2337 paternity, motions to establish or modify support, motions to amend or review an order, and motions for a  
 2338 rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except  
 2339 petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of  
 2340 supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the  
 2341 local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of  
 2342 Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake  
 2343 officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving  
 2344 child support services or public assistance. No individual who is receiving support services or public  
 2345 assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for  
 2346 support of a child. If the petitioner is seeking or receiving child support services or public assistance, the  
 2347 clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the  
 2348 court date, to the Division of Child Support Enforcement. If a petitioner is seeking to establish child support,  
 2349 the intake officer shall provide the petitioner information on the possible availability of medical assistance  
 2350 through the Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored

2351 coverage through the Department of Medical Assistance Services.

2352 B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake  
2353 officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and  
2354 audio communication is used, an intake officer may exercise all powers conferred by law. All  
2355 communications and proceedings shall be conducted in the same manner as if the appearance were in person,  
2356 and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed  
2357 by the officer or person to whom sent, and returned in the same manner, and with the same force, effect,  
2358 authority, and liability as an original document. All signatures thereon shall be treated as original signatures.  
2359 Any two-way electronic video and audio communication system used for an appearance shall meet the  
2360 standards as set forth in subsection B of § 19.2-3.1.

2361 When the court service unit of any court receives a complaint alleging facts which may be sufficient to  
2362 invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed  
2363 informally to make such adjustment as is practicable without the filing of a petition or may authorize a  
2364 petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause  
2365 for the issuance of the petition.

2366 An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of  
2367 supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or  
2368 (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would  
2369 be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony  
2370 shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a  
2371 felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded  
2372 against informally by intake or had been adjudicated delinquent for an offense that would be a felony if  
2373 committed by an adult.

2374 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the  
2375 attendance officer has provided documentation to the intake officer that the relevant school division has  
2376 complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The  
2377 intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided  
2378 that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of  
2379 supervision on more than two occasions for failure to comply with compulsory school attendance as provided  
2380 in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three  
2381 calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person  
2382 standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may  
2383 include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco  
2384 parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and  
2385 limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided  
2386 in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of  
2387 developing a truancy plan using an interagency interdisciplinary team approach. The team may include  
2388 qualified personnel who are reasonably available from the appropriate department of social services,  
2389 community services board, local school division, court service unit, and other appropriate and available  
2390 public and private agencies and may be the family assessment and planning team established pursuant to §  
2391 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or  
2392 the truancy program, then the intake officer shall file the petition.

2393 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in  
2394 need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the  
2395 juvenile, which may include restitution, the performance of community service, or on a complaint alleging  
2396 that a child has committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor  
2397 if committed by an adult and with the consent of the juvenile's parent or legal guardian, referral to a youth  
2398 justice diversion program established pursuant to § 16.1-309.11, based upon community resources and the  
2399 circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake  
2400 officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent,  
2401 guardian, or other person standing in loco parentis and the complainant that any subsequent complaint  
2402 alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to  
2403 invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case of a referral to a youth justice  
2404 diversion program established pursuant to § 16.1-309.11, that any subsequent report from the youth justice  
2405 diversion program alleging that the juvenile failed to comply with the youth justice diversion program's  
2406 sentence within 180 days of the sentencing date, may result in the filing of a petition with the court.

2407 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or  
2408 support of a child is the subject of controversy or requires determination, (ii) a person has deserted,  
2409 abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent,  
2410 guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or  
2411 other services which are required by law, (iv) family abuse has occurred and a protective order is being  
2412 sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has

2413 occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either  
 2414 the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake  
 2415 officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of  
 2416 supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the  
 2417 authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be  
 2418 effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.  
 2419 The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4,  
 2420 or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of  
 2421 protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective  
 2422 order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written  
 2423 explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders  
 2424 pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

2425 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be  
 2426 reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need  
 2427 of supervision have utilized or attempted to utilize treatment and services available in the community and  
 2428 have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer  
 2429 determines that the parties have not attempted to utilize available treatment or services or have not exhausted  
 2430 all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to  
 2431 be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or  
 2432 services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a  
 2433 reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

2434 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult  
 2435 would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely upon a  
 2436 finding that no probable cause exists, the complainant shall be notified in writing at that time of the  
 2437 complainant's right to apply to a magistrate for a warrant. The application for a warrant to the magistrate shall  
 2438 be filed within 10 days of the issuance of the written notification. The written notification shall indicate that  
 2439 the intake officer made a finding that no probable cause exists and shall provide notice that the complainant  
 2440 has 10 days to apply for a warrant to the magistrate. The complainant shall provide the magistrate with a copy  
 2441 of the written notification upon application to the magistrate. If a magistrate determines that probable cause  
 2442 exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant  
 2443 shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition  
 2444 founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or  
 2445 shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant  
 2446 issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a  
 2447 child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his  
 2448 decision is final. If the intake officer refuses to authorize a petition relating to an offense that if committed by  
 2449 an adult would be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a  
 2450 finding that (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final  
 2451 and the complainant shall not have a right to apply to a magistrate for a warrant.

2452 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake  
 2453 officer shall accept and file a petition founded upon the warrant.

2454 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which  
 2455 alleges facts of an offense which would be a felony if committed by an adult.

2456 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report  
 2457 with the division superintendent of the school division in which any student who is the subject of a petition  
 2458 alleging that such student who is a juvenile has committed an act, wherever committed, which would be a  
 2459 crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to  
 2460 be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the  
 2461 petition and the nature of the offense, if the violation involves:

- 2462 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et  
 2463 seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
- 2464 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 2465 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title  
 2466 18.2;
- 2467 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 2468 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to  
 2469 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 2470 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4~~ Chapter 11 (§ ~~18.2-247 4.1-1100~~ et  
 2471 seq.) of Chapter 7 of Title 18.2 4.1;
- 2472 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 2473 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 2474 9. Robbery pursuant to § 18.2-58;



- 2475 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;  
 2476 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;  
 2477 12. An act of violence by a mob pursuant to § 18.2-42.1;  
 2478 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or  
 2479 14. A threat pursuant to § 18.2-60.

2480 The failure to provide information regarding the school in which the student who is the subject of the  
 2481 petition may be enrolled shall not be grounds for refusing to file a petition.

2482 The information provided to a division superintendent pursuant to this section may be disclosed only as  
 2483 provided in § 16.1-305.2.

2484 H. The filing of a petition shall not be necessary:

2485 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other  
 2486 pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any  
 2487 ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the  
 2488 court may proceed on a summons issued by the officer investigating the violation in the same manner as  
 2489 provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene  
 2490 of the accident or at any other location where a juvenile who is involved in such an accident may be located,  
 2491 proceed on a summons in lieu of filing a petition.

2492 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of §  
 2493 16.1-241.

2494 3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738 or the commission of any  
 2495 other alcohol-related offense, provided that the juvenile is released to the custody of a parent or legal  
 2496 guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal  
 2497 guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal  
 2498 guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner  
 2499 provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of §  
 2500 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or  
 2501 samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or  
 2502 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize  
 2503 execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the  
 2504 juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried.  
 2505 When a violation of § 4.1-305 or 4.1-1105 is charged by summons, the juvenile shall be entitled to have the  
 2506 charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that  
 2507 such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such  
 2508 summons alleging a violation of § 4.1-305 or 4.1-1105 is served, the officer shall also serve upon the juvenile  
 2509 written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and  
 2510 make return of such service to the court. If the officer fails to make such service or return, the court shall  
 2511 dismiss the summons without prejudice.

2512 4. In the case of offenses, *other than marijuana-related offenses*, which, if committed by an adult, would  
 2513 be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer  
 2514 proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same  
 2515 manner as provided by law for adults provided that notice of the summons to appear is mailed by the  
 2516 investigating officer within five days of the issuance of the summons to a parent or legal guardian of the  
 2517 juvenile.

2518 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the  
 2519 jurisdiction granted it in § 16.1-241.

2520 **§ 16.1-273. Court may require investigation of social history and preparation of victim impact**  
 2521 **statement.**

2522 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case  
 2523 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of  
 2524 the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew  
 2525 violations, the court before final disposition thereof may require an investigation, which (i) shall include a  
 2526 drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a  
 2527 social history of the physical, mental, and social conditions, including an assessment of any affiliation with a  
 2528 criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances  
 2529 surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an  
 2530 act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, ~~or~~ (b) a  
 2531 violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2  
 2532 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, *or (c) a*  
 2533 *violation of § 4.1-1105*, the court shall order the juvenile to undergo a drug screening. If the drug screening  
 2534 indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by  
 2535 a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile  
 2536 Justice or by a locally operated court services unit or by an individual employed by or currently under

2537 contract to such agencies and who is specifically trained to conduct such assessments under the supervision  
2538 of such counselor.

2539 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim,  
2540 or may in its discretion, require the preparation of a victim impact statement in accordance with the  
2541 provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical,  
2542 psychological, or economic injury as a result of the violation of law.

2543 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses;**  
2544 **truancy.**

2545 A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time  
2546 of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of  
2547 any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation  
2548 of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250; (iv) a misdemeanor  
2549 violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 *or a violation*  
2550 *of § 4.1-1105*; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or  
2551 the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of §  
2552 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town;  
2553 (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or  
2554 (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as  
2555 provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty  
2556 authorized by this section, if the offense involves a violation designated under clause (i) and the child was  
2557 transporting a person 17 years of age or younger, the court shall impose the additional fine and order  
2558 community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i),  
2559 (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches  
2560 the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile  
2561 reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a  
2562 violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six  
2563 months unless the offense is committed by a child under the age of 16 years and three months, in which case  
2564 the child's ability to apply for a driver's license shall be delayed for a period of six months following the date  
2565 he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v)  
2566 or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a  
2567 judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the  
2568 case pursuant to subsection F. If the offense involves a violation designated under clause (iii) or (iv), the  
2569 court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions  
2570 of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of  
2571 driving privileges shall be for a period of not less than 30 days, except when the offense involves possession  
2572 of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding  
2573 stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in  
2574 which case the denial of driving privileges shall be for a period of two years unless the offense is committed  
2575 by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's  
2576 license shall be delayed for a period of two years following the date he reaches the age of 16 and three  
2577 months.

2578 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and  
2579 meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving  
2580 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16  
2581 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not  
2582 less than 30 days following the date he reaches the age of 16 and three months.

2583 If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a  
2584 period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability  
2585 to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three  
2586 months, as may be appropriate.

2587 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of §  
2588 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until the  
2589 juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until  
2590 the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

2591 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as  
2592 provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the  
2593 physical custody of the court during any period of license denial.

2594 C. The court shall report any order issued under this section to the Department of Motor Vehicles, which  
2595 shall preserve a record thereof. The report and the record shall include a statement as to whether the child was  
2596 represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2.  
2597 Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2, this record  
2598 shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other

2599 record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding  
2600 results in an adjudication of guilt pursuant to subsection F.

2601 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's  
2602 license until such time as is stipulated in the court order or until notification by the court of withdrawal of the  
2603 order of denial under subsection E.

2604 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of  
2605 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol  
2606 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set  
2607 forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii)  
2608 of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such  
2609 terms and conditions as the court may set forth.

2610 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted  
2611 permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the  
2612 time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection  
2613 E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to  
2614 and from home and school when school-provided transportation is available and no restricted license shall be  
2615 issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A,  
2616 or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding  
2617 by the court of failure to comply with school attendance and meeting requirements as provided in subsection  
2618 A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection  
2619 A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be  
2620 provided to the child, and shall specifically enumerate the restrictions imposed and contain such information  
2621 regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under  
2622 the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any  
2623 restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

2624 E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any  
2625 order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2.  
2626 For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one  
2627 year after its issuance.

2628 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A,  
2629 upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has  
2630 been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if  
2631 the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge  
2632 the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be  
2633 without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying  
2634 this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in  
2635 an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv)  
2636 of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of  
2637 pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second  
2638 violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this  
2639 subsection but shall be disposed of under § 16.1-278.8.

2640 **§ 18.2-46.1. Definitions.**

2641 As used in this article, unless the context requires a different meaning:

2642 "Act of violence" means those felony offenses described in subsection C of § 17.1-805 or subsection A of  
2643 § 19.2-297.1.

2644 "Criminal street gang" means any ongoing organization, association, or group of three or more persons,  
2645 whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one  
2646 or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose  
2647 members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to  
2648 commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence,  
2649 provided such acts were not part of a common act or transaction.

2650 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3, 18.2-56.1,  
2651 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-95, 18.2-103.1, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128,  
2652 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-287.4,  
2653 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, or 18.2-357.1; (iii) a felony violation of §  
2654 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101; *or* 18.2-248; ~~or~~  
2655 ~~18.2-248.1~~ or a conspiracy to commit a felony violation of § 4.1-1101; *or* 18.2-248; ~~or~~ 18.2-248.1; (v) any  
2656 violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense  
2657 under the laws of another state or territory of the United States, the District of Columbia, or the United States.

2658 **§ 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI," "imitation**  
2659 **controlled substance," and "counterfeit controlled substance" in Title 18.2.**

2660 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used in Title

2661 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et  
2662 seq.).

2663 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit controlled  
2664 substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ *that* is not a controlled  
2665 substance subject to abuse, and:

2666 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging or by  
2667 representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other  
2668 form whatsoever will be mistaken for a controlled substance unless such substance was introduced into  
2669 commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to  
2670 imitate; or

2671 2. Which by express or implied representations purports to act like a controlled substance as a stimulant or  
2672 depressant of the central nervous system and which is not commonly used or recognized for use in that  
2673 particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed,  
2674 promoted, or sold as permitted by the U.S. Food and Drug Administration.

2675 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an  
2676 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,  
2677 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes  
2678 rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the  
2679 drug and its appearance in overall finished dosage form, promotional materials or representations, oral or  
2680 written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the  
2681 public.

2682 D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*,  
2683 whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or  
2684 preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana"  
2685 does not include (i) the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the  
2686 seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus  
2687 *Cannabis*; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to  
2688 subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-4112, that is possessed by a  
2689 person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R.  
2690 Part 990; (iv) a hemp product, as defined in § 3.2-4112; (v) an industrial hemp extract, as defined in §  
2691 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt or salts of such  
2692 isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the  
2693 Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

2694 E. The term "counterfeit controlled substance" means a controlled substance that, without authorization,  
2695 bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade  
2696 name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor,  
2697 packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so  
2698 manufacture, process, pack or distribute such drug.

2699 F. E. The term "tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol,  
2700 including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of  
2701 isomers is possible within the specific chemical designation and any preparation, mixture, or substance  
2702 containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this  
2703 definition, "isomer" means the optical, position, and geometric isomers.

2704 G. F. The term "total tetrahydrocannabinol" means the sum, after the application of any necessary  
2705 conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of  
2706 tetrahydrocannabinolic acid.

2707 H. G. The Department of Forensic Science shall determine the proper methods for detecting the  
2708 concentration of tetrahydrocannabinol in substances for the purposes of this title, Chapter 11 (§ 4.1-1100 et  
2709 seq.) of Title 4.1, and § 54.1-3401. The testing methodology shall use post-decarboxylation testing or other  
2710 equivalent method and shall consider the potential conversion of tetrahydrocannabinolic acid into  
2711 tetrahydrocannabinol.

2712 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture,  
2713 sell, give, or distribute a controlled substance or an imitation controlled substance prohibited;  
2714 penalties.**

2715 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it ~~shall be~~ *is* unlawful for any  
2716 person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a  
2717 controlled substance or an imitation controlled substance.

2718 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation  
2719 controlled substance, the court may consider, in addition to all other relevant evidence, whether any  
2720 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever  
2721 included an exchange of or a demand for money or other property as consideration, and, if so, whether the  
2722 amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet

2723 or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule,  
2724 tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter  
2725 substances of like chemical composition sell.

2726 C. Except as provided in subsection C1, any person who violates this section with respect to a controlled  
2727 substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more  
2728 than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is  
2729 alleged in the warrant, indictment, or information that the person has been before convicted of such an  
2730 offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if  
2731 committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in  
2732 the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing  
2733 the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of  
2734 which shall be a mandatory minimum term of imprisonment to be served consecutively with any other  
2735 sentence, and he shall be fined not more than \$500,000.

2736 When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the  
2737 warrant, indictment or information that he has been before convicted of two or more such offenses or of  
2738 substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the  
2739 Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,  
2740 indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10  
2741 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively  
2742 with any other sentence, and he shall be fined not more than \$500,000.

2743 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,  
2744 give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million and  
2745 imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment  
2746 to be served consecutively with any other sentence:

- 2747 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
- 2748 2. 500 grams or more of a mixture or substance containing a detectable amount of:
  - 2749 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
2750 derivatives of ecgonine or their salts have been removed;
  - 2751 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
  - 2752 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
  - 2753 d. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to  
2754 in subdivisions ~~2a~~ through ~~2e~~ *a, b, and c*;
- 2755 3. 250 grams or more of a mixture or substance described in subdivisions ~~2a~~ *2 a* through ~~2d~~ *d* that contain  
2756 cocaine base; or
- 2757 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of  
2758 a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its  
2759 isomers.

2760 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not  
2761 be applicable if the court finds that:

- 2762 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- 2763 b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous  
2764 weapon in connection with the offense or induce another participant in the offense to do so;
- 2765 c. The offense did not result in death or serious bodily injury to any person;
- 2766 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not  
2767 engaged in a continuing criminal enterprise as defined in subsection I; and
- 2768 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the  
2769 Commonwealth all information and evidence the person has concerning the offense or offenses that were part  
2770 of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or  
2771 useful other information to provide or that the Commonwealth already is aware of the information shall not  
2772 preclude a determination by the court that the defendant has complied with this requirement.

2773 C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts,  
2774 isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable  
2775 amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned  
2776 for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a second conviction of  
2777 such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be  
2778 sentenced to imprisonment for life or for any period not less than 10 years, and be fined not more than  
2779 \$500,000. When a person is convicted of a third or subsequent offense under this subsection and it is alleged  
2780 in the warrant, indictment, or information that he has been previously convicted of two or more such offenses  
2781 or of substantially similar offenses in any other jurisdiction, which offenses would be felonies if committed in  
2782 the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,  
2783 indictment, or information, he shall be sentenced to imprisonment for life or for a period not less than 10

2784 years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively  
 2785 with any other sentence and he shall be fined not more than \$500,000.

2786 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be  
 2787 ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner  
 2788 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine  
 2789 production. This restitution shall include the person's or his estate's estimated or actual expenses associated  
 2790 with cleanup, removal, or repair of the affected property. If the property that is damaged, destroyed, or  
 2791 otherwise rendered unusable as a result of such methamphetamine production is property owned in whole or  
 2792 in part by the person convicted, the court shall order the person to pay to the Methamphetamine Cleanup  
 2793 Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses associated with cleanup,  
 2794 removal, or repair of the affected property or, if actual or estimated expenses cannot be determined, the sum  
 2795 of \$10,000. The convicted person shall also pay the cost of certifying that any building that is cleaned up or  
 2796 repaired pursuant to this section is safe for human occupancy according to the guidelines established pursuant  
 2797 to § 32.1-11.7.

2798 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled  
 2799 substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate  
 2800 in a community correctional facility, local correctional facility or state correctional facility as defined in §  
 2801 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any consideration  
 2802 received or expected nor to induce the recipient or intended recipient of the controlled substance to use or  
 2803 become addicted to or dependent upon such controlled substance, he ~~shall be~~ *is* guilty of a Class 5 felony.

2804 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription  
 2805 of a person authorized under this article to issue the same, which prescription has not been received in writing  
 2806 by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the  
 2807 pharmacist within one week of the time of filling the same, or if such violation consists of a request by such  
 2808 authorized person for the filling by a pharmacist of a prescription which has not been received in writing by  
 2809 the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the  
 2810 pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

2811 E1. Any person who violates this section with respect to a controlled substance classified in Schedule III  
 2812 except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, ~~shall be~~ *is*  
 2813 guilty of a Class 5 felony.

2814 E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV  
 2815 ~~shall be~~ *is* guilty of a Class 6 felony.

2816 E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a  
 2817 controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III,  
 2818 constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate  
 2819 in a community correctional facility, local correctional facility or state correctional facility as defined in §  
 2820 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any  
 2821 consideration received or expected nor to induce the recipient or intended recipient of the controlled  
 2822 substance to use or become addicted to or dependent upon such controlled substance, is guilty of a Class 1  
 2823 misdemeanor.

2824 F. Any person who violates this section with respect to a controlled substance classified in Schedule V or  
 2825 Schedule VI or an imitation controlled substance ~~which that~~ imitates a controlled substance classified in  
 2826 Schedule V or Schedule VI, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

2827 G. Any person who violates this section with respect to an imitation controlled substance ~~which that~~  
 2828 imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ *is* guilty of a Class 6 felony. In  
 2829 any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the  
 2830 defendant believed the imitation controlled substance to actually be a controlled substance.

2831 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,  
 2832 give or distribute the following:

- 2833 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
- 2834 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
  - 2835 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
 2836 derivatives of ecgonine or their salts have been removed;
  - 2837 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
  - 2838 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
  - 2839 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances  
 2840 referred to in subdivisions a ~~through, b, and c~~;
- 2841 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which that~~ contains cocaine  
 2842 base; *or*
- 2843 4. 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; *or*
- 2844 5- 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more  
 2845 of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of

2846 its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment  
 2847 for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum  
 2848 sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an  
 2849 offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of  
 2850 violence or possess a firearm or other dangerous weapon in connection with the offense or induce another  
 2851 participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any  
 2852 person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense, and was  
 2853 not engaged in a continuing criminal enterprise as defined in subsection I ~~of this section~~; and (v) not later  
 2854 than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all  
 2855 information and evidence the person has concerning the offense or offenses that were part of the same course  
 2856 of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other  
 2857 information to provide or that the Commonwealth already is aware of the information shall not preclude a  
 2858 determination by the court that the defendant has complied with this requirement.

2859 H1. Any person who was the principal or one of several principal administrators, organizers or leaders of  
 2860 a continuing criminal enterprise ~~shall be~~ *is* guilty of a felony if (i) the enterprise received at least \$100,000  
 2861 but less than \$250,000 in gross receipts during any 12-month period of its existence from the manufacture,  
 2862 importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts,  
 2863 isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture,  
 2864 sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any  
 2865 12-month period of its existence:

2866 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable  
 2867 amount of heroin;

2868 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable  
 2869 amount of:

2870 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
 2871 derivatives of ecgonine or their salts have been removed;

2872 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

2873 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

2874 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances  
 2875 referred to in subdivisions a ~~through, b, and c~~;

2876 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in subdivision 2  
 2877 ~~which that~~ contains cocaine base; *or*

2878 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable~~  
 2879 ~~amount of marijuana; *or*~~

2880 5- At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its  
 2881 isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable  
 2882 amount of methamphetamine, its salts, isomers, or salts of its isomers.

2883 A conviction under this section shall be punishable by a fine of not more than \$1 million and  
 2884 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

2885 H2. Any person who was the principal or one of several principal administrators, organizers or leaders of  
 2886 a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts during any  
 2887 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or  
 2888 ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or  
 2889 (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to  
 2890 manufacture, sell, give or distribute the following during any 12-month period of its existence:

2891 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

2892 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

2893 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
 2894 derivatives of ecgonine or their salts have been removed;

2895 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

2896 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

2897 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances  
 2898 referred to in subdivisions a ~~through, b, and c~~;

2899 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which that~~ contains cocaine  
 2900 base; *or*

2901 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; *or*~~

2902 5- At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0  
 2903 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,  
 2904 or salts of its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and  
 2905 imprisonment for life, which shall be served with no suspension in whole or in part. Such punishment shall be  
 2906 made to run consecutively with any other sentence. However, the court may impose a mandatory minimum  
 2907 sentence of 40 years if the court finds that the defendant substantially cooperated with law-enforcement

2908 authorities.

2909 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he violates any  
 2910 provision of this section, the punishment for which is a felony and either (ii) such violation is a part of a  
 2911 continuing series of violations of this section which are undertaken by such person in concert with five or  
 2912 more other persons with respect to whom such person occupies a position of organizer, a supervisory  
 2913 position, or any other position of management, and from which such person obtains substantial income or  
 2914 resources or (iii) such violation is committed, with respect to methamphetamine or other controlled substance  
 2915 classified in Schedule I or II, for the benefit of, at the direction of, or in association with any criminal street  
 2916 gang as defined in § 18.2-46.1.

2917 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any two  
 2918 or more different substances listed below with the intent to manufacture methamphetamine, methcathinone,  
 2919 or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate, ether,  
 2920 hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of iodine,  
 2921 phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium, sodium metal,  
 2922 sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium permanganate,  
 2923 chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or 2-propanone.

2924 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product  
 2925 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts  
 2926 of optical isomers.

2927 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

2928 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to  
 2929 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of cocaine,  
 2930 coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II of the Drug  
 2931 Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five or more pounds~~  
 2932 ~~of marijuana~~. A violation of this section shall constitute a separate and distinct felony. Upon conviction, the  
 2933 person shall be sentenced to not less than five years nor more than 40 years imprisonment, three years of  
 2934 which shall be a mandatory minimum term of imprisonment, and a fine not to exceed ~~\$1,000,000~~ *\$1 million*.  
 2935 A second or subsequent conviction hereunder shall be punishable by a mandatory minimum term of  
 2936 imprisonment of 10 years, which shall be served consecutively with any other sentence.

2937 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance**  
 2938 **abuse screening, assessment treatment and education programs or services; drug tests; costs and fees;**  
 2939 **violations; discharge.**

2940 Whenever any person who has not previously been convicted of any criminal offense under this article or  
 2941 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,  
 2942 depressant, or hallucinogenic drugs, ~~with the exception of any misdemeanor conviction for possession of~~  
 2943 ~~marijuana~~, or has not previously had a proceeding against him for violation of such an offense dismissed as  
 2944 provided in this section, ~~except a dismissal of a misdemeanor offense for possession of marijuana~~, pleads  
 2945 guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250, the court,  
 2946 upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of  
 2947 guilt and with the consent of the accused, may defer further proceedings and place him on probation upon  
 2948 terms and conditions. If the court defers further proceedings, at that time the court shall determine whether  
 2949 the clerk of court has been provided with the fingerprint identification information or fingerprints of the  
 2950 person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints  
 2951 and photograph of the person be taken by a law-enforcement officer.

2952 As a term or condition, the court shall require the accused to undergo a substance abuse assessment  
 2953 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or  
 2954 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based  
 2955 upon consideration of the substance abuse assessment. The program or services may be located in the judicial  
 2956 district in which the charge is brought or in any other judicial district as the court may provide. The services  
 2957 shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental  
 2958 Services, by a similar program which is made available through the Department of Corrections, (ii) a local  
 2959 community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program  
 2960 certified by the Commission on VASAP.

2961 The court shall require the person entering such program under the provisions of this section to pay all or  
 2962 part of the costs of the program, including the costs of the screening, assessment, testing, and treatment,  
 2963 based upon the accused's ability to pay unless the person is determined by the court to be indigent.

2964 As a condition of probation, the court shall require the accused (a) to successfully complete treatment or  
 2965 education program or services, (b) to remain drug and alcohol free during the period of probation and submit  
 2966 to such tests during that period as may be necessary and appropriate to determine if the accused is drug and  
 2967 alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a  
 2968 plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a  
 2969 misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel



2970 of any program or agency approved by the supervising probation agency.

2971 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as  
 2972 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of  
 2973 court has been provided with the fingerprint identification information or fingerprints of such person, the  
 2974 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this  
 2975 section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section  
 2976 in subsequent proceedings.

2977 Notwithstanding any other provision of this section, whenever a court places an individual on probation  
 2978 upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of  
 2979 § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has  
 2980 had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

2981 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

2982 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the  
 2983 consumption or use of a controlled substance, alcohol, or any combination of such substances.

2984 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or  
 2985 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana  
 2986 pursuant to § ~~4.1-1105.1~~ 4.1-1105, possession of a controlled substance pursuant to § 18.2-250, intoxication  
 2987 in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

2988 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is  
 2989 experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose;  
 2990 (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical  
 2991 attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in §  
 2992 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as  
 2993 defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith, renders emergency care or  
 2994 assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid  
 2995 antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or  
 2996 obtains emergency medical attention in accordance with this subdivision;

2997 2. Such individual remains at the scene of the overdose or at any alternative location to which he or the  
 2998 person requiring emergency medical attention has been transported until a law-enforcement officer responds  
 2999 to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the  
 3000 alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

3001 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the  
 3002 overdose; and

3003 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of  
 3004 the individual seeking or obtaining emergency medical attention or rendering emergency care or assistance.

3005 C. The provisions of this section shall not apply to any person who seeks or obtains emergency medical  
 3006 attention for himself or another individual, to a person experiencing an overdose when another individual  
 3007 seeks or obtains emergency medical attention for him, or to a person who renders emergency care or  
 3008 assistance to an individual experiencing an overdose while another person seeks or obtains emergency  
 3009 medical attention during the execution of a search warrant or during the conduct of a lawful search or a  
 3010 lawful arrest.

3011 D. This section does not establish protection from arrest or prosecution for any individual or offense other  
 3012 than those listed in subsection B.

3013 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later  
 3014 determined that the person arrested was immune from prosecution under this section.

3015 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

3016 No school nurse employed by a local school board, person employed by a local health department who is  
 3017 assigned to the public school pursuant to an agreement between the local health department and the school  
 3018 board, or other person employed by or contracted with a local school board to deliver health-related services  
 3019 shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, 18.2-250, or  
 3020 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering cannabis  
 3021 oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid  
 3022 written certification for the use of cannabis oil in accordance with § 4.1-1601.

3023 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing  
 3024 facilities; hospice and hospice facilities; assisted living facilities.**

3025 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and  
 3026 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under  
 3027 Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for the possession or  
 3028 distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient  
 3029 or resident who has been issued a valid written certification for the use of cannabis oil in accordance with §  
 3030 4.1-1601.

3031 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;**

**3032 Department of Agriculture and Consumer Services, Department of Law employees.**

**3033** A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or  
**3034** industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower, a  
**3035** federally licensed hemp producer, or a registered industrial hemp processor for the purpose of performing  
**3036** required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248,  
**3037** ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial hemp or for  
**3038** storing cannabis oil or industrial hemp for testing purposes in accordance with regulations promulgated by  
**3039** the Board of Pharmacy of Directors of the Virginia Cannabis Control Authority and the Board of Agriculture  
**3040** and Consumer Services.

**3041** B. No employee of the Department of Agriculture and Consumer Services or of the Department of Law  
**3042** shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247*, 18.2-248, 18.2-248.01,  
**3043** ~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp or any substance containing  
**3044** tetrahydrocannabinol when possession of industrial hemp or any substance containing tetrahydrocannabinol  
**3045** is necessary in the performance of his duties.

**3046 § 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing,**  
**3047 and treatment or education.**

**3048** The trial judge or court trying the case of any person found guilty of a criminal violation of any law  
**3049** concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical  
**3050** substances and like substances shall condition any suspended sentence by first requiring such person to agree  
**3051** to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance  
**3052** abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by  
**3053** the supervising probation agency or by personnel of any program or agency approved by the supervising  
**3054** probation agency. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed  
**3055** as a part of the costs of such proceedings. The judge or court shall order the person, as a condition of any  
**3056** suspended sentence, to undergo such treatment or education for substance abuse, if available, as the judge or  
**3057** court deems appropriate based upon consideration of the substance abuse assessment. The treatment or  
**3058** education shall be provided by a program or agency licensed by the Department of Behavioral Health and  
**3059** Developmental Services, by a similar program or services available through the Department of Corrections if  
**3060** the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a  
**3061** similar program or services available through a local or regional jail, a local community-based probation  
**3062** services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on  
**3063** VASAP.

**3064 § 18.2-254. Commitment of convicted person for treatment for substance abuse.**

**3065** A. Whenever any person who has not previously been convicted of any criminal offense under this article  
**3066** or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, stimulant,  
**3067** depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of such  
**3068** an offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the use, in any  
**3069** manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances, and like  
**3070** substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to §  
**3071** 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be  
**3072** directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and  
**3073** taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to  
**3074** undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate  
**3075** based upon consideration of the substance abuse assessment. The treatment or education shall be provided by  
**3076** a program or agency licensed by the Department of Behavioral Health and Developmental Services or by a  
**3077** similar program or services available through the Department of Corrections if the court imposes a sentence  
**3078** of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services  
**3079** available through a local or regional jail, a local community-based probation services agency established  
**3080** pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

**3081** B. The court trying the case of any person alleged to have committed any criminal offense designated by  
**3082** this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the  
**3083** commission of the offense was motivated by or closely related to the use of drugs and determined by the  
**3084** court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs  
**3085** may commit, based upon a consideration of the substance abuse assessment, such person, upon his  
**3086** conviction, to any facility for the treatment of persons with substance abuse, licensed by the Department of  
**3087** Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not  
**3088** in excess of the maximum term of imprisonment specified as the penalty for conviction of such offense or, if  
**3089** sentence was determined by a jury, not in excess of the term of imprisonment as set by such jury.  
**3090** Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and  
**3091** the person so committed may be convicted of escape if he leaves the place of commitment without authority.  
**3092** A charge of escape may be prosecuted in either the jurisdiction where the treatment facility is located or the  
**3093** jurisdiction where the person was sentenced to commitment. The court may revoke such commitment at any

3094 time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a  
 3095 certified statement from the director of the treatment facility to the effect that the confined person has  
 3096 successfully responded to treatment, the court may release such confined person prior to the termination of  
 3097 the period of time for which such person was confined and may suspend the remainder of the term upon such  
 3098 conditions as the court may prescribe.

3099 C. The court trying a case in which commission of the criminal offense was related to the defendant's  
 3100 habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and  
 3101 assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the  
 3102 substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons  
 3103 with substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space  
 3104 is available in such facility, for a period of time not in excess of the maximum term of imprisonment  
 3105 specified as the penalty for conviction. Confinement under such commitment shall be, in all regards, treated  
 3106 as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the  
 3107 place of commitment without authority. The court may revoke such commitment at any time and transfer the  
 3108 person to an appropriate state or local correctional facility. Upon presentation of a certified statement from  
 3109 the director of the treatment facility to the effect that the confined person has successfully responded to  
 3110 treatment, the court may release such confined person prior to the termination of the period of time for which  
 3111 such person was confined and may suspend the remainder of the term upon such conditions as the court may  
 3112 prescribe.

3113 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

3114 A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) of Title 54-1, it shall be  
 3115 *is* unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any drug  
 3116 classified in Schedule I, II, III, or IV ~~or marijuana~~ to any person under 18 years of age who is at least three  
 3117 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any drug  
 3118 classified in Schedule I, II, III, or IV ~~or marijuana~~. Any person violating this provision shall upon conviction  
 3119 be imprisoned in a state correctional facility for a period not less than 10 nor more than 50 years, and fined  
 3120 not more than \$100,000. Five years of the sentence imposed for a conviction under this section involving a  
 3121 Schedule I or II controlled substance ~~or one ounce or more of marijuana~~ shall be a mandatory minimum  
 3122 sentence. ~~Two years of the sentence imposed for a conviction under this section involving less than one~~  
 3123 ~~ounce of marijuana shall be a mandatory minimum sentence.~~

3124 B. It ~~shall be~~ *is* unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)  
 3125 distribute any imitation controlled substance to a person under 18 years of age who is at least three years his  
 3126 junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation controlled  
 3127 substance. Any person violating this provision shall ~~be~~ *is* guilty of a Class 6 felony.

3128 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in**  
 3129 **administering controlled substances to minors; penalty.**

3130 It ~~shall be~~ *is* a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a  
 3131 minor any book, pamphlet, periodical, or other printed matter ~~which~~ *that* he knows advertises for sale any  
 3132 instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking, administering,  
 3133 preparing, or growing ~~marijuana~~ or a controlled substance.

3134 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.**

3135 A. It ~~shall be~~ *is* unlawful for any person to manufacture, sell or distribute or possess with intent to sell,  
 3136 give, or distribute any controlled substance; *or* imitation controlled substance; ~~or marijuana~~ while:

3137 1. Upon the property, including buildings and grounds, of any public or private elementary or secondary  
 3138 school, any institution of higher education, or any clearly marked licensed child day center as defined in §  
 3139 22.1-289.02;

3140 2. Upon public property or any property open to public use within 1,000 feet of the property described in  
 3141 subdivision 1;

3142 3. On any school bus as defined in § 46.2-100;

3143 4. Upon a designated school bus stop, or upon either public property or any property open to public use  
 3144 which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be  
 3145 picked up and transported to or are being dropped off from school or a school-sponsored activity;

3146 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated  
 3147 recreation or community center facility or any public library; or

3148 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property  
 3149 open to public use within 1,000 feet of such ~~an institution facility~~. It is a violation of the provisions of this  
 3150 section if the person possessed the controlled substance; *or* imitation controlled substance; ~~or marijuana~~  
 3151 on the property described in subdivisions 1 through 6, regardless of where the person intended to sell, give, or  
 3152 distribute the controlled substance; *or* imitation controlled substance; ~~or marijuana~~. Nothing in this section  
 3153 shall prohibit the authorized distribution of controlled substances.

3154 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the  
 3155 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more

3156 than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an  
 3157 offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§  
 3158 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum term  
 3159 of imprisonment of one year to be served consecutively with any other sentence. However, if such person  
 3160 proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another individual  
 3161 and not with intent to profit thereby from any consideration received or expected nor to induce the recipient  
 3162 or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to or dependent upon  
 3163 such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

3164 C. If a person commits an act violating the provisions of this section, and the same act also violates  
 3165 another provision of law that provides for penalties greater than those provided for by this section, then  
 3166 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or  
 3167 the imposition of any penalties provided for thereby.

3168 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

3169 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,  
 3170 dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge  
 3171 of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant thereof, is  
 3172 frequented by persons under the influence of illegally obtained controlled substances ~~or marijuana~~, as defined  
 3173 in § 54.1-3401, or for the purpose of illegally obtaining possession of, manufacturing, or distributing  
 3174 controlled substances ~~or marijuana~~, or is used for the illegal possession, manufacture, or distribution of  
 3175 controlled substances ~~or marijuana~~ shall be deemed a common nuisance. Any such owner, lessor, agent of  
 3176 any such lessor, manager, chief executive officer, operator, or tenant who knowingly permits, establishes,  
 3177 keeps or maintains such a common nuisance is guilty of a Class 1 misdemeanor and, for a second or  
 3178 subsequent offense, a Class 6 felony.

3179 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

3180 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,  
 3181 dwelling house, apartment or building or structure of any kind ~~which~~ *that* is (i) substantially altered from its  
 3182 original status by means of reinforcement with the intent to impede, deter or delay lawful entry by a  
 3183 law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing or distributing  
 3184 controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be considered a  
 3185 fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5  
 3186 felony.

3187 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud,  
 3188 deceit or forgery.**

3189 A. It ~~shall be~~ *is* unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to  
 3190 procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit, misrepresentation,  
 3191 embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by  
 3192 the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

3193 B. It ~~shall be~~ *is* unlawful for any person to furnish false or fraudulent information in or omit any  
 3194 information from, or willfully make a false statement in, any prescription, order, report, record, or other  
 3195 document required by ~~Chapter 34 the Drug Control Act~~ (§ 54.1-3400 et seq.) ~~of Title 54.1.~~

3196 C. It ~~shall be~~ *is* unlawful for any person to use in the course of the manufacture or distribution of a  
 3197 controlled substance ~~or marijuana~~ a license number ~~which~~ *that* is fictitious, revoked, suspended, or issued to  
 3198 another person.

3199 D. It ~~shall be~~ *is* unlawful for any person, for the purpose of obtaining any controlled substance ~~or~~  
 3200 ~~marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist,  
 3201 physician, dentist, veterinarian or other authorized person.

3202 E. It ~~shall be~~ *is* unlawful for any person to make or utter any false or forged prescription or false or forged  
 3203 written order.

3204 F. It ~~shall be~~ *is* unlawful for any person to affix any false or forged label to a package or receptacle  
 3205 containing any controlled substance.

3206 G. This section shall not apply to officers and employees of the United States, of this Commonwealth or  
 3207 of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such  
 3208 drugs for investigative, research or analytical purposes, or to the agents or duly authorized representatives of  
 3209 any pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and  
 3210 who are acting in the course of their employment; provided that such manufacturer is licensed under the  
 3211 provisions of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical  
 3212 manufacturer, its agents and duly authorized representatives file with the Board such information as the  
 3213 Board may deem appropriate.

3214 H. Except as otherwise provided in this subsection, any person who shall violate any provision herein  
 3215 ~~shall be~~ *is* guilty of a Class 6 felony.

3216 Whenever any person who has not previously been convicted of any offense under this article or under  
 3217 any statute of the United States or of any state relating to narcotic drugs; ~~marijuana~~; or stimulant, depressant,

3218 or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense  
 3219 dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for  
 3220 violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court  
 3221 may place him on probation upon terms and conditions.

3222 As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or  
 3223 education program, if available, such as, in the opinion of the court, may be best suited to the needs of the  
 3224 accused. This program may be located in the judicial circuit in which the charge is brought or in any other  
 3225 judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by  
 3226 the Department of Behavioral Health and Developmental Services. The court shall require the person entering  
 3227 such program under the provisions of this section to pay all or part of the costs of the program, including the  
 3228 costs of the screening, evaluation, testing and education, based upon the person's ability to pay unless the  
 3229 person is determined by the court to be indigent.

3230 As a condition of supervised probation, the court shall require the accused to remain drug free during the  
 3231 period of probation and submit to such tests during that period as may be necessary and appropriate to  
 3232 determine if the accused is drug free. Such testing may be conducted by the personnel of any screening,  
 3233 evaluation, and education program to which the person is referred or by the supervising agency.

3234 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the  
 3235 original arresting law-enforcement agency to submit to fingerprinting.

3236 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and  
 3237 proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find  
 3238 the defendant guilty of a Class 1 misdemeanor.

3239 **§ 18.2-265.1. Definition.**

3240 As used in this article, the term "drug paraphernalia" means all equipment, products, and materials of any  
 3241 kind which are either designed for use or which are intended by the person charged with violating §  
 3242 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding,  
 3243 converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing,  
 3244 containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body  
 3245 marijuana or a controlled substance. It includes, but is not limited to:

3246 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of  
 3247 marijuana or any species of plant which is a controlled substance or from which a controlled substance can be  
 3248 derived;

3249 2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing,  
 3250 processing, or preparing marijuana or controlled substances;

3251 3. Isomerization devices intended for use or designed for use in increasing the potency of marijuana or  
 3252 any species of plant which that is a controlled substance;

3253 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength or  
 3254 effectiveness of marijuana or controlled substances, other than narcotic testing products used to determine  
 3255 whether a controlled substance contains fentanyl or a fentanyl analog;

3256 5. Scales and balances intended for use or designed for use in weighing or measuring marijuana or  
 3257 controlled substances;

3258 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or  
 3259 designed for use in cutting controlled substances;

3260 7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in  
 3261 otherwise cleaning or refining, marijuana;

3262 8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in  
 3263 compounding controlled substances;

3264 9. 8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging  
 3265 small quantities of marijuana or controlled substances;

3266 10. 9. Containers and other objects intended for use or designed for use in storing or concealing marijuana  
 3267 or controlled substances;

3268 11. 10. Hypodermic syringes, needles, and other objects intended for use or designed for use in  
 3269 parenterally injecting controlled substances into the human body;

3270 12. 11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing  
 3271 marijuana, cocaine, hashish, or hashish oil into the human body, such as:

3272 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent  
 3273 screens, hashish heads, or punctured metal bowls;

3274 b. Water pipes;

3275 c. Carburetion tubes and devices;

3276 d. Smoking and carburetion masks;

3277 e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has  
 3278 become too small or too short to be held in the hand;

3279 f. Miniature cocaine spoons, and cocaine vials;

- 3280 g. Chamber pipes;  
 3281 h. Carburetor pipes;  
 3282 i. Electric pipes;  
 3283 j. Air-driven pipes;  
 3284 k. Chillums;  
 3285 l. Bongs;  
 3286 m. Ice pipes or chillers.

3287 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

3288 In determining whether an object is drug paraphernalia, the court may consider, in addition to all other  
 3289 relevant evidence, the following:

- 3290 1. Constitutionally admissible statements by the accused concerning the use of the object;  
 3291 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually known to  
 3292 the accused;  
 3293 3. Instructions, oral or written, provided with the object concerning its use;  
 3294 4. Descriptive materials accompanying the object ~~which~~ that explain or depict its use;  
 3295 5. National and local advertising within the actual knowledge of the accused concerning its use;  
 3296 6. The manner in which the object is displayed for sale;  
 3297 7. Whether the accused is a legitimate supplier of like or related items to the community, such as a  
 3298 licensed distributor or dealer of tobacco products;  
 3299 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business  
 3300 enterprise;  
 3301 9. The existence and scope of legitimate uses for the object in the community;  
 3302 10. Expert testimony concerning its use or the purpose for which it was designed; *and*  
 3303 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should  
 3304 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in  
 3305 control of the object, as to a direct violation of this article shall not prevent a finding that the object is  
 3306 intended for use or designed for use as drug paraphernalia.

3307 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

3308 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under  
 3309 circumstances where one reasonably should know, that it is either designed for use or intended by such  
 3310 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
 3311 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or  
 3312 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be is~~ guilty of a Class 1  
 3313 misdemeanor.

3314 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug  
 3315 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be is~~ guilty of a Class 6  
 3316 felony.

3317 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall be is~~  
 3318 guilty of a Class 1 misdemeanor.

3319 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

3320 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony violation  
 3321 of § 18.2-248 or subdivision (a) 2 or 3 of § 18.2-248.1, has in his possession a firearm or knife and is wearing  
 3322 body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be is~~ guilty of a Class 4  
 3323 felony.

3324 **§ 18.2-308.012. Prohibited conduct.**

3325 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, *marijuana*,  
 3326 or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction  
 3327 of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under  
 3328 the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of  
 3329 § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of §  
 3330 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall  
 3331 revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person  
 3332 convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a  
 3333 period of five years.

3334 B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in §  
 3335 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been  
 3336 granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic  
 3337 beverage while on the premises. A person who carries a concealed handgun onto the premises of such a  
 3338 restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in  
 3339 this subsection shall apply to a federal, state, or local law-enforcement officer.

3340 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

3341 A. It ~~shall be is~~ unlawful for any person unlawfully in possession of a controlled substance classified in

3342 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge  
 3343 and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate  
 3344 and distinct felony.

3345 B. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified in  
 3346 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent  
 3347 possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a  
 3348 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum  
 3349 term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to  
 3350 run consecutively with, any punishment received for the commission of the primary felony.

3351 C. It ~~shall be~~ *is* unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or  
 3352 other firearm or display such weapon in a threatening manner while committing or attempting to commit the  
 3353 illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a  
 3354 controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or~~  
 3355 ~~more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a  
 3356 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum  
 3357 term of imprisonment of five years. Such punishment shall be separate and apart from, and shall be made to  
 3358 run consecutively with, any punishment received for the commission of the primary felony.

3359 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.**

3360 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the  
 3361 Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to §  
 3362 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such  
 3363 obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth,  
 3364 witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a  
 3365 Class 1 misdemeanor.

3366 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to  
 3367 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any  
 3368 law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in  
 3369 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1  
 3370 misdemeanor.

3371 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge,  
 3372 magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement officer, lawfully  
 3373 engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court  
 3374 relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3), (b) or (c) of § 18.2-248.1,~~  
 3375 ~~or~~ §, 18.2-46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to violate any violent felony  
 3376 offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

3377 D. Any person who knowingly and willfully makes any materially false statement or representation to a  
 3378 law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the course of  
 3379 conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

3380 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully  
 3381 arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this subsection,  
 3382 intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement  
 3383 officer when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person  
 3384 that he is under arrest and (a) the officer has the legal authority and the immediate physical ability to place  
 3385 the person under arrest, and (b) a reasonable person who receives such communication knows or should know  
 3386 that he is not free to leave.

3387 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

3388 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,  
 3389 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the  
 3390 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the  
 3391 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ *that* is a controlled  
 3392 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 ~~or marijuana~~ is  
 3393 guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver or  
 3394 conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or  
 3395 explosives of any nature is guilty of a Class 3 felony.

3396 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

3397 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**  
 3398 **authorizing interception of communications.**

3399 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in  
 3400 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in  
 3401 his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of  
 3402 competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by  
 3403 the Department of State Police, when such interception may reasonably be expected to provide evidence of

3404 the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of §  
 3405 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, any felony  
 3406 violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article 2.2 (§ 18.2-46.4 et seq.),  
 3407 Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are not Class 6 felonies in  
 3408 Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing  
 3409 offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the  
 3410 observation or monitoring of the interception by a police department of a county or city, by a sheriff's office,  
 3411 or by law-enforcement officers of the United States. Such application shall be made, and such order may be  
 3412 granted, in conformity with the provisions of § 19.2-68.

3413 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

3414 1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall  
 3415 have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that  
 3416 an offense was committed, is being committed, or will be committed or the person or persons whose  
 3417 communications are to be intercepted live, work, subscribe to a wire or electronic communication system,  
 3418 maintain an address or a post office box, or are making the communication within the territorial jurisdiction  
 3419 of the court.

3420 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the  
 3421 authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an  
 3422 offense was committed, is being committed, or will be committed or the physical location of the oral  
 3423 communication to be intercepted is within the territorial jurisdiction of the court.

3424 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire  
 3425 or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where  
 3426 the order is entered, regardless of the physical location or the method by which the communication is  
 3427 captured or routed to the monitoring location.

3428 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

3429 A. The following officers shall have the powers of arrest as provided in this section:

- 3430 1. Members of the State Police force of the Commonwealth;
- 3431 2. Sheriffs of the various counties and cities, and their deputies;
- 3432 3. Members of any county police force or any duly constituted police force of any city or town of the  
 3433 Commonwealth;
- 3434 4. The Commissioner, members and employees of the Marine Resources Commission granted the power  
 3435 of arrest pursuant to § 28.2-900;
- 3436 5. Regular conservation police officers appointed pursuant to § 29.1-200;
- 3437 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty  
 3438 officers authorized under § 29.1-205 to make arrests;
- 3439 7. Conservation officers appointed pursuant to § 10.1-115;
- 3440 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed  
 3441 pursuant to § 46.2-217;
- 3442 9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control*  
 3443 *Authority*;
- 3444 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
- 3445 11. Members of the Division of Capitol Police.

3446 B. Such officers may arrest without a warrant any person who commits any crime in the presence of the  
 3447 officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a  
 3448 felony not in his presence.

3449 Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of  
 3450 operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a  
 3451 substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an  
 3452 order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another  
 3453 officer, who may obtain a warrant based upon statements made to him by the arresting officer.

3454 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in §  
 3455 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such accident  
 3456 has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on  
 3457 any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon  
 3458 personal investigation, including information obtained from eyewitnesses, that a crime has been committed  
 3459 by any person then and there present, apprehend such person without a warrant of arrest. For purposes of this  
 3460 section, "the scene of any accident" shall include a reasonable location where a vehicle or person involved in  
 3461 an accident has been moved at the direction of a law-enforcement officer to facilitate the clearing of the  
 3462 highway or to ensure the safety of the motoring public.

3463 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location  
 3464 any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft  
 3465 or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of §



3466 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether or  
 3467 not the offense was committed in such officer's presence. Such officers may, within three hours of the alleged  
 3468 offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of  
 3469 operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4, whether or not  
 3470 the offense was committed in such officer's presence.

3471 E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in another  
 3472 jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout, facsimile  
 3473 printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer  
 3474 printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably  
 3475 accurate description of such person wanted and the crime alleged.

3476 F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not committed in  
 3477 his presence when the officer receives a radio message from his department or other law-enforcement agency  
 3478 within the Commonwealth that a warrant or *capias* for such offense is on file.

3479 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their  
 3480 presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii)  
 3481 carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a  
 3482 firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such  
 3483 property is located on premises used for business or commercial purposes, or a similar local ordinance, when  
 3484 any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged  
 3485 offense. The arresting officer may issue a summons to any person arrested under this section for a  
 3486 misdemeanor violation involving shoplifting.

3487 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

3488 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in § 19.2-81,  
 3489 persons for crimes involving:

- 3490 (a) 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;  
 3491 (b) 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;  
 3492 (c) 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or § 18.2-474.1; and  
 3493 (d) 4. Any other criminal offense which that may contribute to the disruption of the safety, welfare, or  
 3494 security of the population of a correctional institution.

3495 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

3496 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer  
 3497 or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or  
 3498 discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or any other  
 3499 employee in any local school division in the Commonwealth for a felony or a Class 1 misdemeanor or an  
 3500 equivalent offense in another state, shall file a report of such arrest with the division safety official designated  
 3501 pursuant to subsection F of § 22.1-279.8 in the school division in which such person is employed as soon as  
 3502 practicable but no later than 48 hours after such arrest. The contents of the report required pursuant to this  
 3503 subsection shall be utilized by the local school division solely to implement the provisions of subsection B of  
 3504 § 22.1-296.2 and § 22.1-315.

3505 B. The report required pursuant to subsection A shall be transmitted to the division safety official (i) via  
 3506 certified mail, return receipt requested, to the mailing address identified by the division superintendent  
 3507 pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and email address  
 3508 identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any certified mail return  
 3509 receipt shall be retained in the case file.

3510 C. (Expires July 1, 2027) In the event that the law-enforcement agency has existing access to Virginia  
 3511 Employment Commission records, each arresting official shall request in writing that the Virginia  
 3512 Employment Commission provide the name of the current employer of each person arrested for an offense set  
 3513 forth in § 9.1-902 for purposes of determining whether a report is required pursuant to subsection A.

3514 D. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer  
 3515 or conservator of the peace having the power to arrest for a felony shall file a report, as soon as practicable,  
 3516 with the division superintendent of the school division in which the student is enrolled upon arresting a  
 3517 person who is known or discovered by the arresting official to be a student age 18 or older in any local school  
 3518 division in the Commonwealth for:

- 3519 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et  
 3520 seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;  
 3521 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;  
 3522 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title  
 3523 18.2;  
 3524 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;  
 3525 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to  
 3526 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;  
 3527 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ (§ 18.2-247 4.1-1100 et

3528 seq.) of Chapter 7 of Title 18.2 4.1;

3529 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

3530 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

3531 9. Robbery pursuant to § 18.2-58;

3532 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

3533 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

3534 12. An act of violence by a mob pursuant to § 18.2-42.1; or

3535 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

3536 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

3537 A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§  
3538 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement officer shall  
3539 be permitted to testify as to the results of field tests that have been approved by the Department of Forensic  
3540 Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et  
3541 seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled  
3542 substance, or imitation controlled substance, as defined in § 18.2-247, or marijuana, as defined in § 18.2-247  
3543 4.1-600.

3544 B. In any trial for a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, any law-enforcement officer shall be  
3545 permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the  
3546 Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative  
3547 Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue,  
3548 is marijuana provided the defendant has been given written notice of his right to request a full chemical  
3549 analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the  
3550 defendant prior to trial.

3551 In any case in which the person accused of a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, or the  
3552 attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by  
3553 motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon  
3554 such motion, the court shall order that the analysis be performed by the Department of Forensic Science in  
3555 accordance with the provisions of § ~~18.2-247~~ 9.1-1101 and shall prescribe in its order the method of custody,  
3556 transfer, and return of evidence submitted for chemical analysis.

3557 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

3558 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the  
3559 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the  
3560 final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an  
3561 act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of § 18.2-95, or any  
3562 violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2,  
3563 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2, or any substantially  
3564 similar offense in any other jurisdiction, which offense would be a felony if committed in the  
3565 Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations as a  
3566 principal in the second degree or accessory before the fact of any of the offenses listed in clause (i). In  
3567 determining whether the defendant has provided substantial assistance pursuant to the provisions of this  
3568 section, the court shall consider (a) the court's evaluation of the significance and usefulness of the defendant's  
3569 assistance, taking into consideration the Commonwealth's evaluation of the assistance rendered; (b) the  
3570 truthfulness, completeness, and reliability of any information or testimony provided by the defendant; (c) the  
3571 nature and extent of the defendant's assistance; (d) any injury suffered or any danger or risk of injury to the  
3572 defendant or his family resulting from his assistance; and (e) the timeliness of the defendant's assistance. If  
3573 the motion is made more than one year after entry of the final judgment order, the court may reduce a  
3574 sentence only if the defendant's substantial assistance involved (1) information not known to the defendant  
3575 until more than one year after entry of the final judgment order, (2) information provided by the defendant  
3576 within one year of entry of the final judgment order but that did not become useful to the Commonwealth  
3577 until more than one year after entry of the final judgment order, or (3) information the usefulness of which  
3578 could not reasonably have been anticipated by the defendant until more than one year after entry of the final  
3579 judgment order and which was promptly provided to the Commonwealth by the defendant after its usefulness  
3580 was reasonably apparent.

3581 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.**

3582 A. The following property shall be subject to lawful seizure by any officer charged with enforcing the  
3583 provisions of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of  
3584 Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all  
3585 other personal and real property of any kind or character, used in substantial connection with (a) the illegal  
3586 manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute  
3587 controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana or possession with  
3588 intent to distribute marijuana in violation of subdivisions (a)(2), (a)(3) and (e) of § ~~18.2-248.1~~ § 4.1-1103, or  
3589 (c) a drug-related offense in violation of § 4.1-1117 or 18.2-474.1; (ii) everything of value furnished, or

3590 intended to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in  
 3591 violation of § ~~18.2-248.1~~ 4.1-1103 or for a controlled substance or marijuana in violation of § 4.1-1117 or  
 3592 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to such an exchange, together  
 3593 with any interest or profits derived from the investment of such money or other property. Under the  
 3594 provisions of clause (i), real property shall not be subject to lawful seizure unless the minimum prescribed  
 3595 punishment for the violation is a term of not less than five years.

3596 B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter  
 3597 22.1 (§ 19.2-386.1 et seq.).

3598 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

3599 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful  
 3600 possession of which is not established or the title to which cannot be ascertained, which have come into the  
 3601 custody of a peace officer or have been seized in connection with violations of *Chapter 11* (§ 4.1-1100 et  
 3602 seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

3603 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State Police,  
 3604 or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of any such  
 3605 substance or paraphernalia to the Department of Forensic Science, the Department of State Police, or to such  
 3606 police department or sheriff's office for research and training purposes and for destruction pursuant to  
 3607 regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of  
 3608 Pharmacy once these purposes have been fulfilled.

3609 2. In the event no application is made under subdivision 1, the court shall order the destruction of all such  
 3610 substances or paraphernalia, which order shall state the existence and nature of the substance or  
 3611 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance  
 3612 or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the  
 3613 court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be destroyed and that it be  
 3614 given to a person or entity that makes a showing to the court of sufficient need for the property and an ability  
 3615 to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and  
 3616 manner of destruction shall be made to the court by the officer to whom the order is directed. A copy of the  
 3617 order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or  
 3618 paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the event  
 3619 a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such  
 3620 substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement  
 3621 officer of the agency or his designee may, with the written consent of the appropriate attorney for the  
 3622 Commonwealth, order destruction of same; provided that a statement under oath, reporting a description of  
 3623 the substances and paraphernalia destroyed and the time, place and manner of destruction, is made to the  
 3624 chief law-enforcement officer by the officer to whom the order is directed.

3625 B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11* (§  
 3626 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 shall be disposed of as provided  
 3627 by this section until all rights of appeal have been exhausted, except as provided in § 19.2-386.24.

3628 C. The amount of any specific controlled substance, or imitation controlled substance, retained by any  
 3629 law-enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or  
 3630 25 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation  
 3631 controlled substances, or marijuana, shall certify that the amount requested shall not result in the requesting  
 3632 agency's exceeding the limits allowed by this subsection.

3633 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or  
 3634 marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of  
 3635 such substance on a monthly basis, which shall include a description and weight of the substance, and (ii)  
 3636 destroy such substance pursuant to subdivision A 1 when no longer needed for research and training  
 3637 purposes. A written report outlining the details of the inventory shall be made to the chief law-enforcement  
 3638 officer of the agency within 10 days of the completion of the inventory, and the agency shall detail the  
 3639 substances that were used for research and training pursuant to a court order in the immediately preceding  
 3640 fiscal year. Destruction of such substance shall be certified to the court along with a statement prepared under  
 3641 oath, reporting a description of the substance destroyed, and the time, place, and manner of destruction.

3642 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

3643 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection with  
 3644 any prosecution or investigation under *Chapter 11* (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et  
 3645 seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly  
 3646 selected from the seized substance for representative purposes as evidence and destroy the remainder of the  
 3647 seized substance.

3648 Before any destruction is carried out under this section, the law-enforcement agency shall cause the  
 3649 material seized to be photographed with identification case numbers or other means of identification and shall  
 3650 prepare a report identifying the seized material. It shall also notify the accused, or other interested party, if  
 3651 known, or his attorney, at least five days in advance that the photography will take place and that they may be

3652 present. Prior to any destruction under this section, the law-enforcement agency shall also notify the accused  
 3653 or other interested party, if known, and his attorney at least seven days prior to the destruction of the time and  
 3654 place the destruction will occur. Any notice required under the provisions of this section shall be by first-  
 3655 class mail to the last known address of the person required to be notified. In addition to the substance retained  
 3656 for representative purposes as evidence, all photographs and records made under this section and properly  
 3657 identified shall be admissible in any court proceeding for any purposes for which the seized substance itself  
 3658 would have been admissible.

3659 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**  
 3660 **substances, etc.**

3661 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take  
 3662 into its custody or to maintain custody of substantial quantities of any controlled substances, imitation  
 3663 controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution  
 3664 under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2. The court in  
 3665 its order may make provision for ensuring integrity of these items until further order of the court.

3666 **§ 19.2-389. Dissemination of criminal history record information.**

3667 A. Criminal history record information shall be disseminated, whether directly or through an intermediary,  
 3668 only to:

3669 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of  
 3670 the administration of criminal justice and the screening of an employment application or review of  
 3671 employment by a criminal justice agency with respect to its own employees or applicants, and dissemination  
 3672 to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible  
 3673 inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of §  
 3674 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this  
 3675 subdivision, criminal history record information includes information sent to the Central Criminal Records  
 3676 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee  
 3677 of the State Police, a police department or sheriff's office that is a part of or administered by the  
 3678 Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection  
 3679 of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of  
 3680 the administration of criminal justice;

3681 2. Such other individuals and agencies that require criminal history record information to implement a  
 3682 state or federal statute or executive order of the President of the United States or Governor that expressly  
 3683 refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except  
 3684 that information concerning the arrest of an individual may not be disseminated to a noncriminal justice  
 3685 agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the  
 3686 charge has been recorded and no active prosecution of the charge is pending;

3687 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide  
 3688 services required for the administration of criminal justice pursuant to that agreement which shall specifically  
 3689 authorize access to data, limit the use of data to purposes for which given, and ensure the security and  
 3690 confidentiality of the data;

3691 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant  
 3692 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of  
 3693 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

3694 5. Agencies of state or federal government that are authorized by state or federal statute or executive order  
 3695 of the President of the United States or Governor to conduct investigations determining employment  
 3696 suitability or eligibility for security clearances allowing access to classified information;

3697 6. Individuals and agencies where authorized by court order or court rule;

3698 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,  
 3699 operated or controlled by any political subdivision, and any public service corporation that operates a public  
 3700 transit system owned by a local government for the conduct of investigations of applicants for employment,  
 3701 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a  
 3702 duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible  
 3703 with the nature of the employment, permit, or license under consideration;

3704 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title  
 3705 ~~33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered a position  
 3706 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation  
 3707 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction  
 3708 record would be compatible with the nature of the employment under consideration;

3709 8. Public or private agencies when authorized or required by federal or state law or interstate compact to  
 3710 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of  
 3711 that individual's household, with whom the agency is considering placing a child or from whom the agency is  
 3712 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis  
 3713 pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further

3714 disseminated to any party other than a federal or state authority or court as may be required to comply with an  
3715 express requirement of law;

3716 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for  
3717 the conduct of investigations of applicants for employment when such employment involves personal contact  
3718 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the  
3719 employment under consideration;

3720 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,  
3721 including, but not limited to, issuing visas and passports;

3722 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at  
3723 his cost, except that criminal history record information shall be supplied at no charge to a person who has  
3724 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer  
3725 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,  
3726 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been  
3727 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in §  
3728 15.2-1713.1;

3729 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare  
3730 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative  
3731 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such  
3732 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to  
3733 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further  
3734 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social  
3735 Services' representative or a federal or state authority or court as may be required to comply with an express  
3736 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to  
3737 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the  
3738 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of §  
3739 22.1-289.035 or § 22.1-289.039;

3740 13. The Department of Social Services for the purpose of screening individuals as a condition of licensure,  
3741 employment, volunteering, or providing services on a regular basis in a licensed child welfare agency  
3742 pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency  
3743 pursuant to § 63.2-901.1;

3744 14. The school boards of the Commonwealth for the purpose of screening individuals who are offered or  
3745 who accept public school employment and those current school board employees for whom a report of arrest  
3746 has been made pursuant to § 19.2-83.1;

3747 15. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§  
3748 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the  
3749 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article  
3750 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

3751 16. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of  
3752 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital  
3753 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the  
3754 limitations set out in subsection E;

3755 17. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of  
3756 applicants for compensated employment in licensed assisted living facilities and licensed adult day centers  
3757 pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

3758 18. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in §  
3759 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in §  
3760 4.1-622;

3761 19. The State Board of Elections and authorized officers and employees thereof and general registrars  
3762 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter  
3763 registration, limited to any record of felony convictions;

3764 20. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his  
3765 designees for individuals who are committed to the custody of or being evaluated by the Commissioner  
3766 pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3,  
3767 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,  
3768 evaluation, treatment, or discharge planning;

3769 21. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action  
3770 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under §  
3771 18.2-51.4, 18.2-266, or 18.2-266.1;

3772 22. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
3773 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
3774 purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

3775 23. The Department of Behavioral Health and Developmental Services and facilities operated by the

3776 Department for the purpose of determining an individual's fitness for employment pursuant to departmental  
3777 instructions;

3778 24. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary  
3779 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records  
3780 information on behalf of such governing boards or administrators pursuant to a written agreement with the  
3781 Department of State Police;

3782 25. Public institutions of higher education and nonprofit private institutions of higher education for the  
3783 purpose of screening individuals who are offered or accept employment;

3784 26. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a  
3785 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher  
3786 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat  
3787 to safety; however, no member of a threat assessment team shall redisclose any criminal history record  
3788 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose  
3789 that such disclosure was made to the threat assessment team;

3790 27. Executive directors of community services boards or the personnel director serving the community  
3791 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored  
3792 residential service provider, permission to enter into a shared living arrangement with a person receiving  
3793 medical assistance services pursuant to a waiver, or permission for any person under contract with the  
3794 community services board to serve in a direct care position on behalf of the community services board  
3795 pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

3796 28. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of  
3797 determining an individual's fitness for employment, approval as a sponsored residential service provider,  
3798 permission to enter into a shared living arrangement with a person receiving medical assistance services  
3799 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to  
3800 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,  
3801 37.2-506.1, and 37.2-607;

3802 29. The Commissioner of Social Services for the purpose of locating persons who owe child support or  
3803 who are alleged in a pending paternity proceeding to be a putative father, provided that only the name,  
3804 address, demographics and social security number of the data subject shall be released;

3805 30. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
3806 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose  
3807 of determining if any applicant who accepts employment in any direct care position or requests approval as a  
3808 sponsored residential service provider, permission to enter into a shared living arrangement with a person  
3809 receiving medical assistance services pursuant to a waiver, or permission for any person under contract with  
3810 the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have  
3811 responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or  
3812 substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

3813 31. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for  
3814 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et  
3815 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

3816 32. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee  
3817 for Courts of Justice for the purpose of determining if any person being considered for election to any  
3818 judgeship has been convicted of a crime;

3819 33. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
3820 determining an individual's fitness for employment in positions designated as sensitive under Department of  
3821 Human Resource Management policies developed pursuant to § 2.2-1201.1;

3822 34. The Office of the Attorney General, for all criminal justice activities otherwise permitted under  
3823 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent  
3824 Predators Act (§ 37.2-900 et seq.);

3825 35. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,  
3826 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for  
3827 the conduct of investigations of applications for employment or for access to facilities, by contractors, leased  
3828 laborers, and other visitors;

3829 36. Any employer of individuals whose employment requires that they enter the homes of others, for the  
3830 purpose of screening individuals who apply for, are offered, or have accepted such employment;

3831 37. Public agencies when and as required by federal or state law to investigate (i) applicants as providers  
3832 of adult foster care and home-based services or (ii) any individual with whom the agency is considering  
3833 placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the  
3834 restriction that the data shall not be further disseminated by the agency to any party other than a federal or  
3835 state authority or court as may be required to comply with an express requirement of law for such further  
3836 dissemination, subject to limitations set out in subsection G;

3837 38. The Department of Medical Assistance Services, or its designee, for the purpose of screening

3838 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or  
 3839 have accepted a position related to the provision of transportation services to enrollees in the Medicaid  
 3840 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program  
 3841 administered by the Department of Medical Assistance Services;

3842 39. The State Corporation Commission for the purpose of investigating individuals who are current or  
 3843 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter  
 3844 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2.  
 3845 Notwithstanding any other provision of law, if an application is denied based in whole or in part on  
 3846 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title  
 3847 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant  
 3848 or its designee;

3849 40. The Department of Professional and Occupational Regulation for the purpose of investigating  
 3850 individuals for initial licensure pursuant to § 54.1-2106.1;

3851 41. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision  
 3852 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the  
 3853 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et  
 3854 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

3855 42. Bail bondsmen, in accordance with the provisions of § 19.2-120;

3856 43. The State Treasurer for the purpose of determining whether a person receiving compensation for  
 3857 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

3858 44. The Department of Education or its agents or designees for the purpose of screening individuals  
 3859 seeking to enter into a contract with the Department of Education or its agents or designees for the provision  
 3860 of child care services for which child care subsidy payments may be provided;

3861 45. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a  
 3862 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or  
 3863 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

3864 46. The State Corporation Commission, for the purpose of screening applicants for insurance licensure  
 3865 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

3866 47. Administrators and board presidents of and applicants for licensure or registration as a child day  
 3867 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the  
 3868 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of  
 3869 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034  
 3870 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility  
 3871 or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or  
 3872 a federal or state authority or court as may be required to comply with an express requirement of law for such  
 3873 further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent  
 3874 of Public Instruction's representative from issuing written certifications regarding the results of prior  
 3875 background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

3876 48. The National Center for Missing and Exploited Children for the purpose of screening individuals who  
 3877 are offered or accept employment or will be providing volunteer or contractual services with the National  
 3878 Center for Missing and Exploited Children;

3879 49. The Executive Director or investigators of the Board of Accountancy for the purpose of the  
 3880 enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

3881 50. Other entities as otherwise provided by law.

3882 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested  
 3883 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange  
 3884 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on  
 3885 whom a report has been made under the provisions of this chapter.

3886 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
 3887 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
 3888 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy  
 3889 of conviction data covering the person named in the request to the person making the request; however, such  
 3890 person on whom the data is being obtained shall consent in writing, under oath, to the making of such  
 3891 request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as  
 3892 he deems appropriate. In the event no conviction data is maintained on the data subject, the person making  
 3893 the request shall be furnished at his cost a certification to that effect.

3894 B. Use of criminal history record information disseminated to noncriminal justice agencies under this  
 3895 section shall be limited to the purposes for which it was given and may not be disseminated further, except as  
 3896 otherwise provided in subdivision A 47.

3897 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history  
 3898 record information for employment or licensing inquiries except as provided by law.

3899 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange

3900 prior to dissemination of any criminal history record information on offenses required to be reported to the  
3901 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used.  
3902 Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the  
3903 essence and the normal response time of the Exchange would exceed the necessary time period. A criminal  
3904 justice agency to whom a request has been made for the dissemination of criminal history record information  
3905 that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the  
3906 Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses  
3907 not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the  
3908 record as required by § 15.2-1722.

3909 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
3910 organizations pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for  
3911 any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

3912 F. Criminal history information provided to licensed assisted living facilities and licensed adult day  
3913 centers pursuant to subdivision A 17 shall be limited to the convictions on file with the Exchange for any  
3914 offense specified in § 63.2-1720.

3915 G. Criminal history information provided to public agencies pursuant to subdivision A 37 shall be limited  
3916 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier  
3917 crime in § 19.2-392.02.

3918 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal  
3919 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the  
3920 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the  
3921 request to the employer or prospective employer making the request, provided that the person on whom the  
3922 data is being obtained has consented in writing to the making of such request and has presented a photo-  
3923 identification to the employer or prospective employer. In the event no conviction data is maintained on the  
3924 person named in the request, the requesting employer or prospective employer shall be furnished at his cost a  
3925 certification to that effect. The criminal history record search shall be conducted on forms provided by the  
3926 Exchange.

3927 I. Nothing in this section shall preclude the dissemination of a person's criminal history record  
3928 information pursuant to the rules of court for obtaining discovery or for review by the court.

3929 **§ 19.2-389.3. (For contingent expiration dates, see Acts 2021, Sp. Sess. I, cc. 524, 542, 550 and 551;**  
3930 **for contingent repeal see Acts 2023, cc. 554 and 555, cl. 3) Marijuana possession; limits on**  
3931 **dissemination of criminal history record information; prohibited practices by employers, educational**  
3932 **institutions, and state and local governments; penalty.**

3933 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor violation of  
3934 *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under §§ *former* §  
3935 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the  
3936 Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided  
3937 that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of  
3938 eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report  
3939 prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter  
3940 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-299 or in the preparation of the  
3941 discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local  
3942 community-based probation services agencies established pursuant to the Comprehensive Community  
3943 Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult  
3944 local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for  
3945 fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System  
3946 computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to  
3947 attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines  
3948 worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State  
3949 Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any  
3950 political subdivision thereof, and who is responsible for the prevention and detection of crime and the  
3951 enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration  
3952 of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research  
3953 purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's  
3954 office that is a part of or administered by the Commonwealth or any political subdivision thereof for the  
3955 purpose of screening any person for full-time or part-time employment with the State Police or a police  
3956 department or sheriff's office that is a part of or administered by the Commonwealth or any political  
3957 subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any  
3958 person who applies to be a volunteer with or an employee of an emergency medical services agency as  
3959 provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science  
3960 for the purpose of screening any person for full-time or part-time employment with the Department of  
3961 Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an



3962 individual employed as a public safety official of the locality, that has adopted an ordinance in accordance  
 3963 with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with  
 3964 or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any  
 3965 full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in §  
 3966 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the  
 3967 regulations of the Federal Motor Carrier Safety Administration.

3968 B. An employer or educational institution shall not, in any application, interview, or otherwise, require an  
 3969 applicant for employment or admission to disclose information concerning any arrest, criminal charge, or  
 3970 conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for  
 3971 public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any  
 3972 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal  
 3973 charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for  
 3974 public inspection pursuant to subsection A.

3975 C. Agencies, officials, and employees of the state and local governments shall not, in any application,  
 3976 interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to  
 3977 disclose information concerning any arrest, criminal charge, or conviction against him when the record  
 3978 relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection  
 3979 A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction,  
 3980 include a reference to or information concerning any arrest, criminal charge, or conviction when the record  
 3981 relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection  
 3982 A. Such an application may not be denied solely because of the applicant's refusal to disclose information  
 3983 concerning any such arrest, criminal charge, or conviction.

3984 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each  
 3985 violation.

3986 **§ 19.2-389.3. (For contingent effective dates, see Acts 2021, Sp. Sess. I, cc. 524, 542, 550 and 551; for**  
 3987 **contingent repeal see Acts 2023, cc. 554 and 555, cl. 3) Marijuana possession; limits on dissemination of**  
 3988 **criminal history record information; prohibited practices by employers, educational institutions, and**  
 3989 **state and local governments; penalty.**

3990 A. Criminal history record information contained in the Central Criminal Records Exchange, including  
 3991 any records relating to an arrest, criminal charge, or conviction, for a misdemeanor violation of *former* §  
 3992 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under §§ *former* §  
 3993 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, shall not be open  
 3994 for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the  
 3995 following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or  
 3996 purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated  
 3997 Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for its research  
 3998 purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's  
 3999 office that is a part of or administered by the Commonwealth or any political subdivision thereof for the  
 4000 purpose of screening any person for full-time or part-time employment with, or to be a volunteer with, the  
 4001 State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth  
 4002 or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of  
 4003 screening any person who applies to be a volunteer with or an employee of an emergency medical services  
 4004 agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic  
 4005 Science for the purpose of screening any person for full-time or part-time employment with the Department  
 4006 of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an  
 4007 individual employed as a public safety official of the locality, that has adopted an ordinance in accordance  
 4008 with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with  
 4009 or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time  
 4010 or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any  
 4011 medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the  
 4012 Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee  
 4013 where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any  
 4014 employer or prospective employer or its designee where the position that a person is applying for, or where  
 4015 access to the premises in or upon which any part of the duties of such position is performed or is to be  
 4016 performed, is subject to any requirement imposed in the interest of the national security of the United States  
 4017 under any security program in effect pursuant to or administered under any contract with, or statute or  
 4018 regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to  
 4019 engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of  
 4020 collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data  
 4021 Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme  
 4022 Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the  
 4023 Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House and Senate

4024 Committees for Courts of Justice for the purpose of screening any person for full-time or part-time  
4025 employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any  
4026 employer or prospective employer or its designee where this Code or a local ordinance requires the employer  
4027 to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its  
4028 designee that is allowed access to such sealed records in accordance with the rules and regulations adopted  
4029 pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service  
4030 for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person  
4031 accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and  
4032 statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any  
4033 party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for  
4034 use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local  
4035 department of social services for purposes of performing any statutory duties as required under Title 63.2;  
4036 (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in  
4037 such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining  
4038 eligibility for sealing pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to  
4039 be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was  
4040 sealed.

4041 B. Except as provided in subsection C, agencies, officials, and employees of state and local governments,  
4042 private employers that are not subject to federal laws or regulations in the hiring process, and educational  
4043 institutions shall not, in any application, interview, or otherwise, require an applicant for employment or  
4044 admission to disclose information concerning any arrest, criminal charge, or conviction against him when the  
4045 record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to  
4046 subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or  
4047 conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when  
4048 the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to  
4049 subsection A.

4050 C. The provisions of subsection B shall not apply if:

4051 1. The person is applying for full-time employment or part-time employment with, or to be a volunteer  
4052 with, the State Police or a police department or sheriff's office that is a part of or administered by the  
4053 Commonwealth or any political subdivision thereof;

4054 2. This Code requires the employer to make such an inquiry;

4055 3. Federal law requires the employer to make such an inquiry;

4056 4. The position, or access to the premises in or upon which any part of the duties of such position is  
4057 performed or is to be performed, is subject to any requirement imposed in the interest of the national security  
4058 of the United States under any security program in effect pursuant to or administered under any contract with,  
4059 or statute or regulation of, the United States or any Executive Order of the President; or

4060 5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134  
4061 allow the employer to access such sealed records.

4062 D. Agencies, officials, and employees of the state and local governments shall not, in any application,  
4063 interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to  
4064 disclose information concerning any arrest, criminal charge, or conviction against him when the record  
4065 relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection  
4066 A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction,  
4067 include a reference to or information concerning any arrest, criminal charge, or conviction when the record  
4068 relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection  
4069 A. Such an application may not be denied solely because of the applicant's refusal to disclose information  
4070 concerning any such arrest, criminal charge, or conviction.

4071 E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling, as  
4072 defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal charge, or  
4073 conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for  
4074 public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any  
4075 arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal  
4076 charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for  
4077 public inspection pursuant to subsection A. Such an application may not be denied solely because of the  
4078 applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

4079 F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined in §  
4080 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge, or conviction  
4081 against him when the record relating to such arrest, criminal charge, or conviction is not open for public  
4082 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest,  
4083 criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or  
4084 convictions when the record relating to such arrest, criminal charge, or conviction is not open for public  
4085 inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's

4086 refusal to disclose information concerning any such arrest, criminal charge, or conviction.

4087 G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior arrest,  
4088 criminal charge, or conviction in an application for one or more of the purposes set forth in such subsections,  
4089 such application shall include, or such entity or person shall provide, a notice to the applicant that an arrest,  
4090 criminal charge, or conviction that is not open for public inspection pursuant to subsection A does not have to  
4091 be disclosed in the application. Such notice need not be included on any application for one or more of the  
4092 purposes set forth in subsection C.

4093 H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or  
4094 conviction that is not open for public inspection pursuant to subsection A or any information from such  
4095 records among law-enforcement officers and attorneys when such disclosures are made by such officers or  
4096 attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure or use  
4097 of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when  
4098 related to the prosecution of a separate crime.

4099 I. A person who willfully violates subsection B, D, E, or F is guilty of a Class 1 misdemeanor for each  
4100 violation.

4101 **§ 19.2-392.02. National criminal background checks by businesses and organizations regarding**  
4102 **employees or volunteers providing care to children or the elderly or disabled.**

4103 A. For purposes of this section:

4104 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,  
4105 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony  
4106 violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or  
4107 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3;  
4108 any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52,  
4109 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2,  
4110 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony  
4111 violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1,  
4112 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3,  
4113 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or  
4114 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or  
4115 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of  
4116 § 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any  
4117 violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1,  
4118 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3,  
4119 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any  
4120 violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2,  
4121 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484,  
4122 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction;  
4123 (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar  
4124 offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-1114, 18.2-248,  
4125 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.4~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2,  
4126 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of  
4127 another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the  
4128 laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to  
4129 register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any  
4130 finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.)  
4131 of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the  
4132 Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense  
4133 under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes  
4134 against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi)  
4135 any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date  
4136 of the conviction.

4137 "Barrier crime information" means the following facts concerning a person who has been arrested for, or  
4138 has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of  
4139 the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of  
4140 the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of  
4141 the charge, and any other information that may be useful in identifying persons arrested for or convicted of a  
4142 barrier crime.

4143 "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation  
4144 to children or the elderly or disabled.

4145 "Department" means the Department of State Police.

4146 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks  
4147 to volunteer for a qualified entity.

4148 "Identification document" means a document made or issued by or under the authority of the United  
4149 States government, a state, a political subdivision of a state, a foreign government, political subdivision of a  
4150 foreign government, an international governmental or an international quasi-governmental organization that,  
4151 when completed with information concerning a particular individual, is of a type intended or commonly  
4152 accepted for the purpose of identification of individuals.

4153 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have  
4154 unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care;  
4155 (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to  
4156 whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

4157 "Qualified entity" means a business or organization that provides care to children or the elderly or  
4158 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt  
4159 pursuant to subdivision A 7 of § 22.1-289.030.

4160 B. A qualified entity may request the Department of State Police to conduct a national criminal  
4161 background check on any provider who is employed by such entity. No qualified entity may request a  
4162 national criminal background check on a provider until such provider has:

4163 1. Been fingerprinted; and

4164 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date  
4165 of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has  
4166 ever been convicted of or is the subject of pending charges for a criminal offense within or outside the  
4167 Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the  
4168 particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv)  
4169 a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the  
4170 accuracy and completeness of any information contained in any such report, and to obtain a prompt  
4171 determination as to the validity of such challenge before a final determination is made by the Department;  
4172 and (v) a notice to the provider that prior to the completion of the background check the qualified entity may  
4173 choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified  
4174 entity provides care.

4175 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii)  
4176 the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the  
4177 Department shall make a determination whether the provider has been convicted of or is the subject of  
4178 charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information,  
4179 the Department shall access the national criminal history background check system, which is maintained by  
4180 the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall  
4181 access the Central Criminal Records Exchange maintained by the Department. If the Department receives a  
4182 background report lacking disposition data, the Department shall conduct research in whatever state and local  
4183 recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable  
4184 efforts to respond to a qualified entity's inquiry within 15 business days.

4185 D. Any background check conducted pursuant to this section for a provider employed by a private entity  
4186 shall be screened by the Department of State Police. If the provider has been convicted of or is under  
4187 indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work  
4188 or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

4189 E. Any background check conducted pursuant to this section for a provider employed by a governmental  
4190 entity shall be provided to that entity.

4191 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national  
4192 criminal background check, the Department and the Federal Bureau of Investigation may each charge the  
4193 provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the  
4194 fingerprints.

4195 G. The failure to request a criminal background check pursuant to subsection B shall not be considered  
4196 negligence per se in any civil action.

4197 **§ 19.2-392.6. (For effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing of**  
4198 **offenses resulting in a deferred and dismissed disposition or conviction; automatic sealing of former**  
4199 **possession of marijuana offenses.**

4200 A. If a person was convicted of a violation of any of the following sections, such conviction, including  
4201 any records relating to such conviction, shall be ordered to be automatically sealed in the manner set forth in  
4202 § 19.2-392.7, subject to the provisions of subsections B and C: § 18.2-96, 18.2-103, 18.2-119, 18.2-120, or  
4203 18.2-134; a misdemeanor violation of *former* § 18.2-248.1; or § 18.2-415.

4204 B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be ordered to  
4205 be automatically sealed if seven years have passed since the date of the conviction and the person convicted  
4206 of such offense has not been convicted of violating any law of the Commonwealth that requires a report to the  
4207 Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of  
4208 Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during  
4209 that time period.

4210 C. No conviction listed under subsection A shall be automatically sealed if, on the date of the conviction,  
4211 the person was convicted of another offense that is not eligible for automatic sealing under subsection A.

4212 D. If a person was charged with any criminal offense and such offense concluded with any final  
4213 disposition as a violation of former § 18.2-250.1, such offense shall be ordered to be automatically sealed in  
4214 the manner set forth in § 19.2-392.7.

4215 E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit court  
4216 pursuant to the provisions of § 19.2-392.12.

4217 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, retail tobacco products, hemp**  
4218 **products intended for smoking, and gambling.**

4219 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by  
4220 the Board of Education.

4221 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking,  
4222 *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia Alcoholic  
4223 Beverage Control Authority *and the Virginia Cannabis Control Authority* shall provide educational materials  
4224 to the Department of Education. The Department of Education shall review and shall distribute such materials  
4225 as are approved to the public schools.

4226 The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall  
4227 distribute to each local school division educational materials concerning the health and safety risks of using  
4228 retail tobacco products and hemp products intended for smoking, as such terms are defined in § 18.2-371.2.  
4229 Instruction concerning the health and safety risks of using *retail* tobacco products and hemp products  
4230 intended for smoking, as such terms are defined in § 18.2-371.2, shall be provided in each public elementary  
4231 and secondary school in the Commonwealth, consistent with such educational materials.

4232 C. Instruction concerning gambling and the addictive potential thereof shall be provided by the public  
4233 schools as prescribed by the Board.

4234 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

4235 A. School boards shall expel from school attendance any student whom such school board has  
4236 determined, in accordance with the procedures set forth in this article, to have brought a controlled substance,  
4237 *or imitation controlled substance, or marijuana as those terms are defined in § 18.2-247* onto school property  
4238 or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board  
4239 may, however, determine, based on the facts of a particular situation, that special circumstances exist and no  
4240 disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board  
4241 may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of  
4242 such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations  
4243 shall ensure that, if a determination is made that another disciplinary action is appropriate, any such  
4244 subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.  
4245 Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the  
4246 particular situation.

4247 B. Each school board shall revise its standards of student conduct to incorporate the requirements of this  
4248 section no later than three months after the date on which this act becomes effective.

4249 **§ 23.1-1301. Governing boards; powers.**

4250 A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

- 4251 1. Make regulations and policies concerning the institution;
- 4252 2. Manage the funds of the institution and approve an annual budget;
- 4253 3. Appoint the chief executive officer of the institution;
- 4254 4. Appoint professors and fix their salaries; and
- 4255 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

4256 B. The governing board of each public institution of higher education or its designee may:

4257 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative  
4258 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has  
4259 acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and  
4260 conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the  
4261 same manner as all other gifts and bequests;

4262 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes  
4263 on any property owned by the institution;

4264 3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained,  
4265 or controlled by the institution;

4266 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,  
4267 instructors, and other employees;

4268 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the  
4269 regulations or institution policies required pursuant to § 23.1-1303;

4270 6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission  
4271 or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such

4272 regulations or policies;

4273 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote  
4274 (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness  
4275 and prevention of sexual crimes committed upon students;

4276 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in  
4277 accordance with the prohibition against hazing as defined in § 18.2-56;

4278 9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an  
4279 interest, provided such assignment is in accordance with the terms of the institution's intellectual property  
4280 policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of  
4281 such property (i) developed wholly or predominantly through the use of state general funds, exclusive of  
4282 capital assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned  
4283 duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship  
4284 Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit  
4285 organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective  
4286 institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the  
4287 Governor does not approve such transfer, the materials shall remain the property of the respective institutions  
4288 and may be used and developed in any manner permitted by law;

4289 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through  
4290 electronic communication means pursuant to § 2.2-3708.3; and

4291 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to  
4292 enforce state statutes and local ordinances with respect to offenses occurring on the property of the  
4293 institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and  
4294 local ordinances with respect to offenses occurring on the property of the institution.

4295 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

4296 A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card,  
4297 vehicle registration, certificate of title, or other document issued by the Department if such person has not  
4298 satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled  
4299 thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or  
4300 altered documents.

4301 B. It shall be unlawful to aid any person to obtain any driver's license, special identification card, vehicle  
4302 registration, certificate of title, or other document in violation of the provisions of subsection A.

4303 C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special  
4304 identification card, vehicle registration, certificate of title, or other document obtained in violation of the  
4305 provisions of subsection A.

4306 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is  
4307 charged and convicted of a violation of this section that involved the unlawful obtaining or possession of any  
4308 document issued by the Department for the purpose of engaging in any age-limited activity, including but not  
4309 limited to obtaining, possessing, or consuming alcoholic beverages *or marijuana*. However, if a person is  
4310 charged and convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

4311 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special  
4312 identification card, vehicle registration, certificate of title, or other document issued by the Department has  
4313 been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of  
4314 the cancellation to the address of record maintained by the Department.

4315 F. A violation of this section may be prosecuted in the jurisdiction (i) from which any person obtained any  
4316 document issued by the Department, (ii) where any person received or created any counterfeit, forged, or  
4317 altered document used to obtain any document issued by the Department, or (iii) where any counterfeit,  
4318 forged, or altered document has been filed with the Department.

4319 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card  
4320 to obtain alcoholic beverages or marijuana; penalties.**

4321 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive  
4322 or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the  
4323 District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States  
4324 Armed Forces identification card; United States passport or foreign government visa; Virginia Department of  
4325 Motor Vehicles special identification card; official identification issued by any other federal, state or foreign  
4326 government agency; or official student identification card of an institution of higher education to obtain  
4327 alcoholic beverages ~~shall be~~ *or marijuana* is guilty of a Class 3 misdemeanor, and upon conviction of a  
4328 violation of this section, the court shall revoke such convicted person's driver's license or privilege to drive a  
4329 motor vehicle for a period of not less than 30 days nor more than one year.

4330 **§ 48-17.1. Temporary injunctions against alcoholic beverage or marijuana sales.**

4331 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to  
4332 temporarily enjoin the sale of alcohol *or marijuana* at any establishment licensed by the Virginia Alcoholic  
4333 Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such petition shall be

4334 the operator of the establishment has allowed it to become a meeting place for persons committing serious  
 4335 criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be  
 4336 deemed a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement  
 4337 officer of the locality, supported by records of such criminal acts. The court shall, upon the presentation of  
 4338 evidence at a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol  
 4339 *or marijuana* at the establishment, if it appears to the satisfaction of the court that the threat to public safety  
 4340 complained of exists and is likely to continue if such injunction is not granted. The court hearing on the  
 4341 petition shall be held within 10 days of service upon the respondent. The respondent shall be served with  
 4342 notice of the time and place of the hearing and copies of all documentary evidence to be relied upon by the  
 4343 complainant at such hearing. Any injunction issued by the court shall be dissolved in the event the court later  
 4344 finds that the threat to public safety that is the basis of the injunction has been abated by reason of a change  
 4345 of ownership, management, or business operations at the establishment, or other change in circumstance.

4346 B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall  
 4347 be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic  
 4348 Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate an investigation into the  
 4349 activities at the establishment complained of and conduct an administrative hearing. After the Virginia  
 4350 Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* hearing and when a final  
 4351 determination has been issued by the Virginia Alcoholic Beverage Control Authority *or the Virginia*  
 4352 *Cannabis Control Authority*, regardless of disposition, any injunction issued hereunder shall be null, without  
 4353 further action by the complainant, respondent, or the court.

4354 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

4355 This section shall apply to any person who is not a qualified voter because of a felony conviction, who  
 4356 seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the  
 4357 conditions and requirements set out in this section.

4358 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in  
 4359 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-1101,  
 4360 4.1-1114, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, 18.2-255, 18.2-255.2, or 18.2-258.02; or (iii) convicted of a  
 4361 felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted  
 4362 of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil  
 4363 right to be eligible to register to vote through the process set out in this section. On such petition, the court  
 4364 may approve the petition for restoration to the person of his right if the court is satisfied from the evidence  
 4365 presented that the petitioner has completed, five or more years previously, service of any sentence and any  
 4366 modification of sentence including probation, parole, and suspension of sentence; that the petitioner has  
 4367 demonstrated civic responsibility through community or comparable service; and that the petitioner has been  
 4368 free from criminal convictions, excluding traffic infractions, for the same period.

4369 If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner,  
 4370 and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to  
 4371 be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to  
 4372 the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall  
 4373 transmit the order to the Governor who may grant or deny the petition for restoration of the right to be  
 4374 eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send,  
 4375 within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate  
 4376 of restoration of that right or notice that the Governor has denied the restoration of that right. The Governor's  
 4377 denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no  
 4378 right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the  
 4379 restoration of the right or denial of restoration by the Governor.

4380 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the  
 4381 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

4382 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

4383 A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as  
 4384 defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public  
 4385 in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor,"  
 4386 "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation  
 4387 intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or  
 4388 relieve those suffering from any injury, deformity or disease.

4389 Signing a birth or death certificate, or signing any statement certifying that the person so signing has  
 4390 rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other  
 4391 remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the  
 4392 healing arts within the meaning of this chapter except where persons other than physicians are required to  
 4393 sign birth certificates.

4394 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing  
 4395 or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation

4396 or designation, or other language that identifies the type of practice for which he is licensed. No person  
 4397 regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in §  
 4398 ~~48.2-247~~ 54.1-3401, unless such advertisement is for the treatment of addiction or substance abuse. However,  
 4399 nothing in this subsection shall prevent a person from including in any advertisement that such person is  
 4400 registered with the Board of Directors of the Virginia Cannabis Control Authority to issue written  
 4401 certifications for the use of cannabis products, as defined in § 4.1-1600.

4402 **§ 54.1-4426. Accounting services for licensed marijuana establishments.**

4403 *A. As used in this section, "licensed" and "marijuana establishment" have the same meanings as provided*  
 4404 *in § 4.1-600.*

4405 *B. A CPA, CPA firm, or officer, director, or employee of a CPA or CPA firm that provides accounting*  
 4406 *services to a licensed marijuana establishment shall not be held liable pursuant to any state law or regulation*  
 4407 *solely for providing such accounting services.*

4408 *C. Nothing in this section shall require a CPA or CPA firm to provide accounting services to a licensed*  
 4409 *marijuana establishment.*

4410 **§ 58.1-301. (Applicable to taxable years beginning on and after January 1, 2023) Conformity to**  
 4411 **Internal Revenue Code.**

4412 *A. Any term used in this chapter shall have the same meaning as when used in a comparable context in*  
 4413 *the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.*

4414 *B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall*  
 4415 *mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of*  
 4416 *the laws of the United States relating to federal income taxes, except for:*

4417 *1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m),*  
 4418 *1400L, and 1400N of the Internal Revenue Code;*

4419 *2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal*  
 4420 *Revenue Code;*

4421 *3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the*  
 4422 *Internal Revenue Code;*

4423 *4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax*  
 4424 *purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable*  
 4425 *debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall*  
 4426 *be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to*  
 4427 *include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period*  
 4428 *beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-*  
 4429 *year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before*  
 4430 *April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code*  
 4431 *shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of*  
 4432 *indebtedness in connection with the reacquisition of an "applicable debt instrument";*

4433 *5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on*  
 4434 *itemized deductions under § 68(f) of the Internal Revenue Code;*

4435 *6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable*  
 4436 *years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set*  
 4437 *forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed*  
 4438 *for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the*  
 4439 *threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for*  
 4440 *medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross*  
 4441 *income;*

4442 *7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic*  
 4443 *Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;*

4444 *8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.*  
 4445 *116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;*

4446 *9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.*  
 4447 *116-136 (2020), related to the limitation on business interest;*

4448 *10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2), 276(b)(3),*  
 4449 *278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal*  
 4450 *Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2), and 9673(3) of the*  
 4451 *federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes, and basis increases*  
 4452 *for certain loan forgiveness and other business financial assistance; and*

4453 *11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would*  
 4454 *increase or decrease general fund revenues by greater than \$15 million in the fiscal year in which the*  
 4455 *amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall*  
 4456 *not apply to any amendment to federal income tax law that is either subsequently adopted by the General*  
 4457 *Assembly or a federal tax extender as defined in subdivision b.*



4458 (2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine die of  
 4459 the previous regular session of the General Assembly and the first day of the subsequent regular session of  
 4460 the General Assembly if the cumulative projected impact of such amendments would increase or decrease  
 4461 general fund revenues by greater than \$75 million in the fiscal year in which the amendments were enacted or  
 4462 any of the succeeding four fiscal years. The provisions of this subdivision shall not apply to any amendment  
 4463 to federal income tax law that is (i) subsequently adopted by the General Assembly, (ii) a federal tax extender  
 4464 as defined in subdivision b, or (iii) enacted before the date on which the cumulative projected impact is met.  
 4465 However, any amendment conformed to pursuant to clause (iii) shall be included in the calculation of the \$75  
 4466 million threshold for purposes of determining whether such threshold has been met.

4467 (3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually based  
 4468 on the preceding change in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as  
 4469 published by the Bureau of Labor Statistics for the U.S. Department of Labor or any successor index for the  
 4470 previous year.

4471 b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income tax law  
 4472 or a group of such amendments enacted in the same act of Congress that collectively surpass the threshold  
 4473 impact, and "federal tax extender" means an amendment to federal tax law that extends the expiration date of  
 4474 a federal tax provision to which Virginia conforms or has previously conformed.

4475 c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on Finance and  
 4476 Appropriations and the House Committees on Appropriations and Finance, shall be responsible for  
 4477 determining whether the criteria of subdivision a are met.

4478 d. The Secretary of Finance shall annually provide a report on or before November 15 of each year on the  
 4479 fiscal impact of amendments to federal income tax law occurring since the adjournment sine die of the  
 4480 preceding regular session of the General Assembly to the Chairmen of the Senate Committee on Finance and  
 4481 Appropriations and the House Committees on Appropriations and Finance. The Secretary of Finance shall  
 4482 also provide updates to the same Chairmen on any further amendments to federal income tax law occurring  
 4483 between submission of the required report and the first day of the subsequent regular session of the General  
 4484 Assembly; and

4485 *12. For taxable years beginning on and after January 1, 2025, the prohibition on utilizing tax deductions*  
 4486 *for ordinary and necessary expenditures made in connection with carrying on a trade or business licensed in*  
 4487 *Virginia pursuant to the Cannabis Control Act (§ 4.1-600 et seq.) of Title 4.1 under § 280E of the Internal*  
 4488 *Revenue Code.*

4489 C. The Department of Taxation is hereby authorized to develop procedures or guidelines for  
 4490 implementation of the provisions of this section, which procedures or guidelines shall be exempt from the  
 4491 provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

4492 **§ 59.1-200. (Effective until July 1, 2025) Prohibited practices.**

4493 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer  
 4494 transaction are hereby declared unlawful:

4495 1. Misrepresenting goods or services as those of another;

4496 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

4497 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,  
 4498 with another;

4499 4. Misrepresenting geographic origin in connection with goods or services;

4500 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or  
 4501 benefits;

4502 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

4503 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,  
 4504 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly  
 4505 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,  
 4506 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or  
 4507 "not first class";

4508 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the  
 4509 price or upon the terms advertised.

4510 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant  
 4511 thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or  
 4512 offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when  
 4513 it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are  
 4514 advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or  
 4515 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or  
 4516 reasonably expected to have at least such quantity or amount for sale;

4517 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of  
 4518 price reductions;

4519 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts

4520 installed;

4521 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill  
4522 for merchandise or services previously ordered;

4523 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"  
4524 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's  
4525 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the  
4526 goods or services advertised or offered for sale;

4527 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or  
4528 attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that  
4529 are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal  
4530 statutes or regulations;

4531 13a. Failing to provide to a consumer, or failing to use or include in any written document or material  
4532 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,  
4533 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so  
4534 provide, use, or include the statement, disclosure, notice, or other information in connection with the  
4535 consumer transaction;

4536 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection  
4537 with a consumer transaction;

4538 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,  
4539 or 3.2-6519 is a violation of this chapter;

4540 16. Failing to disclose all conditions, charges, or fees relating to:

4541 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign  
4542 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be  
4543 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not  
4544 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this  
4545 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than  
4546 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of  
4547 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of  
4548 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be  
4549 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to  
4550 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor  
4551 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order  
4552 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's  
4553 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor  
4554 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

4555 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of  
4556 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the  
4557 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure  
4558 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

4559 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5  
4560 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such  
4561 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving  
4562 overpayments. If the credit balance information is incorporated into statements of account furnished  
4563 consumers by suppliers within such 60-day period, no separate or additional notice is required;

4564 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in  
4565 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

4566 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

4567 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

4568 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

4569 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17  
4570 et seq.);

4571 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

4572 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et  
4573 seq.);

4574 24. Violating any provision of § 54.1-1505;

4575 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6  
4576 (§ 59.1-207.34 et seq.);

4577 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

4578 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

4579 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

4580 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

4581 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et

- 4582 seq.);
- 4583 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 4584 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 4585 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 4586 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 4587 35. Using the consumer's social security number as the consumer's account number with the supplier, if
- 4588 the consumer has requested in writing that the supplier use an alternate number not associated with the
- 4589 consumer's social security number;
- 4590 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 4591 37. Violating any provision of § 8.01-40.2;
- 4592 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 4593 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 4594 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 4595 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
- 4596 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in §
- 4597 59.1-526;
- 4598 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 4599 43. Violating any provision of § 59.1-443.2;
- 4600 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 4601 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 4602 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 4603 47. Violating any provision of § 18.2-239;
- 4604 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 4605 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 4606 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 4607 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 4608 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
- 4609 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
- 4610 products that are used, secondhand or "seconds";
- 4611 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 4612 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 4613 52. Violating any provision of § 8.2-317.1;
- 4614 53. Violating subsection A of § 9.1-149.1;
- 4615 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
- 4616 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
- 4617 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
- 4618 drywall has been permanently installed or affixed;
- 4619 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
- 4620 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
- 4621 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of
- 4622 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
- 4623 seq.) of Title 54.1;
- 4624 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 4625 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 4626 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,
- 4627 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer
- 4628 by a supplier to a small business, as those terms are defined in § 59.1-207.45;
- 4629 59. Violating any provision of subsection E of § 32.1-126;
- 4630 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under
- 4631 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 4632 61. Violating any provision of § 2.2-2001.5;
- 4633 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 4634 63. Violating any provision of § 6.2-312;
- 4635 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 4636 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 4637 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 4638 67. Knowingly violating any provision of § 8.01-27.5;
- 4639 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel
- 4640 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a
- 4641 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an
- 4642 obligation to pay for the goods or services;
- 4643 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,

4644 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic  
4645 derivative" means a chemical compound produced by man through a chemical transformation to turn a  
4646 compound into a different compound by adding or subtracting molecules to or from the original compound.  
4647 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug  
4648 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit  
4649 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

4650 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human  
4651 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply  
4652 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the  
4653 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Chapter~~  
4654 ~~16 (§ 4.1-1600 et seq.)~~ *the Cannabis Control Act (§ 4.1-600 et seq.)* of Title 4.1;

4655 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,  
4656 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as  
4657 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  
4658 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21  
4659 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a  
4660 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance  
4661 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)  
4662 accompanied by a certificate of analysis, produced by ~~an independent laboratory that is accredited pursuant to~~  
4663 ~~standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting~~  
4664 ~~body a licensed marijuana testing facility,~~ that states the tetrahydrocannabinol concentration of the substance  
4665 or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision  
4666 shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and  
4667 scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted  
4668 under ~~Chapter 16 (§ 4.1-1600 et seq.)~~ *the Cannabis Control Act (§ 4.1-600 et seq.)* of Title 4.1;

4669 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in §  
4670 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that  
4671 depicts or is in the shape of a human, animal, vehicle, or fruit;

4672 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,  
4673 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper  
4674 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §  
4675 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,  
4676 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,  
4677 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

4678 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a  
4679 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to  
4680 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the  
4681 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16  
4682 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July  
4683 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

4684 75. Violating any provision of § 59.1-466.8;

4685 76. Violating subsection F of § 36-96.3:1;

4686 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any  
4687 kratom product that does not include a label listing all ingredients and with the following guidance: "This  
4688 product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose,  
4689 treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the  
4690 plant *Mitragyna speciosa* or any extract thereof;

4691 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved  
4692 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted  
4693 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,  
4694 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not  
4695 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the  
4696 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning  
4697 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not  
4698 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the  
4699 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved  
4700 location;

4701 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a  
4702 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any  
4703 such good or provision of any such continuous service;

4704 80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

4705 81. Selling or offering for sale services as a professional mold remediator to be performed upon any

4706 residential dwelling without holding a mold remediation certification from the Institute of Inspection,  
4707 Cleaning and Restoration Certification (IICRC); and

4708 82. Willfully violating any provision of § 59.1-444.4.

4709 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease  
4710 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth  
4711 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation  
4712 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

4713 **§ 59.1-200. (Effective July 1, 2025) Prohibited practices.**

4714 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer  
4715 transaction are hereby declared unlawful:

4716 1. Misrepresenting goods or services as those of another;

4717 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

4718 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,  
4719 with another;

4720 4. Misrepresenting geographic origin in connection with goods or services;

4721 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or  
4722 benefits;

4723 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

4724 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,  
4725 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly  
4726 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,  
4727 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or  
4728 "not first class";

4729 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the  
4730 price or upon the terms advertised.

4731 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant  
4732 thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or  
4733 offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when  
4734 it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are  
4735 advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or  
4736 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or  
4737 reasonably expected to have at least such quantity or amount for sale;

4738 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of  
4739 price reductions;

4740 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts  
4741 installed;

4742 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill  
4743 for merchandise or services previously ordered;

4744 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"  
4745 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's  
4746 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the  
4747 goods or services advertised or offered for sale;

4748 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or  
4749 attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that  
4750 are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal  
4751 statutes or regulations;

4752 13a. Failing to provide to a consumer, or failing to use or include in any written document or material  
4753 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,  
4754 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so  
4755 provide, use, or include the statement, disclosure, notice, or other information in connection with the  
4756 consumer transaction;

4757 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection  
4758 with a consumer transaction;

4759 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,  
4760 or 3.2-6519 is a violation of this chapter;

4761 16. Failing to disclose all conditions, charges, or fees relating to:

4762 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign  
4763 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be  
4764 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not  
4765 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this  
4766 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than  
4767 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of

4768 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of  
 4769 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be  
 4770 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to  
 4771 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor  
 4772 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order  
 4773 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's  
 4774 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor  
 4775 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

4776 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of  
 4777 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the  
 4778 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure  
 4779 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

4780 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5  
 4781 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such  
 4782 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving  
 4783 overpayments. If the credit balance information is incorporated into statements of account furnished  
 4784 consumers by suppliers within such 60-day period, no separate or additional notice is required;

4785 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in  
 4786 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

4787 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

4788 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

4789 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

4790 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17  
 4791 et seq.);

4792 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

4793 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et  
 4794 seq.);

4795 24. Violating any provision of § 54.1-1505;

4796 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6  
 4797 (§ 59.1-207.34 et seq.);

4798 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

4799 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

4800 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

4801 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

4802 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et  
 4803 seq.);

4804 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

4805 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

4806 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

4807 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

4808 35. Using the consumer's social security number as the consumer's account number with the supplier, if  
 4809 the consumer has requested in writing that the supplier use an alternate number not associated with the  
 4810 consumer's social security number;

4811 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

4812 37. Violating any provision of § 8.01-40.2;

4813 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

4814 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

4815 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

4816 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525  
 4817 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in §  
 4818 59.1-526;

4819 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);

4820 43. Violating any provision of § 59.1-443.2;

4821 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);

4822 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;

4823 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;

4824 47. Violating any provision of § 18.2-239;

4825 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);

4826 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has  
 4827 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable  
 4828 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has  
 4829 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the

4830 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's  
4831 products that are used, secondhand or "seconds";

4832 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);

4833 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;

4834 52. Violating any provision of § 8.2-317.1;

4835 53. Violating subsection A of § 9.1-149.1;

4836 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling  
4837 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This  
4838 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective  
4839 drywall has been permanently installed or affixed;

4840 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a  
4841 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to  
4842 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of  
4843 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et  
4844 seq.) of Title 54.1;

4845 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

4846 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;

4847 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,  
4848 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer  
4849 by a supplier to a small business, as those terms are defined in § 59.1-207.45;

4850 59. Violating any provision of subsection E of § 32.1-126;

4851 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under  
4852 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

4853 61. Violating any provision of § 2.2-2001.5;

4854 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;

4855 63. Violating any provision of § 6.2-312;

4856 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;

4857 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;

4858 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

4859 67. Knowingly violating any provision of § 8.01-27.5;

4860 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel  
4861 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a  
4862 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an  
4863 obligation to pay for the goods or services;

4864 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,  
4865 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic  
4866 derivative" means a chemical compound produced by man through a chemical transformation to turn a  
4867 compound into a different compound by adding or subtracting molecules to or from the original compound.  
4868 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug  
4869 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit  
4870 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

4871 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human  
4872 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply  
4873 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the  
4874 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Chapter~~  
4875 ~~16 (§ 4.1-1600 et seq.)~~ *the Cannabis Control Act (§ 4.1-600 et seq.)* of Title 4.1;

4876 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,  
4877 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as  
4878 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  
4879 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21  
4880 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a  
4881 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance  
4882 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)  
4883 accompanied by a certificate of analysis, produced by ~~an independent laboratory that is accredited pursuant to~~  
4884 ~~standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting~~  
4885 ~~body~~ *a licensed marijuana testing facility*, that states the tetrahydrocannabinol concentration of the substance  
4886 or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision  
4887 shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and  
4888 scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted  
4889 under ~~Chapter 16 (§ 4.1-1600 et seq.)~~ *the Cannabis Control Act (§ 4.1-600 et seq.)* of Title 4.1;

4890 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in §  
4891 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that

4892 depicts or is in the shape of a human, animal, vehicle, or fruit;

4893 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,  
4894 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper  
4895 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §  
4896 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,  
4897 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,  
4898 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

4899 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a  
4900 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to  
4901 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the  
4902 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16  
4903 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July  
4904 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

4905 75. Violating any provision of § 59.1-466.8;

4906 76. Violating subsection F of § 36-96.3:1;

4907 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any  
4908 kratom product that does not include a label listing all ingredients and with the following guidance: "This  
4909 product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose,  
4910 treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the  
4911 plant *Mitragyna speciosa* or any extract thereof;

4912 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved  
4913 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted  
4914 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,  
4915 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not  
4916 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the  
4917 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning  
4918 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not  
4919 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the  
4920 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved  
4921 location;

4922 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a  
4923 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any  
4924 such good or provision of any such continuous service;

4925 80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

4926 81. Selling or offering for sale services as a professional mold remediator to be performed upon any  
4927 residential dwelling without holding a mold remediation certification from the Institute of Inspection,  
4928 Cleaning and Restoration Certification (IICRC);

4929 82. Willfully violating any provision of § 59.1-444.4; and

4930 83. Violating any provision of Chapter 23.2 (§ 59.1-293.10 et seq.).

4931 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease  
4932 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth  
4933 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation  
4934 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

4935 **2. That §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia are repealed.**

4936 **3. That the following provisions shall become effective on May 1, 2026: (i) §§ 2.2-2499.8, 3.2-4113,**  
4937 **4.1-1121, 4.1-1601, 4.1-1604, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01,**  
4938 **18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1,**  
4939 **18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.4,**  
4940 **18.2-460, 18.2-474.1, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22, 19.2-389.3, as it**  
4941 **is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-277.08, 46.2-105.2,**  
4942 **46.2-347, 53.1-231.2, 54.1-2903, and 59.1-200, as it is currently effective and as it shall become effective,**  
4943 **of the Code of Virginia, as amended by this act; (ii) §§ 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113,**  
4944 **4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, 4.1-1119, 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309 of**  
4945 **the Code of Virginia, as created by this act; and (iii) §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and**  
4946 **18.2-251.1 of the Code of Virginia, as repealed by this act.**

4947 **4. That the Virginia Cannabis Control Authority (the Authority) may, on and after September 1, 2025,**  
4948 **begin accepting license applications from all applicants, including pharmaceutical processors and**  
4949 **cannabis dispensing facilities that hold a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1**  
4950 **of the Code of Virginia and industrial hemp processors or growers that are registered with the**  
4951 **Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of**  
4952 **Title 3.2 of the Code of Virginia, and issuing licenses pursuant to the provisions of § 4.1-1000 of the**  
4953 **Code of Virginia, as created by this act. Notwithstanding the third enactment of this act, any applicant**



4954 issued a license by the Authority may operate in accordance with the provisions of this act prior to  
 4955 May 1, 2026; however, prior to May 1, 2026, no licensee may engage in the retail sale of marijuana,  
 4956 marijuana products, immature marijuana plants, or marijuana seeds. Notwithstanding any other  
 4957 provision of law, on or after September 1, 2025, and prior to May 1, 2026, no marijuana cultivation  
 4958 facility licensee, marijuana processing facility licensee, marijuana transporter licensee, retail  
 4959 marijuana store licensee, or marijuana testing facility licensee or agent or employee thereof shall be  
 4960 subject to arrest or prosecution for a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 of the Code  
 4961 of Virginia or § 18.2-248, 18.2-248.01, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-265.3,  
 4962 or 18.2-308.4 of the Code of Virginia, as amended by this act, or § 18.2-248.1 of the Code of Virginia, as  
 4963 repealed by this act, involving marijuana if such violation is related to acts committed within the scope  
 4964 of the licensure or employment and in accordance with the provisions of the Cannabis Control Act (§  
 4965 4.1-600 et seq. of the Code of Virginia) and this enactment. From September 1, 2025, to September 1,  
 4966 2030, the Authority shall reserve license slots for all pharmaceutical processors and cannabis  
 4967 dispensing facilities that have been issued a permit by the Board of Directors (the Board) of the  
 4968 Authority pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of Virginia and issue  
 4969 applicable licenses for any location for which such a permit has been issued, provided the applicable  
 4970 licensing requirements are met. The Board shall not permit any marijuana cultivation facility licensee  
 4971 to engage in the outdoor growth of marijuana plants until the Board has promulgated regulations  
 4972 governing outdoor growth pursuant to § 4.1-606 of the Code of Virginia, as amended by this act.  
 4973 Priority for tier IV and tier V marijuana cultivation facility licenses shall be given to pharmaceutical  
 4974 processors that have been issued a permit by the Board pursuant to Chapter 16 (§ 4.1-1600 et seq.) of  
 4975 Title 4.1 of the Code of Virginia and no less than five industrial hemp processors or growers that are  
 4976 registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§  
 4977 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia and completed such registration prior to January 1,  
 4978 2021.

4979 5. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a seed-to-sale  
 4980 tracking system pursuant to § 4.1-611 of the Code of Virginia by December 31, 2025.

4981 6. That the Virginia Cannabis Control Authority (the Authority) shall (i) analyze whether any limits  
 4982 should be placed on the number of licenses issued to operate a marijuana establishment, (ii) analyze  
 4983 and identify any necessary adjustments regarding canopy limits for marijuana cultivation facility  
 4984 licensees, and (iii) report its finding to the General Assembly by November 1, 2026. The Authority shall  
 4985 continue such analysis and submit updated findings to the General Assembly for two years after such  
 4986 initial report and shall submit such updated findings by November 1 during the two subsequent years.

4987 7. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall  
 4988 promulgate regulations to implement the provisions of this act by December 31, 2025. With the  
 4989 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process  
 4990 Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant  
 4991 thereto shall apply to the Board's initial adoption of such regulations.

4992 8. That, from July 1, 2025, to July 1, 2026, the Virginia Cannabis Control Authority (the Authority)  
 4993 shall deposit 75 percent of all funds collected through marijuana establishment annual license fees into  
 4994 the Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501 of the Code of Virginia, as  
 4995 amended by this act. Such deposits shall occur within 60 days of the Authority's receipt of such license  
 4996 fees.

4997 9. That the initial referendum authorized by § 4.1-629 of the Code of Virginia, as created by this act, on  
 4998 the question of whether the operation of retail marijuana stores shall be prohibited in a particular  
 4999 locality shall be held and results certified by December 31, 2025. A referendum on such question shall  
 5000 not be permitted in a locality after January 1, 2026, unless such referendum follows a referendum held  
 5001 prior to December 31, 2025, and any subsequent referendum, in which a majority of the qualified  
 5002 voters voting in such referendum voted "Yes" to prohibit the operation of retail marijuana stores.

5003 10. That the provisions of the first enactment amending subsection B of § 4.1-614 of the Code of  
 5004 Virginia, as amended by this act, shall become effective July 1, 2027.

5005 11. That the provisions of this act may result in a net increase in periods of imprisonment or  
 5006 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary  
 5007 appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;  
 5008 therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal  
 5009 Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the  
 5010 Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for  
 5011 periods of commitment to the custody of the Department of Juvenile Justice.