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## HOUSE BILL NO. 642

Offered January 14, 2026

Prefiled January 13, 2026

A **BILL** to amend and reenact §§ 2.2-2499.8, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3711, as it is currently effective and as it shall become effective, 2.2-3802, 2.2-4024, 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, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1402, 4.1-1500, 4.1-1501, 4.1-1502, 4.1-1600, 4.1-1601, 4.1-1602, 4.1-1603, 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, 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, 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, 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, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-389.3, 19.2-392.02, 19.2-392.6, 19.2-392.12:1, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 54.1-3443, 58.1-301, and 59.1-200 of the Code of Virginia; to amend the Code of Virginia by adding in Subtitle II of Title 2.2 a part labeled D, containing a chapter numbered 61, consisting of a section numbered 2.2-6100, by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629 and 4.1-630, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1009, by adding sections 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 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 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 Chapter 44 of Title 54.1 a section numbered 54.1-4426; and to repeal §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, relating to cannabis control; retail market; penalties.

Patron—Krizek

### Committee Referral Pending

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

31 1. That §§ 2.2-2499.8, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3711, as it is currently effective and as it shall  
32 become effective, 2.2-3802, 2.2-4024, 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606,  
33 4.1-607, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1402, 4.1-1500, 4.1-1501, 4.1-1502,  
34 4.1-1600, 4.1-1601, 4.1-1602, 4.1-1603, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273,  
35 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2,  
36 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1,  
37 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66,  
38 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, as it is  
39 currently effective and as it shall become effective, 19.2-389.3, 19.2-392.02, 19.2-392.6, 19.2-392.12:1,  
40 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 54.1-3443,  
41 58.1-301, and 59.1-200 of the Code of Virginia are amended and reenacted and that the Code of  
42 Virginia is amended by adding in Subtitle II of Title 2.2 a part labeled D, containing a chapter  
43 numbered 61, consisting of a section numbered 2.2-6100, by adding in Chapter 6 of Title 4.1 sections  
44 numbered 4.1-629 and 4.1-630, by adding in Title 4.1 chapters numbered 7 through 10, consisting of  
45 sections numbered 4.1-700 through 4.1-1009, by adding sections numbered 4.1-1102 through 4.1-1105,  
46 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter  
47 numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of  
48 Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14  
49 of Title 4.1 sections numbered 4.1-1403 through 4.1-1406, by adding in Article 2 of Chapter 1 of Title  
50 6.2 a section numbered 6.2-108, and by adding in Chapter 44 of Title 54.1 a section numbered  
51 54.1-4426 as follows:

## § 2.2-2499.8. Cannabis Equity Reinvestment Fund.

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

59 remain in the Fund. Moneys in the Fund shall be used solely for the purposes of:  
60 1. Supporting persons, families, and communities historically and disproportionately targeted and affected  
61 by drug enforcement;  
62 2. Providing scholarship opportunities and educational and vocational resources for historically  
63 marginalized persons, including persons in foster care, who have been adversely impacted by substance use  
64 individually, in their families, or in their communities;  
65 3. Awarding grants to support workforce development, mentoring programs, job training and placement  
66 services, apprenticeships, and reentry services that serve persons and communities historically and  
67 disproportionately targeted by drug enforcement.  
68 4. Contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-163.01; and  
69 5. Contributing *50 percent of the Fund* to the Virginia Cannabis Equity Business Loan Fund established  
70 pursuant to § 4.1-1501.

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

74 **§ 2.2-2818. Health and related insurance for state employees.**

75 A. The Department of Human Resource Management shall establish a plan, subject to the approval of the  
76 Governor, for providing health insurance coverage, including chiropractic treatment, hospitalization, medical,  
77 surgical, and major medical coverage, for state employees and retired state employees with the  
78 Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The same plan  
79 shall be offered to all part-time state employees, but the total cost shall be paid by such part-time employees.  
80 The Department of Human Resource Management shall administer this section. The plan chosen shall  
81 provide means whereby coverage for the families or dependents of state employees may be purchased. Except  
82 for part-time employees, the Commonwealth may pay all or a portion of the cost thereof, and for such portion  
83 as the Commonwealth does not pay, the employee, including a part-time employee, may purchase the  
84 coverage by paying the additional cost over the cost of coverage for an employee.

85 Such contribution shall be financed through appropriations provided by law.

86 B. The plan shall:

87 1. Include coverage for low-dose screening mammograms for determining the presence of occult breast  
88 cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one  
89 such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons  
90 age 50 and over and may be limited to a benefit of \$50 per mammogram subject to such dollar limits,  
91 deductibles, and coinsurance factors as are no less favorable than for physical illness generally.

92 The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated  
93 specifically for mammography, including ~~but not limited to the~~ X-ray tube, filter, compression device,  
94 screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of  
95 each breast.

96 In order to be considered a screening mammogram for which coverage shall be made available under this  
97 section:

98 a. The mammogram shall be (i) ordered by a health care practitioner acting within the scope of his  
99 licensure and, in the case of an enrollee of a health maintenance organization, by the health maintenance  
100 organization provider; (ii) performed by a registered technologist; (iii) interpreted by a qualified radiologist;  
101 and (iv) performed under the direction of a person licensed to practice medicine and surgery and certified by  
102 the American Board of Radiology or an equivalent examining body. A copy of the mammogram report shall  
103 be sent or delivered to the health care practitioner who ordered it;

104 b. The equipment used to perform the mammogram shall meet the standards set forth by the Virginia  
105 Department of Health in its radiation protection regulations; and

106 c. The mammography film shall be retained by the radiologic facility performing the examination in  
107 accordance with the American College of Radiology guidelines or state law.

108 2. Include coverage for postpartum services providing inpatient care and a home visit or visits that shall be  
109 in accordance with the medical criteria, outlined in the most current version of or an official update to the  
110 "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College  
111 of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the  
112 American College of Obstetricians and Gynecologists. Such coverage shall be provided incorporating any  
113 changes in such Guidelines or Standards within six months of the publication of such Guidelines or Standards  
114 or any official amendment thereto.

115 3. Include an appeals process for resolution of complaints that shall provide reasonable procedures for the  
116 resolution of such complaints and shall be published and disseminated to all covered state employees. The  
117 appeals process shall be compliant with federal rules and regulations governing nonfederal, self-insured  
118 governmental health plans. The appeals process shall include a separate expedited emergency appeals  
119 procedure that shall provide resolution within time frames established by federal law. For appeals involving  
120 adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or more independent

121 review organizations to review such decisions. Independent review organizations are entities that conduct  
 122 independent external review of adverse benefit determinations. The Department shall adopt regulations to  
 123 assure that the independent review organization conducting the reviews has adequate standards, credentials,  
 124 and experience for such review. The independent review organization shall examine the final denial of claims  
 125 to determine whether the decision is objective, clinically valid, and compatible with established principles of  
 126 health care. The decision of the independent review organization shall (i) be in writing, (ii) contain findings  
 127 of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if  
 128 consistent with law and policy.

129 Prior to assigning an appeal to an independent review organization, the Department shall verify that the  
 130 independent review organization conducting the review of a denial of claims has no relationship or  
 131 association with (i) the covered person or the covered person's authorized representative; (ii) the treating  
 132 health care provider, or any of its employees or affiliates; (iii) the medical care facility at which the covered  
 133 service would be provided, or any of its employees or affiliates; or (iv) the development or manufacture of  
 134 the drug, device, procedure, or other therapy that is the subject of the final denial of a claim. The independent  
 135 review organization shall not be a subsidiary of, nor owned or controlled by, a health plan, a trade association  
 136 of health plans, or a professional association of health care providers. There shall be no liability on the part of  
 137 and no cause of action shall arise against any officer or employee of an independent review organization for  
 138 any actions taken or not taken or statements made by such officer or employee in good faith in the  
 139 performance of his powers and duties.

140 4. Include coverage for early intervention services. For purposes of this section, "early intervention  
 141 services" means medically necessary speech and language therapy, occupational therapy, physical therapy  
 142 and assistive technology services and devices for dependents from birth to age three who are certified by the  
 143 Department of Behavioral Health and Developmental Services as eligible for services under Part H of the  
 144 Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). Medically necessary early intervention  
 145 services for the population certified by the Department of Behavioral Health and Developmental Services  
 146 shall mean those services designed to help an individual attain or retain the capability to function age-  
 147 appropriately within his environment, and shall include services that enhance functional ability without  
 148 effecting a cure.

149 For persons previously covered under the plan, there shall be no denial of coverage due to the existence of  
 150 a preexisting condition. The cost of early intervention services shall not be applied to any contractual  
 151 provision limiting the total amount of coverage paid by the insurer to or on behalf of the insured during the  
 152 insured's lifetime.

153 5. Include coverage for prescription drugs and devices approved by the United States Food and Drug  
 154 Administration for use as contraceptives.

155 6. Not deny coverage for any drug approved by the United States Food and Drug Administration for use  
 156 in the treatment of cancer on the basis that the drug has not been approved by the United States Food and  
 157 Drug Administration for the treatment of the specific type of cancer for which the drug has been prescribed, if  
 158 the drug has been recognized as safe and effective for treatment of that specific type of cancer in one of the  
 159 standard reference compendia.

160 7. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has been  
 161 approved by the United States Food and Drug Administration for at least one indication and the drug is  
 162 recognized for treatment of the covered indication in one of the standard reference compendia or in  
 163 substantially accepted peer-reviewed medical literature.

164 8. Include coverage for equipment, supplies, and outpatient self-management training and education,  
 165 including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes,  
 166 gestational diabetes, and noninsulin-using diabetes if prescribed by a health care professional legally  
 167 authorized to prescribe such items under law. To qualify for coverage under this subdivision, diabetes  
 168 outpatient self-management training and education shall be provided by a certified, registered, or licensed  
 169 health care professional.

170 9. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive breast  
 171 surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy performed for  
 172 breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish symmetry between the  
 173 two breasts. For persons previously covered under the plan, there shall be no denial of coverage due to  
 174 preexisting conditions.

175 10. Include coverage for annual pap smears, including coverage, on and after July 1, 1999, for annual  
 176 testing performed by any FDA-approved gynecologic cytology screening technologies.

177 11. Include coverage providing a minimum stay in the hospital of not less than 48 hours for a patient  
 178 following a radical or modified radical mastectomy and 24 hours of inpatient care following a total  
 179 mastectomy or a partial mastectomy with lymph node dissection for treatment of breast cancer. Nothing in  
 180 this subdivision shall be construed as requiring the provision of inpatient coverage where the attending  
 181 physician in consultation with the patient determines that a shorter period of hospital stay is appropriate.

182 12. Include coverage (i) to persons age 50 and over and (ii) to persons age 40 and over who are at high

183 risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society,  
184 for one prostate-specific antigen test in a 12-month period and digital rectal examinations.

185 13. Permit any individual covered under the plan direct access to the health care services of a participating  
186 specialist (i) authorized to provide services under the plan and (ii) selected by the covered individual. The  
187 plan shall have a procedure by which an individual who has an ongoing special condition may, after  
188 consultation with the primary care physician, receive a referral to a specialist for such condition who shall be  
189 responsible for and capable of providing and coordinating the individual's primary and specialty care related  
190 to the initial specialty care referral. If such an individual's care would most appropriately be coordinated by  
191 such a specialist, the plan shall refer the individual to a specialist. For the purposes of this subdivision,  
192 "special condition" means a condition or disease that is (i) life-threatening, degenerative, or disabling and (ii)  
193 requires specialized medical care over a prolonged period of time. Within the treatment period authorized by  
194 the referral, such specialist shall be permitted to treat the individual without a further referral from the  
195 individual's primary care provider and may authorize such referrals, procedures, tests, and other medical  
196 services related to the initial referral as the individual's primary care provider would otherwise be permitted  
197 to provide or authorize. The plan shall have a procedure by which an individual who has an ongoing special  
198 condition that requires ongoing care from a specialist may receive a standing referral to such specialist for the  
199 treatment of the special condition. If the primary care provider, in consultation with the plan and the  
200 specialist, if any, determines that such a standing referral is appropriate, the plan or issuer shall make such a  
201 referral to a specialist. Nothing contained herein shall prohibit the plan from requiring a participating  
202 specialist to provide written notification to the covered individual's primary care physician of any visit to  
203 such specialist. Such notification may include a description of the health care services rendered at the time of  
204 the visit.

205 14. Include provisions allowing employees to continue receiving health care services for a period of up to  
206 90 days from the date of the primary care physician's notice of termination from any of the plan's provider  
207 panels. The plan shall notify any provider at least 90 days prior to the date of termination of the provider,  
208 except when the provider is terminated for cause.

209 For a period of at least 90 days from the date of the notice of a provider's termination from any of the  
210 plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted by the  
211 plan to render health care services to any of the covered employees who (i) were in an active course of  
212 treatment from the provider prior to the notice of termination and (ii) request to continue receiving health care  
213 services from the provider.

214 Notwithstanding the provisions of this subdivision, any provider shall be permitted by the plan to continue  
215 rendering health services to any covered employee who has entered the second trimester of pregnancy at the  
216 time of the provider's termination of participation, except when a provider is terminated for cause. Such  
217 treatment shall, at the covered employee's option, continue through the provision of postpartum care directly  
218 related to the delivery.

219 Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue rendering  
220 health services to any covered employee who is determined to be terminally ill (as defined under §  
221 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except  
222 when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue for  
223 the remainder of the employee's life for care directly related to the treatment of the terminal illness.

224 A provider who continues to render health care services pursuant to this subdivision shall be reimbursed  
225 in accordance with the carrier's agreement with such provider existing immediately before the provider's  
226 termination of participation.

227 15. Include coverage for patient costs incurred during participation in clinical trials for treatment studies  
228 on cancer, including ovarian cancer trials.

229 The reimbursement for patient costs incurred during participation in clinical trials for treatment studies on  
230 cancer shall be determined in the same manner as reimbursement is determined for other medical and surgical  
231 procedures. Such coverage shall have durational limits, dollar limits, deductibles, copayments, and  
232 coinsurance factors that are no less favorable than for physical illness generally.

233 For purposes of this subdivision:

234 "Cooperative group" means a formal network of facilities that collaborate on research projects and have  
235 an established NIH-approved peer review program operating within the group. "Cooperative group" includes  
236 (i) the National Cancer Institute Clinical Cooperative Group and (ii) the National Cancer Institute  
237 Community Clinical Oncology Program.

238 "FDA" means the Federal Food and Drug Administration.

239 "Multiple project assurance contract" means a contract between an institution and the federal Department  
240 of Health and Human Services that defines the relationship of the institution to the federal Department of  
241 Health and Human Services and sets out the responsibilities of the institution and the procedures that will be  
242 used by the institution to protect human subjects.

243 "NCI" means the National Cancer Institute.

244 "NIH" means the National Institutes of Health.

245 "Patient" means a person covered under the plan established pursuant to this section.

246 "Patient cost" means the cost of a medically necessary health care service that is incurred as a result of the  
247 treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not include (i) the  
248 cost of nonhealth care services that a patient may be required to receive as a result of the treatment being  
249 provided for purposes of a clinical trial, (ii) costs associated with managing the research associated with the  
250 clinical trial, or (iii) the cost of the investigational drug or device.

251 Coverage for patient costs incurred during clinical trials for treatment studies on cancer shall be provided  
252 if the treatment is being conducted in a Phase II, Phase III, or Phase IV clinical trial. Such treatment may,  
253 however, be provided on a case-by-case basis if the treatment is being provided in a Phase I clinical trial.

254 The treatment described in the previous paragraph shall be provided by a clinical trial approved by:

- 255 a. The National Cancer Institute;
- 256 b. An NCI cooperative group or an NCI center;
- 257 c. The FDA in the form of an investigational new drug application;
- 258 d. The federal Department of Veterans Affairs; or

259 e. An institutional review board of an institution in the Commonwealth that has a multiple project  
260 assurance contract approved by the Office of Protection from Research Risks of the NCI.

261 The facility and personnel providing the treatment shall be capable of doing so by virtue of their  
262 experience, training, and expertise.

263 Coverage under this subdivision shall apply only if:

264 (1) There is no clearly superior, noninvestigational treatment alternative;

265 (2) The available clinical or preclinical data provide a reasonable expectation that the treatment will be at  
266 least as effective as the noninvestigational alternative; and

267 (3) The patient and the physician or health care provider who provides services to the patient under the  
268 plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to procedures  
269 established by the plan.

270 16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a covered  
271 employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered employee  
272 following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized guidelines.  
273 Nothing in this subdivision shall be construed as requiring the provision of the total hours referenced when  
274 the attending physician, in consultation with the covered employee, determines that a shorter hospital stay is  
275 appropriate.

276 17. Include coverage for biologically based mental illness.

277 For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous condition  
278 caused by a biological disorder of the brain that results in a clinically significant syndrome that substantially  
279 limits the person's functioning; specifically, the following diagnoses are defined as biologically based mental  
280 illness as they apply to adults and children: schizophrenia, schizoaffective disorder, bipolar disorder, major  
281 depressive disorder, panic disorder, obsessive-compulsive disorder, attention deficit hyperactivity disorder,  
282 autism, and drug and alcoholism addiction.

283 Coverage for biologically based mental illnesses shall neither be different nor separate from coverage for  
284 any other illness, condition, or disorder for purposes of determining deductibles, benefit year or lifetime  
285 durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and  
286 coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

287 Nothing shall preclude the undertaking of usual and customary procedures to determine the  
288 appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this  
289 option, provided that all such appropriateness and medical necessity determinations are made in the same  
290 manner as those determinations made for the treatment of any other illness, condition, or disorder covered by  
291 such policy or contract.

292 18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass surgery  
293 or such other methods as may be recognized by the National Institutes of Health as effective for the long-term  
294 reversal of morbid obesity. Such coverage shall have durational limits, dollar limits, deductibles, copayments,  
295 and coinsurance factors that are no less favorable than for physical illness generally. Access to surgery for  
296 morbid obesity shall not be restricted based upon dietary or any other criteria not approved by the National  
297 Institutes of Health. For purposes of this subdivision, "morbid obesity" means (i) a weight that is at least 100  
298 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan  
299 Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared  
300 with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep  
301 apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used  
302 herein, "BMI" equals weight in kilograms divided by height in meters squared.

303 19. Include coverage for colorectal cancer screening, specifically screening with an annual fecal occult  
304 blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in  
305 accordance with the most recently published recommendations established by the American College of

306 Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and  
307 frequencies referenced in such recommendations. The coverage for colorectal cancer screening shall not be  
308 more restrictive than or separate from coverage provided for any other illness, condition, or disorder for  
309 purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar  
310 limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum  
311 for deductibles and copayments and coinsurance factors.

312 20. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or  
313 other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each employee  
314 provided coverage pursuant to this section, and shall upon any changes in the required data elements set forth  
315 in subsection A of § 38.2-3407.4:2, either reissue the card or provide employees covered under the plan such  
316 corrective information as may be required to electronically process a prescription claim.

317 21. Include coverage for infant hearing screenings and all necessary audiological examinations provided  
318 pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration,  
319 and as recommended by the national Joint Committee on Infant Hearing in its most current position statement  
320 addressing early hearing detection and intervention programs. Such coverage shall include follow-up  
321 audiological examinations as recommended by a physician, a physician assistant, an advanced practice  
322 registered nurse, or an audiologist and performed by a licensed audiologist to confirm the existence or  
323 absence of hearing loss.

324 22. Notwithstanding any provision of this section to the contrary, every plan established in accordance  
325 with this section shall comply with the provisions of § 2.2-2818.2.

326 C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such  
327 funds as shall be appropriated by law. Appropriations, premiums, and other payments shall be deposited in  
328 the employee health insurance fund, from which payments for claims, premiums, cost containment programs,  
329 and administrative expenses shall be withdrawn from time to time. The funds of the health insurance fund  
330 shall be deemed separate and independent trust funds, shall be segregated from all other funds of the  
331 Commonwealth, and shall be invested and administered solely in the interests of the employees and their  
332 beneficiaries. Neither the General Assembly nor any public officer, employee, or agency shall use or  
333 authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and  
334 administrative expenses, including ~~but not limited to~~ legislative oversight of the health insurance fund.

335 D. For the purposes of this section:

336 "Peer-reviewed medical literature" means a scientific study published only after having been critically  
337 reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal that has  
338 been determined by the International Committee of Medical Journal Editors to have met the Uniform  
339 Requirements for Manuscripts submitted to biomedical journals. "Peer-reviewed medical literature" does not  
340 include publications or supplements to publications that are sponsored to a significant extent by a  
341 pharmaceutical manufacturing company or health carrier.

342 "Standard reference compendia" means:

- 343 1. American Hospital Formulary Service Drug Information;
- 344 2. National Comprehensive Cancer Network's Drugs & Biologics Compendium; or
- 345 3. Elsevier Gold Standard's Clinical Pharmacology.

346 "State employee" means state employee as defined in § 51.1-124.3; employee as defined in § 51.1-201;  
347 the Governor, Lieutenant Governor, and Attorney General; judge as defined in § 51.1-301 and judges, clerks,  
348 and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and  
349 district courts of the Commonwealth; interns and residents employed by the School of Medicine and Hospital  
350 of the University of Virginia, and interns, residents, and employees of the Virginia Commonwealth  
351 University Health System Authority as provided in § 23.1-2415; and employees of the Virginia Alcoholic  
352 Beverage Control Authority as provided in § 4.1-101.05 and the Virginia Cannabis Control Authority as  
353 provided in § 4.1-623.

354 E. Provisions shall be made for retired employees to obtain coverage under the above plan, including, as  
355 an option, coverage for vision and dental care. The Commonwealth may, but shall not be obligated to, pay all  
356 or any portion of the cost thereof.

357 F. Any self-insured group health insurance plan established by the Department of Human Resource  
358 Management that utilizes a network of preferred providers shall not exclude any physician solely on the basis  
359 of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan  
360 criteria established by the Department.

361 G. The plan shall include, in each planning district, at least two health coverage options, each sponsored  
362 by unrelated entities. No later than July 1, 2006, one of the health coverage options to be available in each  
363 planning district shall be a high deductible health plan that would qualify for a health savings account  
364 pursuant to § 223 of the Internal Revenue Code of 1986, as amended.

365 In each planning district that does not have an available health coverage alternative, the Department shall  
366 voluntarily enter into negotiations at any time with any health coverage provider who seeks to provide  
367 coverage under the plan.

368 This subsection shall not apply to any state agency authorized by the Department to establish and  
 369 administer its own health insurance coverage plan separate from the plan established by the Department.

370 H. Any self-insured group health insurance plan established by the Department of Human Resource  
 371 Management that includes coverage for prescription drugs on an outpatient basis may apply a formulary to  
 372 the prescription drug benefits provided by the plan if the formulary is developed, reviewed at least annually,  
 373 and updated as necessary in consultation with and with the approval of a pharmacy and therapeutics  
 374 committee, a majority of whose members are actively practicing licensed (i) pharmacists, (ii) physicians, and  
 375 (iii) other health care providers.

376 If the plan maintains one or more drug formularies, the plan shall establish a process to allow a person to  
 377 obtain, without additional cost-sharing beyond that provided for formulary prescription drugs in the plan, a  
 378 specific, medically necessary nonformulary prescription drug if, after reasonable investigation and  
 379 consultation with the prescriber, the formulary drug is determined to be an inappropriate therapy for the  
 380 medical condition of the person. The plan shall act on such requests within one business day of receipt of the  
 381 request.

382 Any plan established in accordance with this section shall be authorized to provide for the selection of a  
 383 single mail order pharmacy provider as the exclusive provider of pharmacy services that are delivered to the  
 384 covered person's address by mail, common carrier, or delivery service. As used in this subsection, "mail order  
 385 pharmacy provider" means a pharmacy permitted to conduct business in the Commonwealth whose primary  
 386 business is to dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or  
 387 device to a patient primarily by mail, common carrier, or delivery service.

388 I. Any plan established in accordance with this section requiring preauthorization prior to rendering  
 389 medical treatment shall have personnel available to provide authorization at all times when such  
 390 preauthorization is required.

391 J. Any plan established in accordance with this section shall provide to all covered employees written  
 392 notice of any benefit reductions during the contract period at least 30 days before such reductions become  
 393 effective.

394 K. No contract between a provider and any plan established in accordance with this section shall include  
 395 provisions that require a health care provider or health care provider group to deny covered services that such  
 396 provider or group knows to be medically necessary and appropriate that are provided with respect to a  
 397 covered employee with similar medical conditions.

398 L. The Department of Human Resource Management shall appoint an Ombudsman to promote and protect  
 399 the interests of covered employees under any state employee's health plan.

400 The Ombudsman shall:

401 1. Assist covered employees in understanding their rights and the processes available to them according to  
 402 their state health plan.

403 2. Answer inquiries from covered employees by telephone and electronic mail.

404 3. Provide to covered employees information concerning the state health plans.

405 4. Develop information on the types of health plans available, including benefits and complaint  
 406 procedures and appeals.

407 5. Make available, either separately or through an existing Internet web site utilized by the Department of  
 408 Human Resource Management, information as set forth in subdivision 4 and such additional information as  
 409 he deems appropriate.

410 6. Maintain data on inquiries received, the types of assistance requested, any actions taken and the  
 411 disposition of each such matter.

412 7. Upon request, assist covered employees in using the procedures and processes available to them from  
 413 their health plan, including all appeal procedures. Such assistance may require the review of health care  
 414 records of a covered employee, which shall be done only in accordance with the federal Health Insurance  
 415 Portability and Accountability Act privacy rules. The confidentiality of any such medical records shall be  
 416 maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

417 8. Ensure that covered employees have access to the services provided by the Ombudsman and that the  
 418 covered employees receive timely responses from the Ombudsman or his representatives to the inquiries.

419 9. Report annually on his activities to the standing committees of the General Assembly having  
 420 jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of each  
 421 year.

422 M. The plan established in accordance with this section shall not refuse to accept or make reimbursement  
 423 pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered employee.

424 For purposes of this subsection, "assignment of benefits" means the transfer of dental care coverage  
 425 reimbursement benefits or other rights under the plan. The assignment of benefits shall not be effective until  
 426 the covered employee notifies the plan in writing of the assignment.

427 N. Beginning July 1, 2006, any plan established pursuant to this section shall provide for an identification  
 428 number, which shall be assigned to the covered employee and shall not be the same as the employee's social

429 security number.

430 O. Any group health insurance plan established by the Department of Human Resource Management that  
431 contains a coordination of benefits provision shall provide written notification to any eligible employee as a  
432 prominent part of its enrollment materials that if such eligible employee is covered under another group  
433 accident and sickness insurance policy, group accident and sickness subscription contract, or group health  
434 care plan for health care services, that insurance policy, subscription contract, or health care plan may have  
435 primary responsibility for the covered expenses of other family members enrolled with the eligible employee.  
436 Such written notification shall describe generally the conditions upon which the other coverage would be  
437 primary for dependent children enrolled under the eligible employee's coverage and the method by which the  
438 eligible enrollee may verify from the plan that coverage would have primary responsibility for the covered  
439 expenses of each family member.

440 P. Any plan established by the Department of Human Resource Management pursuant to this section shall  
441 provide that coverage under such plan for family members enrolled under a participating state employee's  
442 coverage shall continue for a period of at least 30 days following the death of such state employee.

443 Q. The plan established in accordance with this section that follows a policy of sending its payment to the  
444 covered employee or covered family member for a claim for services received from a nonparticipating  
445 physician or osteopath shall (i) include language in the member handbook that notifies the covered employee  
446 of the responsibility to apply the plan payment to the claim from such nonparticipating provider, (ii) include  
447 this language with any such payment sent to the covered employee or covered family member, and (iii)  
448 include the name and any last known address of the nonparticipating provider on the explanation of benefits  
449 statement.

450 R. The plan established by the Department of Human Resource Management pursuant to this section shall  
451 provide that coverage under such plan for an incapacitated child enrolled under a participating state  
452 employee's coverage shall be valid without regard to whether such child lives with the covered employee as a  
453 member of the employee's household so long as the child is dependent upon the employee for more than half  
454 of the child's financial support and the child is receiving residential support services.

455 For purposes of this subsection, "incapacitated child" means an adult child who is incapacitated due to a  
456 physical or mental health condition that existed prior to the termination of coverage due to such child  
457 attaining the limiting age under the plan for eligible children dependents.

458 S. The Department of Human Resource Management shall report annually, by November 30 of each year,  
459 on cost and utilization information for each of the mandated benefits set forth in subsection B, including any  
460 mandated benefit made applicable, pursuant to subdivision B 22, to any plan established pursuant to this  
461 section. The report shall be in the same detail and form as required of reports submitted pursuant to  
462 § 38.2-3419.1, with such additional information as is required to determine the financial impact, including the  
463 costs and benefits, of the particular mandated benefit.

464 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

465 The provisions of this chapter shall not apply to:

466 1. Officers and employees for whom the Constitution specifically directs the manner of selection;  
467 2. Officers and employees of the Supreme Court and the Court of Appeals;  
468 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house  
469 thereof is required or not;

470 4. Officers elected by popular vote or by the General Assembly or either house thereof;  
471 5. Members of boards and commissions however selected;  
472 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of  
473 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries  
474 public;

475 7. Officers and employees of the General Assembly and persons employed to conduct temporary or  
476 special inquiries, investigations, or examinations on its behalf;

477 8. The presidents and teaching and research staffs of state educational institutions;  
478 9. Commissioned officers and enlisted personnel of the National Guard;  
479 10. Student employees at institutions of higher education and patient or inmate help in other state  
480 institutions;

481 11. Upon general or special authorization of the Governor, laborers, temporary employees, and employees  
482 compensated on an hourly or daily basis;

483 12. County, city, town, and district officers, deputies, assistants, and employees;  
484 13. The employees of the Virginia Workers' Compensation Commission;  
485 14. The officers and employees of the Virginia Retirement System;  
486 15. Employees whose positions are identified by the State Council of Higher Education and the boards of  
487 the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation,  
488 the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute,  
489 the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of

490 the Department of Human Resource Management as requiring specialized and professional training;

491 16. Employees of the Virginia Lottery;

492 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing and  
493 service industries who have a human resources classification of industry worker;

494 18. Employees of the Virginia Commonwealth University Health System Authority;

495 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such  
496 employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia.  
497 The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center  
498 personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State  
499 Grievance Procedure (§ 2.2-3000 et seq.);

500 20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy,  
501 or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy  
502 or administration. An employee serving in either one of these two positions shall be deemed to serve on an  
503 employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;

504 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions  
505 of the State Grievance Procedure (§ 2.2-3000 et seq.);

506 22. Officers and employees of the Virginia Port Authority;

507 23. Employees of the Commonwealth Savers Plan;

508 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental  
509 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to  
510 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure  
511 (§ 2.2-3000 et seq.);

512 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as state  
513 employees for purposes of participation in the Virginia Retirement System, health insurance, and all other  
514 employee benefits offered by the Commonwealth to its classified employees;

515 26. Employees of the Virginia Indigent Defense Commission;

516 27. Any chief of a campus police department that has been designated by the governing body of a public  
517 institution of higher education as exempt, pursuant to § 23.1-809;

518 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage  
519 Control Authority; and

520 29. *The Chief Executive Officer, agents, officers, and employees of the Virginia Cannabis Control  
521 Authority; and*

522 30. Officers and employees of the Fort Monroe Authority.

**§ 2.2-3114. Disclosure by state officers and employees.**

524 A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor,  
525 Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court,  
526 judges and substitute judges of any district court, members of the State Corporation Commission, members of  
527 the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board,  
528 members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of  
529 the Virginia Alcoholic Beverage Control Authority, *members of the Board of Directors of the Virginia  
530 Cannabis Control Authority*, members of the board of directors of the Commonwealth of Virginia Innovation  
531 Partnership Authority, members of the Board of the Commonwealth Savers Plan, and members of the  
532 Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state  
533 government, including members of the governing bodies of authorities, as may be designated by the  
534 Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules  
535 Committee of the General Assembly, shall file with the Council, as a condition to assuming office or  
536 employment, a disclosure statement of their personal interests and such other information as is required on  
537 the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually  
538 on or before February 1.

539 B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy  
540 and supervisory boards, commissions, and councils in the executive branch of state government, other than  
541 the members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia  
542 Retirement System, members of the board of directors of the Commonwealth of Virginia Innovation  
543 Partnership Authority, members of the Board of the Commonwealth Savers Plan, and members of the  
544 Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of  
545 their personal interests and such other information as is required on the form prescribed by the Council  
546 pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried  
547 citizen members of other boards, commissions, and councils, including advisory boards and authorities, may  
548 be required to file a disclosure form if so designated by the Governor, in which case the form shall be that  
549 prescribed by the Council pursuant to § 2.2-3118.

550 C. The disclosure forms required by subsections A and B shall be made available by the Council at least  
551 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in

552 accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public  
553 records for five years in the office of the Council. Such forms shall be made public no later than six weeks  
554 after the filing deadline.

555 D. Candidates for the offices of Governor, Lieutenant Governor, or Attorney General shall file a  
556 disclosure statement of their personal interests as required by § 24.2-502.

557 E. Any officer or employee of state government who has a personal interest in any transaction before the  
558 governmental or advisory agency of which he is an officer or employee and who is disqualified from  
559 participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify  
560 himself, shall forthwith make disclosure of the existence of his interest, including the full name and address  
561 of the business and the address or parcel number for the real estate if the interest involves a business or real  
562 estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office  
563 of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the  
564 agency has a clerk, in the clerk's office.

565 F. An officer or employee of state government who is required to declare his interest pursuant to  
566 subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature  
567 of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a  
568 business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that  
569 he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or  
570 employee shall either make his declaration orally to be recorded in written minutes for his agency or file a  
571 signed written declaration with the clerk or administrative head of his governmental or advisory agency, as  
572 appropriate, who shall, in either case, retain and make available for public inspection such declaration for a  
573 period of five years from the date of recording or receipt. If reasonable time is not available to comply with  
574 the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare  
575 and file the required declaration by the end of the next business day.

576 G. An officer or employee of state government who is required to declare his interest pursuant to  
577 subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party  
578 to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the  
579 client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest.  
580 The officer or employee shall either make his declaration orally to be recorded in written minutes for his  
581 agency or file a signed written declaration with the clerk or administrative head of his governmental or  
582 advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection  
583 such declaration for a period of five years from the date of recording or receipt. If reasonable time is not  
584 available to comply with the provisions of this subsection prior to participation in the transaction, the officer  
585 or employee shall prepare and file the required declaration by the end of the next business day.

586 H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher  
587 education in the Commonwealth shall not be required to file the disclosure form prescribed by the Council  
588 pursuant to § 2.2-3117 or 2.2-3118.

589 **§ 2.2-3711. (Effective until July 1, 2026) Closed meetings authorized for certain limited purposes.**

590 A. Public bodies may hold closed meetings only for the following purposes:

591 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,  
592 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public  
593 officers, appointees, or employees of any public body; and evaluation of performance of departments or  
594 schools of public institutions of higher education where such evaluation will necessarily involve discussion of  
595 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting  
596 in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some  
597 student and the student involved in the matter is present, provided that the teacher makes a written request to  
598 be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be  
599 construed to authorize a closed meeting by a local governing body or an elected school board to discuss  
600 compensation matters that affect the membership of such body or board collectively.

601 2. Discussion or consideration of admission or disciplinary matters or any other matters that would  
602 involve the disclosure of information contained in a scholastic record concerning any student of any public  
603 institution of higher education in the Commonwealth or any state school system. However, any such student,  
604 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be  
605 present during the taking of testimony or presentation of evidence at a closed meeting, if such student,  
606 parents, or guardians so request in writing and such request is submitted to the presiding officer of the  
607 appropriate board.

608 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition  
609 of publicly held real property, where discussion in an open meeting would adversely affect the bargaining  
610 position or negotiating strategy of the public body.

611 4. The protection of the privacy of individuals in personal matters not related to public business.

612 5. Discussion concerning a prospective business or industry or the expansion of an existing business or  
613 industry where no previous announcement has been made of the business' or industry's interest in locating or

614 expanding its facilities in the community.

615 6. Discussion or consideration of the investment of public funds where competition or bargaining is  
616 involved, where, if made public initially, the financial interest of the governmental unit would be adversely  
617 affected.

618 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or  
619 probable litigation, where such consultation or briefing in open meeting would adversely affect the  
620 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation"  
621 means litigation that has been specifically threatened or on which the public body or its legal counsel has a  
622 reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall  
623 be construed to permit the closure of a meeting merely because an attorney representing the public body is in  
624 attendance or is consulted on a matter.

625 8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters  
626 requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to  
627 permit the closure of a meeting merely because an attorney representing the public body is in attendance or is  
628 consulted on a matter.

629 9. Discussion or consideration by governing boards of public institutions of higher education of matters  
630 relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be  
631 performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and  
632 contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public  
633 institution of higher education in the Commonwealth shall be subject to public disclosure upon written  
634 request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government"  
635 means any government other than the United States government or the government of a state or a political  
636 subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United  
637 States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by  
638 foreign governments or foreign persons or if a majority of the membership of any such entity is composed of  
639 foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii)  
640 "foreign person" means any individual who is not a citizen or national of the United States or a trust territory  
641 or protectorate thereof.

642 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the  
643 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and  
644 The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private  
645 sources.

646 11. Discussion or consideration of honorary degrees or special awards.

647 12. Discussion or consideration of tests, examinations, or other information used, administered, or  
648 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

649 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible  
650 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed  
651 by the member, provided that the member may request in writing that the committee meeting not be  
652 conducted in a closed meeting.

653 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to  
654 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in  
655 open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the  
656 governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.  
657 All discussions with the applicant or its representatives may be conducted in a closed meeting.

658 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic  
659 activity and estimating general and nongeneral fund revenues.

660 16. Discussion or consideration of medical and mental health records subject to the exclusion in  
661 subdivision 1 of § 2.2-3705.5.

662 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to  
663 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and  
664 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game  
665 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and  
666 subdivision 11 of § 2.2-3705.7.

667 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses  
668 the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or  
669 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension  
670 of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary  
671 services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

672 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity  
673 threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency  
674 service officials concerning actions taken to respond to such matters or a related threat to public safety;  
675 discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in

676 an open meeting would jeopardize the safety of any person or the security of any facility, building, structure,  
677 information technology system, or software program; or discussion of reports or plans related to the security  
678 of any governmental facility, building or structure, or the safety of persons using such facility, building or  
679 structure.

680 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of  
681 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of  
682 a trust established by one or more local public bodies to invest funds for postemployment benefits other than  
683 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of  
684 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth  
685 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or  
686 other ownership interest in an entity, where such security or ownership interest is not traded on a  
687 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential  
688 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or  
689 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement  
690 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of  
691 confidentiality, of the future value of such ownership interest or the future financial performance of the  
692 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed  
693 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University  
694 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the  
695 disclosure of information relating to the identity of any investment held, the amount invested or the present  
696 value of such investment.

697 21. Those portions of meetings in which individual child death cases are discussed by the State Child  
698 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual  
699 child death cases are discussed by a regional or local child fatality review team established pursuant to  
700 § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence  
701 fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual  
702 adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5,  
703 those portions of meetings in which individual adult death cases are discussed by a local or regional adult  
704 fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual  
705 death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those  
706 portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality  
707 Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of  
708 persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review  
709 Committee established pursuant to § 37.2-314.1.

710 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion  
711 University, as the case may be, and those portions of meetings of any persons to whom management  
712 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center  
713 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,  
714 business-related information pertaining to the operations of the University of Virginia Medical Center or the  
715 Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business  
716 development or marketing strategies and activities with existing or future joint venturers, partners, or other  
717 parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center  
718 at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of  
719 health care, if disclosure of such information would adversely affect the competitive position of the  
720 University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion  
721 University, as the case may be.

722 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or  
723 the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or  
724 disposition by the Authority of real property, equipment, or technology software or hardware and related  
725 goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of  
726 the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and  
727 contracts for services or work to be performed by the Authority; marketing or operational strategies plans of  
728 the Authority where disclosure of such strategies or plans would adversely affect the competitive position of  
729 the Authority; and members of the Authority's medical and teaching staffs and qualifications for  
730 appointments thereto.

731 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the  
732 Department of Health Professions to the extent such discussions identify any practitioner who may be, or who  
733 actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

734 25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal  
735 information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf  
736 of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or  
737 savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

738        26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee  
 739 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in  
 740 § 56-484.12, related to the provision of wireless E-911 service.

741        27. Those portions of disciplinary proceedings by any regulatory board within the Department of  
 742 Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy  
 743 conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or  
 744 meetings of health regulatory boards or conference committees of such boards to consider settlement  
 745 proposals in pending disciplinary actions or modifications to previously issued board orders as requested by  
 746 either of the parties.

747        28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6  
 748 by a responsible public entity or an affected locality or public entity, as those terms are defined in  
 749 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible  
 750 public entity concerning such records.

751        29. Discussion of the award of a public contract involving the expenditure of public funds, including  
 752 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in  
 753 an open session would adversely affect the bargaining position or negotiating strategy of the public body.

754        30. Discussion or consideration of grant or loan application information subject to the exclusion in  
 755 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

756        31. Discussion or consideration by the Commitment Review Committee of information subject to the  
 757 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent  
 758 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

759        32. Discussion or consideration of confidential proprietary information and trade secrets developed and  
 760 held by a local public body providing certain telecommunication services or cable television services and  
 761 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this  
 762 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

763        33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless  
 764 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets  
 765 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

766        34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security  
 767 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

768        35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee  
 769 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

770        36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of  
 771 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings  
 772 of the Committee to deliberate concerning the annual maximum scholarship award, review and consider  
 773 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover  
 774 scholarship awards.

775        37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in  
 776 subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port  
 777 Authority.

778        38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting  
 779 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by  
 780 any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan  
 781 acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee  
 782 appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

783        39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6  
 784 related to economic development.

785        40. Discussion or consideration by the Board of Education of information relating to the denial,  
 786 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

787        41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by  
 788 executive order for the purpose of studying and making recommendations regarding preventing closure or  
 789 realignment of federal military and national security installations and facilities located in Virginia and  
 790 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a  
 791 local governing body, during which there is discussion of information subject to the exclusion in subdivision  
 792 8 of § 2.2-3705.2.

793        42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of  
 794 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable  
 795 information of donors.

796        43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of  
 797 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained  
 798 in grant applications.

799        44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of

800 information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for  
801 the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary  
802 information of a private entity provided to the Authority.

803 45. Discussion or consideration of personal and proprietary information related to the resource  
804 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection  
805 E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain  
806 information that has been certified for release by the person who is the subject of the information or  
807 transformed into a statistical or aggregate form that does not allow identification of the person who supplied,  
808 or is the subject of, the information.

809 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control  
810 Authority or the Board of Directors of the Virginia Cannabis Control Authority of information subject to the  
811 exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and  
812 of licensees and permittees.

813 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion  
814 in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.)  
815 of Chapter 22.

816 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26  
817 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity  
818 Board.

819 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team  
820 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a  
821 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases  
822 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and  
823 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established  
824 pursuant to § 15.2-1627.6.

825 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership  
826 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions  
827 of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33  
828 of § 2.2-3705.7.

829 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development  
830 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information  
831 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the  
832 Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

833 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the  
834 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of  
835 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

836 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or  
837 revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of  
838 any license or permit related to casino gaming, and discussion, consideration, or review of matters related to  
839 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

840 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding  
841 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting  
842 and any discussion, consideration, or review of matters related to investigations excluded from mandatory  
843 disclosure under subdivision 1 of § 2.2-3705.3.

844 55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of  
845 Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

846 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed  
847 meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting  
848 and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that  
849 shall have its substance reasonably identified in the open meeting.

850 C. Public officers improperly selected due to the failure of the public body to comply with the other  
851 provisions of this section shall be de facto officers and, as such, their official actions are valid until they  
852 obtain notice of the legal defect in their election.

853 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more  
854 public bodies, or their representatives, but these conferences shall be subject to the same procedures for  
855 holding closed meetings as are applicable to any other public body.

856 E. This section shall not be construed to (i) require the disclosure of any contract between the Department  
857 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)  
858 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial  
859 Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial  
860 revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies.  
861 However, such business or industry shall be identified as a matter of public record at least 30 days prior to the

862 actual date of the board's authorization of the sale or issuance of such bonds.

863 **§ 2.2-3711. (Effective July 1, 2026) Closed meetings authorized for certain limited purposes.**

864 A. Public bodies may hold closed meetings only for the following purposes:

865 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,  
 866 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public  
 867 officers, appointees, or employees of any public body; and evaluation of performance of departments or  
 868 schools of public institutions of higher education where such evaluation will necessarily involve discussion of  
 869 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting  
 870 in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some  
 871 student and the student involved in the matter is present, provided that the teacher makes a written request to  
 872 be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be  
 873 construed to authorize a closed meeting by a local governing body or an elected school board to discuss  
 874 compensation matters that affect the membership of such body or board collectively.

875 2. Discussion or consideration of admission or disciplinary matters or any other matters that would  
 876 involve the disclosure of information contained in a scholastic record concerning any student of any public  
 877 institution of higher education in the Commonwealth or any state school system. However, any such student,  
 878 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be  
 879 present during the taking of testimony or presentation of evidence at a closed meeting, if such student,  
 880 parents, or guardians so request in writing and such request is submitted to the presiding officer of the  
 881 appropriate board.

882 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition  
 883 of publicly held real property, where discussion in an open meeting would adversely affect the bargaining  
 884 position or negotiating strategy of the public body.

885 4. The protection of the privacy of individuals in personal matters not related to public business.

886 5. Discussion concerning a prospective business or industry or the expansion of an existing business or  
 887 industry where no previous announcement has been made of the business' or industry's interest in locating or  
 888 expanding its facilities in the community.

889 6. Discussion or consideration of the investment of public funds where competition or bargaining is  
 890 involved, where, if made public initially, the financial interest of the governmental unit would be adversely  
 891 affected.

892 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or  
 893 probable litigation, where such consultation or briefing in open meeting would adversely affect the  
 894 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation"  
 895 means litigation that has been specifically threatened or on which the public body or its legal counsel has a  
 896 reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall  
 897 be construed to permit the closure of a meeting merely because an attorney representing the public body is in  
 898 attendance or is consulted on a matter.

899 8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters  
 900 requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to  
 901 permit the closure of a meeting merely because an attorney representing the public body is in attendance or is  
 902 consulted on a matter.

903 9. Discussion or consideration by governing boards of public institutions of higher education of matters  
 904 relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be  
 905 performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and  
 906 contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public  
 907 institution of higher education in the Commonwealth shall be subject to public disclosure upon written  
 908 request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government"  
 909 means any government other than the United States government or the government of a state or a political  
 910 subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United  
 911 States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by  
 912 foreign governments or foreign persons or if a majority of the membership of any such entity is composed of  
 913 foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii)  
 914 "foreign person" means any individual who is not a citizen or national of the United States or a trust territory  
 915 or protectorate thereof.

916 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the  
 917 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and  
 918 The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private  
 919 sources.

920 11. Discussion or consideration of honorary degrees or special awards.

921 12. Discussion or consideration of tests, examinations, or other information used, administered, or  
 922 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

923 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible

924 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed  
925 by the member, provided that the member may request in writing that the committee meeting not be  
926 conducted in a closed meeting.

927 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to  
928 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in  
929 open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the  
930 governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.  
931 All discussions with the applicant or its representatives may be conducted in a closed meeting.

932 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic  
933 activity and estimating general and nongeneral fund revenues.

934 16. Discussion or consideration of medical and mental health records subject to the exclusion in  
935 subdivision 1 of § 2.2-3705.5.

936 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to  
937 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and  
938 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game  
939 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and  
940 subdivision 11 of § 2.2-3705.7.

941 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses  
942 the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or  
943 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension  
944 of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary  
945 services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

946 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity  
947 threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency  
948 service officials concerning actions taken to respond to such matters or a related threat to public safety;  
949 discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in  
950 an open meeting would jeopardize the safety of any person or the security of any facility, building, structure,  
951 information technology system, or software program; or discussion of reports or plans related to the security  
952 of any governmental facility, building or structure, or the safety of persons using such facility, building or  
953 structure.

954 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of  
955 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of  
956 a trust established by one or more local public bodies to invest funds for postemployment benefits other than  
957 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of  
958 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth  
959 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or  
960 other ownership interest in an entity, where such security or ownership interest is not traded on a  
961 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential  
962 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or  
963 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement  
964 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of  
965 confidentiality, of the future value of such ownership interest or the future financial performance of the  
966 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed  
967 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University  
968 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the  
969 disclosure of information relating to the identity of any investment held, the amount invested or the present  
970 value of such investment.

971 21. Those portions of meetings in which individual child death cases are discussed by the State Child  
972 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual  
973 child death cases are discussed by a regional or local child fatality review team established pursuant to  
974 § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence  
975 fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual  
976 adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5,  
977 those portions of meetings in which individual adult death cases are discussed by a local or regional adult  
978 fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual  
979 death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those  
980 portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality  
981 Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of  
982 persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review  
983 Committee established pursuant to § 37.2-314.1.

984 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion  
985 University, as the case may be, and those portions of meetings of any persons to whom management

986 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center  
 987 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,  
 988 business-related information pertaining to the operations of the University of Virginia Medical Center or the  
 989 Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business  
 990 development or marketing strategies and activities with existing or future joint venturers, partners, or other  
 991 parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center  
 992 at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of  
 993 health care, if disclosure of such information would adversely affect the competitive position of the  
 994 University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion  
 995 University, as the case may be.

996 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or  
 997 the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or  
 998 disposition by the Authority of real property, equipment, or technology software or hardware and related  
 999 goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of  
 1000 the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and  
 1001 contracts for services or work to be performed by the Authority; marketing or operational strategies plans of  
 1002 the Authority where disclosure of such strategies or plans would adversely affect the competitive position of  
 1003 the Authority; and members of the Authority's medical and teaching staffs and qualifications for  
 1004 appointments thereto.

1005 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the  
 1006 Department of Health Professions to the extent such discussions identify any practitioner who may be, or who  
 1007 actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1008 25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal  
 1009 information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf  
 1010 of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or  
 1011 savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

1012 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee  
 1013 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in  
 1014 § 56-484.12, related to the provision of wireless E-911 service.

1015 27. Those portions of disciplinary proceedings by any regulatory board within the Department of  
 1016 Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy  
 1017 conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or  
 1018 meetings of health regulatory boards or conference committees of such boards to consider settlement  
 1019 proposals in pending disciplinary actions or modifications to previously issued board orders as requested by  
 1020 either of the parties.

1021 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6  
 1022 by a responsible public entity or an affected locality or public entity, as those terms are defined in  
 1023 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible  
 1024 public entity concerning such records.

1025 29. Discussion of the award of a public contract involving the expenditure of public funds, including  
 1026 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in  
 1027 an open session would adversely affect the bargaining position or negotiating strategy of the public body.

1028 30. Discussion or consideration of grant or loan application information subject to the exclusion in  
 1029 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

1030 31. Discussion or consideration by the Commitment Review Committee of information subject to the  
 1031 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent  
 1032 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

1033 32. Discussion or consideration of confidential proprietary information and trade secrets developed and  
 1034 held by a local public body providing certain telecommunication services or cable television services and  
 1035 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this  
 1036 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

1037 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless  
 1038 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets  
 1039 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

1040 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security  
 1041 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1 and review by the State Board of Elections  
 1042 of complaints related to the personal use of campaign funds pursuant to § 24.2-948.7.

1043 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee  
 1044 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

1045 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of  
 1046 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings  
 1047 of the Committee to deliberate concerning the annual maximum scholarship award, review and consider

1048 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover  
1049 scholarship awards.

1050 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in  
1051 subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port  
1052 Authority.

1053 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting  
1054 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by  
1055 any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan  
1056 acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee  
1057 appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

1058 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6  
1059 related to economic development.

1060 40. Discussion or consideration by the Board of Education of information relating to the denial,  
1061 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

1062 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by  
1063 executive order for the purpose of studying and making recommendations regarding preventing closure or  
1064 realignment of federal military and national security installations and facilities located in Virginia and  
1065 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a  
1066 local governing body, during which there is discussion of information subject to the exclusion in subdivision  
1067 8 of § 2.2-3705.2.

1068 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of  
1069 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable  
1070 information of donors.

1071 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of  
1072 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained  
1073 in grant applications.

1074 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of  
1075 information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for  
1076 the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary  
1077 information of a private entity provided to the Authority.

1078 45. Discussion or consideration of personal and proprietary information related to the resource  
1079 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection  
1080 E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain  
1081 information that has been certified for release by the person who is the subject of the information or  
1082 transformed into a statistical or aggregate form that does not allow identification of the person who supplied,  
1083 or is the subject of, the information.

1084 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control  
1085 Authority *or the Board of Directors of the Virginia Cannabis Control Authority* of information subject to the  
1086 exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and  
1087 of licensees and permittees.

1088 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion  
1089 in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.)  
1090 of Chapter 22.

1091 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26  
1092 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity  
1093 Board.

1094 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team  
1095 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a  
1096 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases  
1097 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and  
1098 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established  
1099 pursuant to § 15.2-1627.6.

1100 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership  
1101 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions  
1102 of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33  
1103 of § 2.2-3705.7.

1104 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development  
1105 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information  
1106 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the  
1107 Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

1108 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the  
1109 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of

1110 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

1111 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or  
 1112 revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of  
 1113 any license or permit related to casino gaming, and discussion, consideration, or review of matters related to  
 1114 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

1115 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding  
 1116 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting  
 1117 and any discussion, consideration, or review of matters related to investigations excluded from mandatory  
 1118 disclosure under subdivision 1 of § 2.2-3705.3.

1119 55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of  
 1120 Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

1121 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed  
 1122 meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting  
 1123 and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that  
 1124 shall have its substance reasonably identified in the open meeting.

1125 C. Public officers improperly selected due to the failure of the public body to comply with the other  
 1126 provisions of this section shall be de facto officers and, as such, their official actions are valid until they  
 1127 obtain notice of the legal defect in their election.

1128 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more  
 1129 public bodies, or their representatives, but these conferences shall be subject to the same procedures for  
 1130 holding closed meetings as are applicable to any other public body.

1131 E. This section shall not be construed to (i) require the disclosure of any contract between the Department  
 1132 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)  
 1133 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial  
 1134 Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial  
 1135 revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies.  
 1136 However, such business or industry shall be identified as a matter of public record at least 30 days prior to the  
 1137 actual date of the board's authorization of the sale or issuance of such bonds.

1138 **§ 2.2-3802. Systems to which chapter inapplicable.**

1139 The provisions of this chapter shall not apply to personal information systems:

- 1140 1. Maintained by any court of the Commonwealth;
- 1141 2. Which may exist in publications of general circulation;

1142 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in  
 1143 the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant  
 1144 to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on  
 1145 the Internet pursuant to § 9.1-913;

1146 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through  
 1147 16.1-225;

1148 5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to  
 1149 engage in the practice of any profession, in which case the names and addresses of persons applying for or  
 1150 possessing the license may be disseminated upon written request to a person engaged in the profession or  
 1151 business of offering professional educational materials or courses for the sole purpose of providing the  
 1152 licensees or applicants for licenses with informational materials relating solely to available professional  
 1153 educational materials or courses, provided the disseminating agency is reasonably assured that the use of the  
 1154 information will be so limited;

1155 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission,  
 1156 the Virginia Racing Commission, the Virginia Criminal Sentencing Commission, and the Virginia Alcoholic  
 1157 Beverage Control Authority, and the Virginia Cannabis Control Authority;

1158 7. Maintained by any of the following and that deal with investigations and intelligence gathering related  
 1159 to criminal activity:

1160 a. The Department of State Police;

1161 b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;

1162 c. Police departments of cities, counties, and towns;

1163 d. Sheriff's departments of counties and cities;

1164 e. Campus police departments of public institutions of higher education as established by Article 3  
 1165 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

1166 f. The Division of Capitol Police.

1167 8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect  
 1168 while such cases are also subject to an ongoing criminal prosecution;

1169 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

1170 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of  
 1171 travel or tourism in the Commonwealth, in which case names and addresses of persons requesting

1172 information on those subjects may be disseminated upon written request to a person engaged in the business  
1173 of providing travel services or distributing travel information, provided the Virginia Tourism Authority is  
1174 reasonably assured that the use of the information will be so limited;

1175 11. Maintained by the Division of Consolidated Laboratory Services of the Department of General  
1176 Services and the Department of Forensic Science, which deal with scientific investigations relating to  
1177 criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

1178 12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal  
1179 with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2  
1180 (§ 2.2-307 et seq.);

1181 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state  
1182 agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and  
1183 Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a  
1184 school board that deals with local investigations required by § 15.2-2511.2;

1185 14. Maintained by the Department of Social Services or any local department of social services relating to  
1186 public assistance fraud investigations;

1187 15. Maintained by the Department of Social Services related to child welfare or public assistance  
1188 programs when requests for personal information are made to the Department of Social Services. Requests  
1189 for information from these systems shall be made to the appropriate local department of social services that is  
1190 the custodian of that record. Notwithstanding the language in this section, an individual shall not be  
1191 prohibited from obtaining information from the central registry in accordance with the provisions of  
1192 § 63.2-1515; and

1193 16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult  
1194 protective services, or auxiliary grants when requests for personal information are made to the Department for  
1195 Aging and Rehabilitative Services. Requests for information from these systems shall be made to the  
1196 appropriate local department of social services that is the custodian of that record.

1197 **§ 2.2-4024. Hearing officers.**

1198 A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided over by a  
1199 hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and maintained  
1200 in the Office of the Executive Secretary of the Supreme Court. Parties to informal fact-finding proceedings  
1201 conducted pursuant to § 2.2-4019 may agree at the outset of the proceeding to have a hearing officer preside  
1202 at the proceeding, such agreement to be revoked only by mutual consent. The Executive Secretary may  
1203 promulgate rules necessary for the administration of the hearing officer system and shall have the authority to  
1204 establish the number of hearing officers necessary to preside over administrative hearings in the  
1205 Commonwealth.

1206 Prior to being included on the list, all hearing officers shall meet the following minimum standards:

- 1207 1. Active membership in good standing in the Virginia State Bar;
- 1208 2. Active practice of law for at least five years; and

1209 3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order  
1210 to comply with the demonstrated requirements of the agency requesting a hearing officer, the Executive  
1211 Secretary may require additional training before a hearing officer shall be assigned to a proceeding before  
1212 that agency.

1213 B. On request from the head of an agency, the Executive Secretary shall name a hearing officer from the  
1214 list, selected on a rotation system administered by the Executive Secretary. Lists reflecting geographic  
1215 preference and specialized training or knowledge shall be maintained by the Executive Secretary if an agency  
1216 demonstrates the need.

1217 C. A hearing officer appointed in accordance with this section shall be subject to disqualification as  
1218 provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-4024.1,  
1219 the petitioning party may request reconsideration of the denial by filing a written request with the Executive  
1220 Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with particularity the  
1221 grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule  
1222 of practice requiring disqualification.

1223 The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.

1224 D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case  
1225 decision matter shall render that recommendation or conclusion as follows:

1226 1. If the agency's written regulations or procedures require the hearing officer to render a recommendation  
1227 or conclusion within a specified time period, the hearing officer shall render the recommendation or  
1228 conclusion on or before the expiration of the specified period; and

1229 2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90 days  
1230 from the date of the case decision proceeding or from a later date agreed to by the named party and the  
1231 agency.

1232 If the hearing officer does not render a decision within the time required by this subsection, then the  
1233 agency or the named party to the case decision may provide written notice to the hearing officer and the

1234 Executive Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days from  
 1235 receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall remove  
 1236 the hearing officer from the hearing officer list and report the hearing officer to the Virginia State Bar for  
 1237 possible disciplinary action, unless good cause is shown for the delay.

1238 E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after  
 1239 written notice and an opportunity for a hearing. When there is a failure by a hearing officer to render a  
 1240 decision as required by subsection D, the burden shall be on the hearing officer to show good cause for the  
 1241 delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary for  
 1242 reconsideration, followed by judicial review in accordance with this chapter.

1243 F. This section shall not apply to hearings conducted by (i) any commission or board where all of the  
 1244 members, or a quorum, are present; (ii) the Virginia Alcoholic Beverage Control Authority, *the Virginia*  
 1245 *Cannabis Control Authority*, the Virginia Workers' Compensation Commission, the State Corporation  
 1246 Commission, the Virginia Employment Commission, the Department of Motor Vehicles under Title 46.2  
 1247 (§ 46.2-100 et seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, or the Motor Vehicle  
 1248 Dealer Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a health regulatory  
 1249 board convened pursuant to § 54.1-2400, including any panel having members of a relevant advisory board to  
 1250 the Board of Medicine. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 by the  
 1251 Virginia Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall meet the  
 1252 minimum qualifications set forth in subsection A. Agency employees who are not licensed to practice law in  
 1253 the Commonwealth, and are presiding as hearing officers in proceedings pursuant to clause (ii) shall  
 1254 participate in periodic training courses.

1255 G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to hearing  
 1256 officers conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife Resources,  
 1257 the Virginia Housing Development Authority, the Milk Commission, and the Virginia Resources Authority  
 1258 pursuant to their basic laws.

*PART D.*

*STATE AND TRIBAL RELATIONS.*

*CHAPTER 61.*

*GENERAL PROVISIONS.*

**§ 2.2-6100. Governor compacts with tribal government; marijuana; requirements.**

A. For the purpose of this section:

"Marijuana" means the same as that term is defined in § 4.1-600.

"Marijuana establishment" means the same as that term is defined in § 4.1-600.

"Marijuana industry" means every item, product, person, process, action, business, or other thing or activity related to marijuana or marijuana products and subject to regulation under the law of a Virginia Tribal government or under a compact entered into under this section.

"Marijuana products" means the same as that term is defined in § 4.1-600.

"Tribal marijuana business" means a marijuana cultivation facility, microbusiness, delivery operator, testing facility, processing facility, transporter, or retail marijuana store licensed by a Virginia Tribal government, as well as any other marijuana-related business that may be provided or licensed under the laws of a Virginia Tribal government.

"Tribally regulated land" means (i) all land held in trust by the United States for the benefit of a Virginia Tribal government, also known as trust land, and (ii) all land held by a Virginia Tribal government in restricted fee status.

"Virginia Tribal government" means the following federally recognized Indian Tribes located in the Commonwealth:

1. Chickahominy Indian Tribe;
2. Chickahominy Indian Tribe-Eastern Division;
3. Monacan Indian Nation;
4. Nansemond Indian Nation;
5. Pamunkey Indian Tribe;
6. Rappahannock Indian Tribe;
7. Upper Mattaponi Tribe.

B. The Commonwealth acknowledges the sovereign right of Virginia Tribal governments to regulate the marijuana industry and address other matters of marijuana regulation related to the internal affairs of Virginia Tribal governments or otherwise on Tribally regulated land, without regard to whether such Virginia Tribal government has entered into a compact authorized by this section. The Governor or his designee shall negotiate in good faith and has the authority to execute and bind the Commonwealth to a compact with any Virginia Tribal government wishing to enter into such compact regulating marijuana and marijuana products.

C. A compact agreed to under this section may address any issues related to the marijuana industry that affect the interests of both the Commonwealth and Virginia Tribal governments or otherwise have an impact

1296 on Tribal-state relations. Indian tribes are not required to enter into compacts pursuant to this section in  
1297 order to (i) regulate the marijuana industry or engage in marijuana businesses or activities on Tribally  
1298 regulated lands or (ii) participate as a licensee in the Commonwealth's legal marijuana market.

1299 D. The Commonwealth shall not, as a condition for entering into a compact under this section:

1300 1. Require any Virginia Tribal government to waive any right, privilege, or immunity based on their status  
1301 as independent sovereigns;

1302 2. Require that any revenue generated by a Tribal marijuana business be subject to any license or  
1303 privilege tax imposed by a locality pursuant to Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 or any taxes  
1304 authorized pursuant to § 4.1-1004;

1305 3. Require any taxes collected by Virginia Tribal governments to be shared in any manner with the  
1306 Commonwealth or any political subdivisions thereof;

1307 4. Require a Virginia Tribal government to consent to state licensing of marijuana businesses on the  
1308 Tribally regulated land;

1309 5. Require any Virginia Tribal government or Tribal marijuana business to comply with specific state law  
1310 or regulations on Tribally regulated land; or

1311 6. Impose or attempt to impose or require or attempt to require any Virginia Tribal government to impose  
1312 any taxes, fees, assessments, and other charges related to the cultivation, processing, sale, purchase,  
1313 transportation, delivery, or possession of marijuana or marijuana products on Virginia Tribal governments  
1314 or their members on Tribally regulated land.

1315 E. Compacts agreed to under this section may allow an exemption from any otherwise applicable tax for  
1316 (i) sales to a Virginia Tribal government, a Tribal marijuana business, or Tribal members of marijuana or  
1317 marijuana products cultivated or processed as provided for in such compacts or (ii) activities of Tribal  
1318 marijuana businesses.

1319 F. Without limiting any immunity or exemption that may apply under federal law, the following acts, when  
1320 performed by a Tribal marijuana business or an employee in the course of their employment for a Tribal  
1321 marijuana business, pursuant to a compact entered into pursuant to this section, do not constitute a criminal  
1322 or civil offense under state law:

1323 1. The cultivation of marijuana and the processing of marijuana or marijuana products;

1324 2. The possession, purchase, and receipt of marijuana or marijuana products that are properly tested,  
1325 packaged, and labeled as authorized under a compact entered into pursuant to this section or the sale,  
1326 delivery, transport, or distribution of such marijuana or marijuana products to a licensed marijuana  
1327 establishment; and

1328 3. The delivery, distribution, or sale of marijuana or marijuana products as authorized under a compact  
1329 entered into pursuant to this section and that takes place on, or originates from, the premises of a Tribal  
1330 marijuana business on Tribally regulated land, to any person 21 years of age or older.

1331 G. The following acts, when performed by a patron of a Tribal marijuana business, do not constitute a  
1332 criminal or civil offense under state law: the purchase, possession, or receipt of marijuana or marijuana  
1333 products by a person 21 years of age or older as authorized under a compact entered into pursuant to this  
1334 section.

1335 H. Without limiting any immunity or exemption that may apply under federal law, actions by a Tribal  
1336 marijuana business or a Tribal member, employee, or agent of a Virginia Tribal government or Tribal  
1337 marijuana business on Tribally regulated land pursuant to Tribal laws governing marijuana, or a compact  
1338 entered into under this section, do not constitute a criminal or civil offense under state law.

1339 I. The following acts, when performed by a licensed marijuana establishment or an employee of such  
1340 licensed marijuana establishment, and which would be permitted pursuant to the Cannabis Control Act  
1341 (§ 4.1-600 et seq.) if undertaken with another licensed marijuana establishment, shall be permitted when  
1342 undertaken with a Tribal marijuana business and do not constitute a criminal or civil offense under state law:  
1343 the possession, purchase, wholesale and retail sale, delivery, transport, distribution, and receipt of marijuana  
1344 or marijuana products that are properly tested, packaged, and labeled as authorized under a compact  
1345 entered into pursuant to this section.

1346 J. Without limiting any immunity or exemption that may apply under federal law, the following acts, when  
1347 performed by a Virginia Tribal government, a Tribal marijuana business, or an employee of such Tribal  
1348 government or Tribal marijuana business, regardless of whether the Virginia Tribal government issuing such  
1349 license has entered into a compact with the Commonwealth under this section, do not constitute a criminal or  
1350 civil offense under state law: purchase, sale, receipt, or delivery, including delivery that involves transit  
1351 through the Commonwealth outside a reservation, of marijuana or marijuana products from or to another  
1352 Virginia Tribal government or Tribal marijuana business.

1353 K. Notwithstanding any other provision of law, a marijuana testing facility, as defined in § 4.1-600, may  
1354 provide testing services to a Tribal marijuana business and the possession or transport of marijuana or  
1355 marijuana products for such purpose by a Tribal marijuana business shall not constitute a criminal or civil  
1356 offense under state law.

1357 L. The Governor shall post any compact entered into pursuant to this section on a publicly accessible

1358 website.

1359 **§ 3.2-4113. Production of industrial hemp lawful.**

1360 A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a handler or his  
 1361 agent to handle, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful  
 1362 purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under Chapter 11  
 1363 (§ 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  
 1364 possession or growing of industrial hemp or any Cannabis sativa with a tetrahydrocannabinol concentration  
 1365 that does not exceed the total tetrahydrocannabinol concentration percentage established in federal  
 1366 regulations applicable to negligent violations located at 7 C.F.R. § 990.6(b)(3). No handler or his agent or  
 1367 processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247,  
 1368 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 or issued a summons or judgment for the possession,  
 1369 handling, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or  
 1370 proceeding brought for the enforcement of any provision of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*,  
 1371 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or the Drug Control Act (§ 54.1-3400 et seq.), it shall  
 1372 not be necessary to negate any exception, excuse, proviso, or exemption contained in this article or the Drug  
 1373 Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the  
 1374 defendant.

1375 B. Nothing in this article shall be construed to authorize any person to violate any federal law or  
 1376 regulation.

1377 C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247,  
 1378 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250 for the involuntary growth of industrial hemp through the  
 1379 inadvertent natural spread of seeds or pollen as a result of proximity to a production field, handler's storage  
 1380 site, or process site.

1381 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

1382 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the  
 1383 Department of Forensic Science, when signed by him, shall be *admissible as evidence in all prosecutions for*  
*violations of this subtitle and all controversies in any judicial proceedings touching the mixture analyzed by*  
*him of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the*  
*requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the*  
*admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding.* On  
 1384 motion of the accused or any party in interest, the court may require the forensic scientist making the analysis  
 1385 to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable  
 1386 time prior to the day on which the case is set for trial.

1387 **§ 4.1-600. Definitions.**

1388 As used in this subtitle, unless the context requires a different meaning:

1389 "Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction that is  
 1390 calculated to induce sales of ~~retail~~ marijuana, ~~retail~~ marijuana products, marijuana plants, or marijuana seeds,  
 1391 including any written, printed, graphic, digital, electronic, or other material, billboard, sign, or other outdoor  
 1392 display, publication, or radio or television broadcast.

1393 "Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

1394 "Board" means the Board of Directors of the Virginia Cannabis Control Authority.

1395 "Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

1396 "Canopy" means the space used by a licensee to produce flowering marijuana plants, including areas  
 1397 between plants, pathways, walkways, and empty space between rows that allow for airflow, light, growth,  
 1398 access for watering, trimming, and other activities associated with marijuana cultivation. "Canopy" does not  
 1399 include space used for mother plants, clones, immature or nonflowering plants, processing, drying, curing,  
 1400 trimming, storage, offices, hallways, work areas, or other administrative and nonproduction uses. If  
 1401 flowering marijuana plants are cultivated using a shelving or other layered system, the surface area of each  
 1402 level shall be included for purposes of calculating canopy.

1403 "Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to  
 1404 be significantly difficult for a typical child ~~under~~ younger than five years of age to open and not to be  
 1405 significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than a  
 1406 single use or that contains multiple servings, resealable.

1407 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading,  
 1408 trimming, ~~packaging~~, or other similar ~~processing~~ manufacturing of marijuana for use or sale. "Cultivation" or  
 1409 "cultivate" does not include ~~manufacturing~~ processing or testing.

1410 "Dual-use marijuana facility" means a facility licensed under § 4.1-807.

1411 "Edible hemp product" means the same as that term is defined in § 3.2-4112.

1412 "Edible marijuana product" means a marijuana product intended to be consumed orally, including  
 1413 marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

1414 "Hemp product" means the same as that term is defined in § 3.2-4112.

1415 "Historically economically disadvantaged community" means either (i) a jurisdiction identified by the

1420 *Board utilizing census tract data made available by the United States Census Bureau in which offenses for*  
1421 *marijuana possession were committed at a rate in excess of 150 percent of the statewide average for*  
1422 *marijuana possession offenses during the 10-year period of 2009 to 2019 or (ii) a historically underutilized*  
1423 *business zone as defined in 15 U.S.C. § 657a.*

1424 "Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider  
1425 than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

1426 "*Impact licensee*" means a licensee that meets the criteria set forth in subdivision B 13 of § 4.1-606.

1427 "*Industrial hemp*" means the same as that term is defined in § 3.2-4112.

1428 "*Industrial hemp extract*" means the same as that term is defined in § 3.2-5145.1.

1429 "*Inhalable marijuana product*" means a marijuana product intended to be inhaled, including marijuana  
1430 intended to be inhaled or marijuana concentrate intended to be inhaled.

1431 "Licensed" means the holding of a valid license granted by the Authority.

1432 "Licensee" means any person to whom a license has been granted by the Authority.

1433 "*Manufacturing*" or "*manufacture*" means the production of marijuana products or the blending, infusing,  
1434 compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or  
1435 preparation by means of chemical synthesis. "*Manufacturing*" or "*manufacture*" does not include cultivation  
1436 or testing.

1437 "Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin;  
1438 and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin,  
1439 or any extract containing one or more cannabinoids. "Marijuana" does not include (i) the mature stalks of  
1440 such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such  
1441 stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis; (ii) industrial hemp, as  
1442 defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his  
1443 agent; (iii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp  
1444 producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp  
1445 product, as defined in § 3.2-4112; (v) an industrial hemp extract, as defined in § 3.2-5145.1; or (vi) any  
1446 substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether  
1447 that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act  
1448 (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

1449 "Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active  
1450 cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant  
1451 is a concentrate for purposes of this subtitle.

1452 "Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and  
1453 package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana  
1454 cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and  
1455 marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail  
1456 marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer  
1457 possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana  
1458 plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use  
1459 § 4.1-800.

1460 "*Marijuana delivery operator*" means an entity licensed under § 4.1-805.

1461 "*Marijuana establishment*" means a marijuana cultivation facility, a marijuana microbusiness, marijuana  
1462 delivery operator, marijuana testing facility, a marijuana manufacturing processing facility, a marijuana  
1463 wholesaler transporter, dual-use marijuana facility, or a retail marijuana store.

1464 "*Marijuana manufacturing facility*" means a facility licensed under this subtitle to manufacture, label, and  
1465 package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana  
1466 from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession  
1467 of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or  
1468 other marijuana manufacturing facilities.

1469 "Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either  
1470 designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting,  
1471 manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,  
1472 packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the  
1473 human body marijuana.

1474 "*Marijuana processing facility*" means a facility licensed under § 4.1-801.

1475 "*Marijuana products*" means (i) products that are composed of marijuana and other ingredients and are  
1476 intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

1477 "*Marijuana testing facility*" means a facility licensed under this subtitle to develop, research, or test  
1478 marijuana, marijuana products, and other substances § 4.1-806.

1479 "*Marijuana wholesaler transporter*" means a facility licensed under this subtitle to purchase or take  
1480 possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds  
1481 from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and

1482 to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants,  
 1483 and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana  
 1484 store, or another marijuana wholesaler § 4.1-804.

1485 "Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed  
 1486 marijuana establishment.

1487 "Non-retail marijuana products" means marijuana products that are not manufactured and sold by a  
 1488 licensed marijuana establishment.

1489 "Microbusiness" means a facility licensed under § 4.1-803.

1490 "Outdoor cultivation" means cultivation in an area exposed to natural sunlight and open to environmental  
 1491 conditions, including variable temperature, precipitation, and wind.

1492 "Place or premises" means the real estate, together with any buildings or other improvements thereon,  
 1493 designated in the application for a license as the place at which the cultivation, ~~manufacture~~ processing, sale,  
 1494 or testing of retail marijuana or retail marijuana products shall be performed, except that portion of any such  
 1495 building or other improvement actually and exclusively used as a private residence.

1496 "Processing" or "process" means the production of marijuana products or the blending, infusing,  
 1497 compounding, or other preparation of marijuana or marijuana products, including marijuana extraction or  
 1498 preparation by means of chemical synthesis. "Processing" or "process" does not include cultivation or  
 1499 testing.

1500 "Public place" means any place, building, or conveyance to which the public has, or is permitted to have,  
 1501 access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park,  
 1502 place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

1503 "Residence" means any building or part of a building or structure where a person resides, but does not  
 1504 include any part of a building that is not actually and exclusively used as a private residence, nor any part of a  
 1505 hotel or club other than a private guest room thereof.

1506 "Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana  
 1507 establishment.

1508 "Retail marijuana products" means marijuana products that are manufactured and sold by a licensed  
 1509 marijuana establishment.

1510 "Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of  
 1511 retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana  
 1512 cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana,  
 1513 retail marijuana products, immature marijuana plants, or marijuana seeds to consumers § 4.1-802.

1514 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale;  
 1515 peddling, exchanging, or bartering; or delivering otherwise other than gratuitously, by any means, retail  
 1516 marijuana or retail marijuana products.

1517 "Secure agricultural greenhouse" means an enclosed structure that has transparent walls and roofing and  
 1518 is used for controlled-environment agriculture.

1519 "Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has  
 1520 designated as a law-enforcement officer pursuant to this subtitle.

1521 "Testing" or "test" means the research and analysis of marijuana, marijuana products, or other substances  
 1522 for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or ~~manufacturing~~  
 1523 processing.

1524 "Tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

1525 "Topical marijuana product" means a marijuana product intended to be applied topically to the skin,  
 1526 including marijuana intended to be applied topically to the skin or marijuana concentrate intended to be  
 1527 applied topically to the skin.

1528 "Total tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

1529 **§ 4.1-601. Virginia Cannabis Control Authority created; statement of purpose.**

1530 A. The General Assembly has determined that there exists in the Commonwealth a need to control the  
 1531 possession, sale, transportation, distribution, and delivery of retail marijuana and retail marijuana products in  
 1532 the Commonwealth. *Further, the General Assembly finds that laws prohibiting the use and sale of marijuana*  
 1533 *have been ineffective and have had devastating collateral consequences for individuals and communities*  
 1534 *across the Commonwealth, disproportionately impacting African Americans. The purpose of this subtitle is to*  
 1535 *create an approach to marijuana regulation that is rooted in principles of restorative justice, economic*  
 1536 *equity, and public health in order to generate significant revenue dedicated to community reinvestment,*  
 1537 *create small and local businesses, strengthen the Commonwealth's vital agriculture sector, end the racially*  
 1538 *disparate impacts of prohibition, and protect the health and safety of all citizens of the Commonwealth. This*  
 1539 *subtitle is further intended to establish a competitive, sustainable, and decentralized market structure built*  
 1540 *for long-term success, prioritizing the creation of durable, independent businesses over the maximization of*  
 1541 *short-term tax revenue.*

1542 B. Further, the General Assembly determines that the creation of an authority for this purpose is in the  
 1543 public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and

1544 prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an  
1545 independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial  
1546 branches of state government, to be known as the Virginia Cannabis Control Authority. The Authority's  
1547 exercise of powers and duties conferred by this subtitle shall be deemed the performance of an essential  
1548 governmental function and a matter of public necessity for which public moneys may be spent.

1549 **B. C.** The Board of Directors of the Authority is vested with control of the possession, sale, transportation,  
1550 distribution, and delivery of ~~retail~~ marijuana and ~~retail~~ marijuana products in the Commonwealth, with  
1551 plenary power to prescribe and enforce regulations and conditions under which ~~retail~~ marijuana and ~~retail~~  
1552 marijuana products are possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt,  
1553 incompetent, dishonest, or unprincipled practices and to promote the health, safety, welfare, convenience, and  
1554 prosperity of the people of the Commonwealth. The exercise of the powers granted by this subtitle shall be in  
1555 all respects for the benefit of the citizens of the Commonwealth and for the promotion of their safety, health,  
1556 welfare, and convenience. No part of the assets or net earnings of the Authority shall inure to the benefit of,  
1557 or be distributable to, any private individual, except that reasonable compensation may be paid for services  
1558 rendered to or for the Authority affecting one or more of its purposes, and benefits may be conferred that are  
1559 in conformity with said purposes, and no private individual shall be entitled to share in the distribution of any  
1560 of the corporate assets on dissolution of the Authority.

1561 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings;**  
1562 **compensation and expenses; duties.**

1563 A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an advisory  
1564 council to the Board. The purpose of the Advisory Council is to assess and monitor public health issues,  
1565 trends, and impacts related to marijuana and marijuana legalization and make recommendations regarding  
1566 health warnings; ~~retail~~; marijuana and ~~retail~~ marijuana products safety and product composition; and public  
1567 health awareness, programming, and related resource needs.

1568 B. The Advisory Council shall have a total membership of 21 members that shall consist of 14  
1569 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the Council  
1570 shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic diversity of  
1571 the Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be appointed by  
1572 the Senate Committee on Rules, one of whom shall be a representative from the Virginia Foundation for  
1573 Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the American Academy  
1574 of Pediatrics, one of whom shall be a representative from the Medical Society of Virginia, and one of whom  
1575 shall be a representative from the Virginia Pharmacists Association; six to be appointed by the Speaker of the  
1576 House of Delegates, one of whom shall be a representative from a community services board, one of whom  
1577 shall be a person or health care provider with expertise in substance use disorder treatment and recovery, one  
1578 of whom shall be a person or health care provider with expertise in substance use disorder prevention, one of  
1579 whom shall be a person with experience in disability rights advocacy, one of whom shall be a person with  
1580 experience in veterans health care, and one of whom shall be a person with a social or health equity  
1581 background; and four to be appointed by the Governor, subject to confirmation by the General Assembly, one  
1582 of whom shall be a representative of a local health district, one of whom shall be a person who is part of the  
1583 cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, and one of  
1584 whom shall be a registered medical cannabis patient.

1585 The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of  
1586 Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer Services,  
1587 the Director of the Department of Health Professions, the Director of the Department of Forensic Science,  
1588 and the Chief Executive Officer of the Virginia Cannabis Control Authority, or their designees, shall serve ex  
1589 officio with voting privileges. Ex officio members of the Advisory Council shall serve terms coincident with  
1590 their terms of office.

1591 After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four  
1592 years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms.  
1593 Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

1594 ~~The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee.~~  
1595 The Advisory Council shall select a ~~vice-chairman~~ chair and vice-chair from among its membership. A  
1596 majority of the members shall constitute a quorum *unless the Advisory Council adopts a policy by the*  
1597 *affirmative vote of a majority of the Advisory Council members that allows for a lesser number of members to*  
1598 *constitute a quorum, which shall be no less than nine members.* The Advisory Council shall meet at least two  
1599 times each year and shall meet at the call of the ~~chairman~~ or chair, whenever the majority of the members so  
1600 request, *or upon the Board's submission of regulations to the Advisory Council for approval.*

1601 The Advisory Council shall have the authority to create subgroups with additional stakeholders, experts,  
1602 and state agency representatives.

1603 C. Members shall receive no compensation for the performance of their duties but shall be reimbursed for  
1604 all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813  
1605 and 2.2-2825.

1606 D. The Advisory Council shall have the following duties, in addition to duties that may be necessary to  
 1607 fulfill its purpose as described in subsection A:

1608 1. To review multi-agency efforts to support collaboration and a unified approach on public health  
 1609 responses related to marijuana and marijuana legalization in the Commonwealth and to develop  
 1610 recommendations as necessary.

1611 2. To monitor changes in drug use data related to marijuana and marijuana legalization in the  
 1612 Commonwealth and the science and medical information relevant to the potential health risks associated with  
 1613 such drug use, and make appropriate recommendations to the Department of Health and the Board.

1614 3. *Submit To review and approve Board regulations related to public health pursuant to subsection F of*  
 1615 *§ 4.1-606. The Advisory Council shall approve or deny such regulations within 30 calendar days of the*  
 1616 *Board's submission of the regulations to the Advisory Council. If the Advisory Council fails to approve or*  
 1617 *deny a regulation within 30 calendar days, the Board may adopt such regulation without approval by the*  
 1618 *Advisory Council.*

1619 4. To submit an annual report to the Governor and the General Assembly for publication as a report  
 1620 document as provided in the procedures of the Division of Legislative Automated Systems for the processing  
 1621 of legislative documents and reports. The ~~chairman~~ chair shall submit to the Governor and the General  
 1622 Assembly an annual executive summary of the interim activity and work of the Advisory Council no later  
 1623 than the first day of each regular session of the General Assembly. The executive summary shall be submitted  
 1624 as a report document as provided in the procedures of the Division of Legislative Automated Systems for the  
 1625 processing of legislative documents and reports and shall be posted on the General Assembly's website.

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

The Board shall have the following powers and duties:

1628 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and  
 1629 § 4.1-606;

1630 2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;

1631 3. Grant, suspend, restrict, revoke, or refuse to grant or renew any license or permit issued or authorized  
 1632 pursuant to this subtitle;

1633 4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be  
 1634 kept or sold and prescribe the form and content of all labels and seals to be placed thereon;

1635 5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

1636 6. Establish standards and implement an online course for employees of retail marijuana stores that trains  
 1637 employees on how to educate consumers on the potential risks of marijuana use;

1638 7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar  
 1639 document regarding the potential risks of marijuana use to be prominently displayed and made available to  
 1640 consumers;

1641 8. Establish a position for a Cannabis ~~Social Equity Impact Business~~ Liaison who shall lead the Cannabis  
 1642 ~~Impact Business Equity and Diversity~~ Support Team and liaise with the Director of Diversity, Equity, and  
 1643 Inclusion on matters related to ~~diversity, equity, and inclusion standards~~ *impact licensee participation* in the  
 1644 marijuana industry;

1645 9. Establish a Cannabis ~~Impact Business Equity and Diversity~~ Support Team, which shall (i) develop  
 1646 requirements for the creation and submission of ~~diversity, equity, and inclusion impact licensee business~~  
 1647 *accelerator* plans by persons who wish to possess a license in more than one license category ~~pursuant to~~  
 1648 ~~subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity~~  
 1649 ~~apprenticeship plan~~, and an approval process and requirements for implementation of such plans; (ii) be  
 1650 responsible for conducting an analysis of potential barriers to entry for ~~small, women-owned, and minority-~~  
 1651 ~~owned businesses and veteran-owned~~ *impact* businesses interested in participating in the marijuana industry  
 1652 and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with  
 1653 business planning for potential marijuana establishment licensees; (iv) spread awareness of business  
 1654 opportunities related to the marijuana marketplace in ~~areas disproportionately impacted by marijuana~~  
 1655 ~~prohibition and enforcement~~ *historically economically disadvantaged communities*; (v) provide technical  
 1656 assistance in navigating the administrative process to potential marijuana establishment licensees; and (vi)  
 1657 conduct other outreach initiatives in ~~areas disproportionately impacted by marijuana prohibition and~~  
 1658 ~~enforcement~~ *historically economically disadvantaged communities* as necessary;

1659 10. Establish a position for an individual with professional experience in a health related field who shall  
 1660 staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the Office  
 1661 of the Secretary of Health and Human Resources and relevant health and human services agencies and  
 1662 organizations, and perform other duties as needed;

1663 11. Establish and implement a plan, in coordination with the Cannabis ~~Social Equity Impact Business~~  
 1664 *Liaison and the Director of Diversity, Equity, and Inclusion*, to promote and encourage participation in the  
 1665 marijuana industry by people from *historically economically disadvantaged communities that have been*  
 1666 *disproportionately impacted by marijuana prohibition and enforcement* and to positively impact those  
 1667 communities;

1668 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

1669 13. Adopt, use, and alter at will a common seal;

1670 14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale

1671 of products of, or services rendered by the Authority at rates to be determined by the Authority for the

1672 purpose of providing for the payment of the expenses of the Authority;

1673 15. Make and enter into all contracts and agreements necessary or incidental to the performance of its

1674 duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including

1675 agreements with any person or federal agency;

1676 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts,

1677 investment bankers, superintendents, managers, and such other employees and special agents as may be

1678 necessary and fix their compensation to be payable from funds made available to the Authority. *Legal The*

1679 *Board may employ or retain legal counsel of its choice to advise or represent the Authority in hearings,*

1680 *controversies, or other matters involving the interests of the Authority; however, upon request by the Board,*

1681 *the Attorney General shall provide legal services for the Authority shall be provided by the Attorney General*

1682 in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

1683 17. Receive and accept from any federal or private agency, foundation, corporation, association, or person

1684 grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept

1685 from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or

1686 from any other source aid or contributions of either money, property, or other things of value, to be held,

1687 used, and applied only for the purposes for which such grants and contributions may be made. All federal

1688 moneys accepted under this section shall be accepted and expended by the Authority upon such terms and

1689 conditions as are prescribed by the United States and as are consistent with state law, and all state moneys

1690 accepted under this section shall be expended by the Authority upon such terms and conditions as are

1691 prescribed by the Commonwealth;

1692 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business

1693 shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties

1694 performed. The Board may delegate or assign any duty or task to be performed by the Authority to any

1695 officer or employee of the Authority. The Board shall remain responsible for the performance of any such

1696 duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by

1697 written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall

1698 require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the

1699 Board of the responsibility to ensure faithful performance of the duties and tasks;

1700 19. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's

1701 purposes or necessary or convenient to exercise its powers;

1702 20. Develop policies and procedures generally applicable to the procurement of goods, services, and

1703 construction, based upon competitive principles;

1704 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title

1705 2.2;

1706 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,

1707 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the

1708 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,

1709 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to

1710 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time

1711 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms

1712 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or

1713 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such

1714 terms and conditions as may be determined by the Board; and occupy and improve any land or building

1715 required for the purposes of this subtitle;

1716 23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered

1717 necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and

1718 processing plants;

1719 24. Appoint every agent and employee required for its operations, require any or all of them to give bonds

1720 payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of

1721 experts and professionals;

1722 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production

1723 of records, memoranda, papers, and other documents before the Board or any agent of the Board, and

1724 administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the

1725 Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and

1726 decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may

1727 enter into consent agreements and may request and accept from any applicant, licensee, or permittee a

1728 consent agreement in lieu of proceedings on (i) objections to the issuance of a license or permit or (ii)

1729 disciplinary action. Any such consent agreement (a) shall include findings of fact and provisions regarding

1730 whether the terms of the consent agreement are confidential and (b) may include an admission or a finding of  
 1731 a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject  
 1732 to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be  
 1733 considered by the Board in future disciplinary proceedings;

1734 26. Make a reasonable charge for preparing and furnishing statistical information and compilations to  
 1735 persons other than (i) officials, including court and police officials, of the Commonwealth and of its  
 1736 subdivisions if the information requested is for official use and (ii) persons who have a personal or legal  
 1737 interest in obtaining the information requested if such information is not to be used for commercial or trade  
 1738 purposes;

1739 27. Take appropriate disciplinary action and assess and collect civil penalties and civil charges for  
 1740 violations of this subtitle and Board regulations;

1741 28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive  
 1742 Officer as the Board deems appropriate;

1743 29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement  
 1744 activities undertaken to enforce the provisions of this subtitle;

1745 30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with  
 1746 applications for such permits;

1747 31. Develop and make available on its website guidance documents regarding compliance and safe  
 1748 practices for persons who cultivate marijuana at home for personal use, which shall include information  
 1749 regarding cultivation practices that promote personal and public safety, including child protection, and  
 1750 discourage practices that create a nuisance;

1751 32. Develop and make available on its website a resource that provides information regarding (i)  
 1752 responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana  
 1753 consumption, including inability to operate a motor vehicle and other types of transportation and equipment;  
 1754 and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment  
 1755 opportunities. The Board shall require that the web address for such resource be included on the label of all  
 1756 ~~retail~~ marijuana and ~~retail~~ marijuana product as provided in § 4.1-1402 4.1-1405; and

1757 33. *Access during business hours any facility governed by this subtitle and any business that offers for  
 1758 sale or sells at retail a substance intended for human consumption, orally or by inhalation, that is advertised  
 1759 or labeled as containing a cannabinoid for the purpose of conducting an inspection or securing samples to  
 1760 identify potential violations of this subtitle;*

1761 34. *Conduct training that is open to the public and provide educational resources to the public on the  
 1762 application process for licenses;*

1763 35. *Develop and provide consumer education that (i) highlights the ways purchasing marijuana and  
 1764 marijuana products from or cultivated and processed by licensees supports farmers, small business, and  
 1765 community reinvestment; (ii) educates consumers on how to recognize licensed retail marijuana stores; and  
 1766 (iii) informs consumers about responsible marijuana consumption and health risks and other dangers  
 1767 associated with marijuana consumption.*

1768 36. *Issue a quarterly report that contains information regarding (i) license fees waived or reduced  
 1769 pursuant to § 4.1-606; (ii) licenses issued to or renewed for persons identified in subdivision B 13 of  
 1770 § 4.1-606; (iii) public education initiatives, including public awareness campaigns regarding driving under  
 1771 the influence, underage consumption and youth awareness, and health risks; (iv) community engagement  
 1772 initiatives; (v) sales and tax revenue; (vi) programs funded by marijuana tax revenue; (vii) efforts made  
 1773 pursuant to subdivisions 8, 9, 11, and 32; and (viii) license denials and disciplinary actions taken;*

1774 37. *Maintain a public registry available online of ownership information for all licensees;*

1775 38. *Develop policies and procedures generally applicable to the audit of ownership and financial  
 1776 relationships across all licenses on a schedule established by the Board. The audits shall be conducted by an  
 1777 independent certified public accountant and the costs of such audits shall be borne by the licensee;*

1778 39. *Beginning on July 1, 2028, and each July 1 thereafter, issue an annual report on the performance and  
 1779 health of the marijuana retail market in the Commonwealth, including information related to: (i) sales and  
 1780 tax revenue, including information on sales and tax revenue broken down by marijuana and marijuana  
 1781 product category; (ii) the distribution of tax revenue; (iii) the total number of licenses issued and the number  
 1782 of licensees actively operating in the Commonwealth; (iv) ownership diversity; (v) the number of jobs created  
 1783 in the marijuana industry, including information on the number of people employed by specific license type;  
 1784 (vi) average wholesale and retail prices of different types of marijuana and marijuana products; (vii) licenses  
 1785 issued to or renewed for persons identified in subdivision B 13 of § 4.1-606; (viii) an anonymized summary of  
 1786 the compliance findings from any audit of ownership and financial relationships across all licenses  
 1787 conducted pursuant to the policies and procedures of subdivision 38; (ix) the impact of licensees with  
 1788 substantial market share of any category of licensure on the goals of (a) inclusion of microbusiness and  
 1789 impact licensees in the market, (b) maintaining adequate supplies of marijuana, and (c) prevention of  
 1790 dominant marketplace participation in the marijuana industry; (x) the potential expansion or contraction of  
 1791 the marijuana market in the Commonwealth, which may include information related to any increase in retail*

1792 marijuana sales and activity in the illicit market; (xi) information on the viability of marijuana establishments  
1793 in the Commonwealth; (xii) the feasibility of requiring dual-use marijuana facilities to offer for sale a certain  
1794 amount or percentage of marijuana and marijuana products cultivated or processed by microbusinesses and  
1795 impact licensees, including a proposed timeline for when such requirement may go into effect; and (xiii) any  
1796 recommendations, including recommendations for statutory or regulatory changes, to strengthen the  
1797 Commonwealth's marijuana retail market;

1798 40. Investigate the ownership and control interests of all licensees and approve or deny ownership,  
1799 financing, management, and brand-licensing agreements or contracts and issue divestiture orders as deemed  
1800 appropriate to ensure compliance with § 4.1-808;

1801 41. Coordinate with the Department of Criminal Justice Services to ensure the exchange of any  
1802 information necessary to comply with the reporting requirements of the Community Policing Reporting  
1803 Database established pursuant to § 52-30.3; and

1804 42. Do all acts necessary or advisable to carry out the purposes of this subtitle.

1805 **§ 4.1-606. Regulations of the Board.**

1806 A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general  
1807 laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and to prevent  
1808 the illegal cultivation, ~~manufacture~~ processing, transportation, distribution, sale, and testing of marijuana and  
1809 marijuana products. The Board may amend or repeal such regulations. ~~Such~~ Except as otherwise provided by  
1810 law, such regulations shall be promulgated, amended, or repealed in accordance with the Administrative  
1811 Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

1812 B. The Board shall promulgate regulations that:

1813 1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including  
1814 security requirements to include lighting, physical security, and alarm requirements, provided that such  
1815 requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

1816 2. Establish requirements for (i) securely transporting marijuana between marijuana establishments and  
1817 (ii) securely delivering marijuana or marijuana products from retail marijuana stores or microbusinesses  
1818 only in person to consumers, which shall include requirements for age verification, delivery radius, and  
1819 recordkeeping;

1820 3. Establish sanitary standards for ~~retail~~ marijuana product preparation;

1821 4. Establish a testing program for ~~retail~~ marijuana and ~~retail~~ marijuana products pursuant to Chapter 14  
1822 (§ 4.1-1400 et seq.);

1823 5. Establish an application process for licensure as a marijuana establishment pursuant to this subtitle in a  
1824 way that, when possible, prevents disparate impacts on historically *economically* disadvantaged communities;

1825 6. Establish requirements for health and safety warning labels to be placed on ~~retail~~ marijuana and ~~retail~~  
1826 marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the  
1827 provisions of this subtitle;

1828 7. Establish a maximum tetrahydrocannabinol level for ~~retail~~ marijuana products, which shall not exceed  
1829 (i) five 10 milligrams per serving for edible marijuana products and where practicable an equivalent amount  
1830 for other marijuana products or (ii) 50 100 milligrams per package for edible marijuana products and where  
1831 practicable an equivalent amount for other marijuana products. Such regulations may include other product  
1832 and dispensing limitations on tetrahydrocannabinol;

1833 8. Establish requirements for the form, content, and retention of all records and accounts by all licensees;

1834 9. Provide alternative methods for licensees to maintain and store business records that are subject to  
1835 Board inspection, including methods for Board-approved electronic and offsite storage;

1836 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana stores  
1837 in the community and (ii) metrics that have similarly shown an association with negative community-level  
1838 health outcomes or health disparities. In promulgating such regulations, the Board shall coordinate with the  
1839 Cannabis Public Health Advisory Council established pursuant to § 4.1-603. Such regulations shall ensure  
1840 that marijuana establishment licenses are, as possible and practicable, issued evenly among all areas of the  
1841 Commonwealth;

1842 11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer  
1843 within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the  
1844 address on record with the Board by certified mail, return receipt requested, and by regular mail;

1845 12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to  
1846 subsection C of § 4.1-1002 4.1-1003;

1847 13. Establish criteria by which to evaluate ~~social equity~~ identify impact license applicants, which shall be  
1848 an applicant ~~who has lived or been domiciled for at least 12 months in the Commonwealth and is either (i) an~~  
1849 ~~applicant with that has at least 66 percent ownership and direct control~~ by a person or persons who ~~meet at~~  
1850 ~~least four out of the following seven criteria: (i) have been convicted of or adjudicated delinquent for any~~  
1851 ~~misdemeanor or felony violation of § 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it~~  
1852 ~~relates to marijuana or any substantially similar offense under the laws of another jurisdiction; (ii) an~~  
1853 ~~applicant with at least 66 percent ownership by a person or persons who is are the parent, child, sibling, or~~

1854 spouse of a person who has been convicted of or adjudicated delinquent for any misdemeanor *or felony*  
 1855 violation of § 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana *or*  
 1856 *any substantially similar offense under the laws of another jurisdiction*; (iii) *an applicant with at least 66*  
 1857 *percent ownership by a person or persons who have resided for at least three of the past five years (a)*  
 1858 *between the years 2011 and 2025 in a jurisdiction that is determined by the Board, after utilizing census tract*  
 1859 *data made available by the United States Census Bureau, is determined to have been disproportionately*  
 1860 *policed for marijuana crimes *or* (b) for at least three of the past five years in a historically economically*  
 1861 *disadvantaged community*; (iv) *an applicant with at least 66 percent ownership by a person or persons who*  
 1862 *have resided for at least three of the last five years in a jurisdiction determined by the Board after utilizing*  
 1863 *census tract data made available by the United States Census Bureau to be economically distressed*; *or* (v) *an*  
 1864 *applicant with at least 66 percent ownership by a person or persons who graduated from a historically black*  
 1865 *have attended for at least five years a public elementary or secondary school located in a historically*  
 1866 *economically disadvantaged community*; (v) *have received a Federal Pell Grant or attended for at least two*  
 1867 *years a college or university located in the Commonwealth at which at least 30 percent of the students, on*  
 1868 *average, are eligible for a Federal Pell Grant*; (vi) *are veterans of the Armed Forces of the United States*; *or*  
 1869 *(vii) have qualified for financial assistance or relief from the U.S. Department of Agriculture as a distressed*  
 1870 *farmer in the last five years*;

1871 14. For the purposes of establishing criteria by which to evaluate social equity license applicants, establish  
 1872 standards by which to determine (i) which jurisdictions have been disproportionately policed for marijuana  
 1873 crimes and (ii) which jurisdictions are economically distressed;

1874 15. Establish For applicants that meet at least four out of the seven criteria set forth in subdivision 13,  
 1875 establish standards and requirements for (i) *any* a preference in the licensing process for qualified social  
 1876 equity applicants; (ii) what percentage of application or license fees are waived for a qualified social equity  
 1877 applicant, and to promote participation by impact licensees with an inability to pay standard application and  
 1878 license fees; (iii) a low-interest business loan program for qualified social equity applicants; (iv) a waiver of  
 1879 any requirements to show proof of funds or current possession and control of the proposed licensed premises  
 1880 at the time of application; and (v) to the extent practicable, the proportional distribution of licenses among  
 1881 the applicants set forth in clauses (i) through (vii) of subdivision 13. If at any time the Board determines that  
 1882 an impact license was obtained on the basis of a fraudulent financial transaction or predatory operating  
 1883 agreement or if a prohibited assignment, sale, or transfer of an impact license occurs in violation of  
 1884 subsection C of § 4.1-702, the Board shall immediately revoke the license and require the original impact  
 1885 licensee and any other true parties of interest to repay to the Commonwealth the full value of any and all  
 1886 application or licensing fees that were waived;

1887 16. 15. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal  
 1888 cultivation of marijuana that promote personal and public safety, including child protection, and discourage  
 1889 personal cultivation practices that create a nuisance, including a nuisance caused by odor;

1890 17. 16. Establish reasonable time, place, and manner restrictions on outdoor advertising of *retail* marijuana  
 1891 or *retail* marijuana products, not inconsistent with the provisions of this chapter, so that such advertising  
 1892 displaces the illicit market and notifies the public of the location of marijuana establishments. Such  
 1893 regulations shall be promulgated in accordance with § 4.1-1404 4.1-1402. Any such regulations related to  
 1894 *retail marijuana stores or microbusinesses shall be at least as stringent as those established for a*  
 1895 *pharmaceutical processor or cannabis dispensing facility*;

1896 18. 17. Establish restrictions on the number of licenses that a person may be granted to operate a  
 1897 marijuana establishment in single locality or region; and

1898 19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have been  
 1899 granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure all  
 1900 licensees have an equal and meaningful opportunity to participate in the market. Such regulations may limit  
 1901 the amount of products cultivated or manufactured by the pharmaceutical processor or industrial hemp  
 1902 processor that such processor may offer for sale in its *retail* marijuana stores

1903 18. Allow impact licensees to (i) enter into cooperative agreements with other impact licensees; (ii) lease  
 1904 space and equipment and cultivate, process, and sell marijuana and marijuana products on the premises of  
 1905 another licensee; and (iii) process marijuana or marijuana products out of a shared processing space;

1906 19. Establish an approval process for the Board to approve or deny ownership, financing, management,  
 1907 and brand-licensing agreements to ensure compliance with § 4.1-808 and establish objective criteria for  
 1908 determining whether a financial arrangement between a licensee and another party constitutes undue  
 1909 influence, including the consideration of factors such as price-setting authority, shelf-space control,  
 1910 financing dependency, or shared personnel;

1911 20. Establish additional market-concentration thresholds, including regional or statewide market-share  
 1912 and Herfindahl-Hirschman Index (HHI) benchmarks and policies and procedures for denying or  
 1913 conditioning the issuance of licenses or approval of transfers of licenses that would create undue market  
 1914 concentration; and

1915 21. Establish procedures governing ownership disclosure, prior written approval of the Board for the

1916 *assignment, sale, or transfer of any license or any change in ownership or control and background*  
1917 *investigations of transferees. Such regulations shall (i) require that ownership interests be traced through all*  
1918 *intermediary entities to the ultimate beneficial owners and (ii) include provisions specifying that a change of*  
1919 *control occurs upon the (a) acquisition of 25 percent or more of equity or voting power, (b) execution of any*  
1920 *instrument conferring appointment or removal rights over managers, or (c) cumulative transfers totaling 25*  
1921 *percent or more within any 24-month period.*

1922 C. The Board may promulgate regulations that:

1923 1. ~~Limit~~ Set the number of licenses issued by type or class to operate a marijuana establishment *in order to*  
1924 *ensure that there is a sufficient supply of marijuana to meet demand, provide market stability, ensure a*  
1925 *competitive market, and limit the sale of unregulated marijuana; however, the number of licenses issued*  
1926 *before January 1, 2028, shall not exceed the following limits:*

1927 a. Retail marijuana stores, 400 350; and  
1928 b. Marijuana wholesalers, 25;

1929 c. Marijuana manufacturing facilities, 60; and

1930 d. Marijuana cultivation facilities, 450 Tier V marijuana cultivation facilities, 5.

1931 In determining the number of licenses issued pursuant to this subdivision, the Board shall not consider any  
1932 licensee granted pursuant to subsection C of § 4.1-805 to (i) a pharmaceutical processor that has been issued a  
1933 permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or  
1934 (ii) an industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services  
1935 pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

1936 Beginning January 1, 2028, the Board shall determine the number of retail marijuana store and tier V  
1937 marijuana cultivation facility licenses that the Authority will issue consistent with the goals identified in this  
1938 subsection. If the Board makes an additional number of those licenses available, the number of licenses  
1939 available to impact licensee applicants shall be equal to or greater than the number of licenses available to  
1940 all other applicants.

1941 The Board may issue as many licenses as it deems necessary for any other license type not specified in  
1942 this subdivision. If the Board does limit the number of licenses available for any other license type not  
1943 specified in this subdivision, the number of licenses available to impact licensee applicants shall be equal to  
1944 or greater than the number of licenses available to all other applicants.

1945 2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-1003 and §  
1946 4.1-1004, including method of filing a return, information required on a return, and form of payment.

1947 3. Limit the allowable square footage of a retail marijuana store, which shall not exceed 1,500 2,500  
1948 square feet of retail floor space.

1949 4. Allow certain persons to be granted or have interest in a license in more than one of the following  
1950 licensee categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana  
1951 wholesaler license, or retail marijuana store license. Such regulations shall be drawn narrowly to limit vertical  
1952 integration to small businesses and ensure that all licensees have an equal and meaningful opportunity to  
1953 participate in the market. Limit or increase the number of registrations, licenses, and permits of each type to  
1954 be issued in accordance with subdivision 1 in a manner that prioritizes impact licensee applicants and  
1955 considers small business opportunities and concerns, avoids market dominance in sectors of the industry, and  
1956 reflects the demographics of the Commonwealth.

1957 D. Board regulations shall be uniform in their application, except those relating to hours of sale for  
1958 licensees.

1959 E. Courts shall take judicial notice of Board regulations.

1960 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any  
1961 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6, 7,  
1962 10, or 16 15, and, except as otherwise provided in § 4.1-603, shall not promulgate any such regulation that  
1963 has not been approved by a majority of the members of the Cannabis Public Health Advisory Council.

1964 G. With regard to regulations governing licensees that have been issued a permit by the Board of  
1965 Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2  
1966 (§ 54.1-3442.5 et seq.) of the Drug Control Act dual-use marijuana facilities, the Board shall make  
1967 reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board of  
1968 Pharmacy that establish health, safety, and security requirements for pharmaceutical processors and cannabis  
1969 dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated pursuant to this  
1970 subtitle such pharmaceutical processors and cannabis dispensing facilities that have been found to be in  
1971 compliance with regulations promulgated by the Board of Pharmacy that mirror or are more extensive in  
1972 scope than similar regulations promulgated pursuant to other provisions of this subtitle. Such regulations  
1973 shall not (a) prohibit pharmaceutical processors or cannabis dispensing facilities from cultivating,  
1974 processing, storing, packaging, transporting, or dispensing medical cannabis products in the same locations  
1975 as non-medical cannabis or marijuana or marijuana products; (b) prohibit commingling of any such business  
1976 practices; or (c) contain any requirements or restrictions that otherwise inhibit a pharmaceutical processor  
1977 or cannabis dispensing facility's ability to engage in streamlined and coordinated practices among its

1978 *medical and non-medical cannabis operations.*

1979 H. The Board's power to regulate shall be broadly construed.

1980 **§ 4.1-607. Board membership; terms; compensation.**

1981 A. The Authority shall be governed by a Board of Directors, which shall consist of ~~five~~ seven citizens at  
1982 large *as follows: five members appointed by the Governor and confirmed by the affirmative vote of a majority* of those voting in each house of the General Assembly *and two members appointed by the Joint Rules Committee and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly.* Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. *Members shall be appointed in a manner that ensures expertise among the Board members in health, law, agriculture, finance, and law enforcement.* Appointees shall reflect the racial, ethnic, gender, and geographic diversity of the Commonwealth. Appointees shall be subject to a background check in accordance with § 4.1-609.

1993 B. After the initial staggering of terms, members shall be appointed for a term of five years. All members  
1994 shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired  
1995 term. No member ~~appointed by the Governor~~ shall be eligible to serve more than two consecutive terms;  
1996 however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the  
1997 Board may be removed from office by the Governor for cause, including the improper use of its police  
1998 powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of  
1999 interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the  
2000 General Assembly, or refusal to carry out a lawful directive of the Governor.

2001 C. The Governor shall appoint the ~~chairman~~ chair and ~~vice-chairman~~ vice-chair of the Board from among  
2002 the membership of the Board. The Board may elect other subordinate officers, who need not be members of  
2003 the Board. The Board may also form committees and advisory councils, which may include representatives  
2004 who are not members of the Board, to undertake more extensive study and discussion of the issues before the  
2005 Board. A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and  
2006 no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties  
2007 of the Authority.

2008 D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be  
2009 held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written  
2010 request of a majority of the Board members.

2011 E. Members of the Board shall receive annually such salary, compensation, and reimbursement of  
2012 expenses for the performance of their official duties as set forth in the general appropriation act for members  
2013 of the House of Delegates when the General Assembly is not in session, except that the ~~chairman~~ chair of the  
2014 Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance  
2015 of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when  
2016 the General Assembly is not in session.

2017 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall  
2018 apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the  
2019 Authority.

2020 **§ 4.1-611. Seed-to-sale tracking system.**

2021 To ensure that no ~~retail~~ marijuana or ~~retail~~ marijuana products grown or processed by a marijuana  
2022 establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and  
2023 maintain a seed-to-sale tracking system that tracks ~~retail~~ marijuana from either the seed or immature plant  
2024 stage until the ~~retail~~ marijuana or ~~retail~~ marijuana product is sold to a customer at a retail marijuana store.

2025 **§ 4.1-614. Disposition of moneys collected by the Board.**

2026 A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall  
2027 be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of  
2028 salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as required by  
2029 § 2.2-1802.

2030 All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall  
2031 be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries  
2032 and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses  
2033 incurred in the administration of this subtitle.

2034 B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller to  
2035 the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as otherwise  
2036 provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits  
2037 quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in connection with  
2038 the administration of this subtitle and to provide for the depreciation on the buildings, plants, and equipment  
2039 owned, held, or operated by the Board. After accounting for the Authority's expenses as provided in

2040 subsection A, net profits shall be appropriated in the general appropriation act as follows:  
2041   1. *Forty Ten* percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;  
2042   2. *Thirty Sixty* percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.8;  
2043   3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which shall  
2044 distribute such appropriated funds to community services boards for the purpose of administering substance  
2045 use disorder prevention and treatment programs; and  
2046   4. Five percent to public health programs, including public awareness campaigns that are designed to  
2047 prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform the  
2048 public of other potential risks.

2049   C. As used in this section, "net profits" means the total of all moneys collected by the Board, less local  
2050 marijuana tax revenues collected under *subsection B of § 4.1-1004* and ~~distributed pursuant to § 4.1-614~~  
2051 *4.1-1004* and all costs, expenses, and charges authorized by this section.

2052   D. All local tax revenues collected under *subsection B of § 4.1-1004* shall be paid into the state  
2053 treasury as provided in subsection A and credited to a special fund, which is hereby created on the  
2054 Comptroller's books under the name "Collections of Local Marijuana Taxes." The revenues shall be credited  
2055 to the account of the locality in which they were collected. If revenues were collected from a marijuana  
2056 establishment located in more than one locality by reason of the boundary line or lines passing through the  
2057 marijuana establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall  
2058 provide to the Comptroller any records and assistance necessary for the Comptroller to determine the locality  
2059 to which tax revenues are attributable.

2060   On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper  
2061 amount in favor of each locality entitled to the return of its tax revenues, and such payments shall be charged  
2062 to the account of each such locality under the special fund created by this section. If errors are made in any  
2063 such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to  
2064 some other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.

2065   **§ 4.1-621. Certain information not to be made public.**

2066   Neither the Board nor its employees shall divulge any information regarding (i) financial reports or  
2067 records required pursuant to this subtitle; (ii) the purchase orders and invoices for ~~retail~~ marijuana or ~~retail~~  
2068 marijuana products filed with the Board by marijuana ~~wholesaler~~ licensees; (iii) taxes collected from,  
2069 refunded to, or adjusted for any person; or (iv) information contained in the seed-to-sale tracking system  
2070 maintained by the Board pursuant to § 4.1-611. The provisions of § 58.1-3 shall apply, mutatis mutandis, to  
2071 taxes collected pursuant to this subtitle and to purchase orders and invoices for ~~retail~~ marijuana or ~~retail~~  
2072 marijuana products filed with the Board by marijuana ~~wholesaler~~ licensees.

2073   Nothing contained in this section shall prohibit the use or release of such information or documents by the  
2074 Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation,  
2075 or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee, nor shall  
2076 this section prohibit the Board or its employees from compiling and disseminating to any member of the  
2077 public aggregate statistical information pertaining to (a) tax collection, as long as such information does not  
2078 reveal or disclose tax collection from any identified licensee; (b) the total amount of ~~retail~~ marijuana or ~~retail~~  
2079 marijuana products sales in the Commonwealth by marijuana ~~wholesaler~~ licensees collectively; or (c) the  
2080 total amount of purchases or sales submitted by licensees, provided that such information does not identify  
2081 the licensee.

2082   **§ 4.1-629. Local ordinances or resolutions regulating marijuana or marijuana products.**

2083   A. No county, city, or town shall, except as provided in § 4.1-630, adopt any ordinance or resolution that  
2084 regulates or prohibits the cultivation, processing, possession, sale, distribution, handling, transportation,  
2085 consumption, use, advertising, or dispensing of marijuana or marijuana products in the Commonwealth.

2086   B. However, the governing body of any county, city, or town may adopt an ordinance that prohibits in its  
2087 local public parks, playgrounds, public streets, or any sidewalk adjoining any public street the acts described  
2088 in § 4.1-1108 or the acts described in § 4.1-1109 and may provide a penalty for violation thereof.

2089   C. The governing body of any county, city, or town may adopt an ordinance that decreases the minimum  
2090 distance requirement (i) between retail marijuana stores and microbusinesses as specified in § 4.1-811 or (ii)  
2091 between a retail marijuana store or microbusiness and any place of religious worship; hospital; public,  
2092 private, or parochial school or institution of higher education; public or private playground or other similar  
2093 recreational facility; child day program; substance use disorder treatment facility; or federal, state, or local  
2094 government-operated facility as specified in § 4.1-811.

2095   D. Nothing in this chapter shall be construed to supersede or limit the authority of a locality to adopt and  
2096 enforce local ordinances to regulate businesses licensed pursuant to this chapter, including local zoning and  
2097 land use requirements and business license requirements.

2098   E. Except as provided in this section, all local acts, including charter provisions and ordinances of  
2099 counties, cities, and towns, inconsistent with any of the provisions of this subtitle, are repealed to the extent  
2100 of such inconsistency.

2101   **§ 4.1-630. Local ordinances regulating time of sale of marijuana and marijuana products.**

**2102**     *The governing body of each county may adopt ordinances effective in that portion of such county not*  
**2103** *embraced within the corporate limits of any incorporated town, and the governing body of each city and town*  
**2104** *may adopt ordinances effective in such city or town, fixing hours during which marijuana and marijuana*  
**2105** *products may be sold. Such governing bodies shall provide for fines and other penalties for violations of any*  
**2106** *such ordinances, which shall be enforced as if the violations were Class 1 misdemeanors with a right of*  
**2107** *appeal pursuant to § 16.1-106.*

**2108**      *A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the governing*  
**2109**      *body adopting it and transmitted to the Board.*

**2110** On and after the effective date of any ordinance adopted pursuant to this section, no marijuana store shall  
**2111** sell marijuana or marijuana products during the hours limited by the ordinance.

## CHAPTER 7.

## CHAPTER V. ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

### **ADMINISTRATION** § 4.1-700. *Exemptions from licensure.*

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

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

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

2135     § 4.1-702. Separate license for each place of business; transfer or amendment or license; mandatory  
2136     holding period for impact licenses; posting; expiration; civil penalties.

2137     A. Each license granted by the Board shall designate the place where the business of the licensee will be  
2138     carried on. A separate license shall be required for each separate place of business.

2139     B. No license shall be transferable from one location to another unless such transfer is conducted in  
2140 accordance with Board regulations. No license shall be assigned, sold, or transferred, nor shall ownership or  
2141 control of a license be changed, unless the licensee has received prior written approval by the Board and  
2142 such assignment, sale, transfer, or change is conducted in accordance with Board regulations. Any such  
2143 change made without approval of the Board is void and shall constitute grounds for immediate suspension or  
2144 revocation of all affected licenses.

2145 C. No impact licensee, nor any person holding a direct or indirect beneficial interest therein, shall sell,  
2146 assign, or transfer a controlling interest of more than 49 percent of the license to any person or entity for a  
2147 period of five years from the date the license is issued. The Board may, by regulation, provide for an  
2148 exception to this mandatory holding period for transfers made as part of an estate plan to a family member or  
2149 into a trust for the benefit of the licensee's immediate family.

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

2153 *E. Each license shall be posted in a location conspicuous to the public at the place where the licensee*  
2154 *carries on the business for which the license is granted.*

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

2159 The Board may grant licenses for one year or for multiple years, not to exceed three years, based on the  
2160 fees set by the Board pursuant to § 4.1-1002. Qualification for a multiyear license shall be determined on the  
2161 basis of criteria established by the Board. Fees for multiyear licenses shall not be refundable except as  
2162 provided in § 4.1-1003. The Board may provide a discount for two-year or three-year licenses, not to exceed  
2163 five percent of the applicable license fee, which extends for one fiscal year and shall not be altered or

2164 rescinded during such period.

2165 G. The Board may permit a licensee who fails to pay:

2166 1. The required license fee covering the continuation or reissuance of his license by midnight of the  
2167 fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable, to pay the  
2168 fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made within 30  
2169 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such fee, whichever is  
2170 greater; and

2171 2. The fee and civil penalty pursuant to subdivision 1 to pay the fee in lieu of posting and publishing  
2172 notice and reapplying, provided payment of the fee is made within 45 days following the 30 days specified in  
2173 subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such fee, whichever is greater.

2174 Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-614.

2175 **§ 4.1-703. Records of licensees; inspection of records and places of business.**

2176 A. Every licensed marijuana establishment shall keep complete, accurate, and separate records in  
2177 accordance with Board regulations of all marijuana and marijuana products it cultivated, purchased,  
2178 processed, sold, developed, researched, tested, or shipped.

2179 B. Every licensed retail marijuana store and microbusiness shall keep complete, accurate, and separate  
2180 records in accordance with Board regulations of all purchases of marijuana products, the prices charged  
2181 such licensee therefor, and the names and addresses of the persons from whom purchased. Every licensed  
2182 retail marijuana store shall also preserve all invoices showing its purchases for a period as specified by  
2183 Board regulations. The licensee shall also keep an accurate account of daily sales, showing quantities of  
2184 marijuana products sold and the total price charged by it therefor. Except as otherwise provided in  
2185 subsections C and D, such account need not give the names or addresses of the purchasers thereof, except as  
2186 may be required by Board regulation.

2187 Notwithstanding the provisions of subsection D, electronic records of licensed retail marijuana stores and  
2188 microbusinesses may be stored off-site, provided that such records are readily retrievable and available for  
2189 electronic inspection by the Board or its special agents at the licensed premises. However, in the case that  
2190 such electronic records are not readily available for electronic inspection on the licensed premises, the  
2191 licensee may obtain Board approval, for good cause shown, to permit the licensee to provide the records to a  
2192 special agent of the Board within three business days or less, as determined by the Board, after a request is  
2193 made to inspect the records.

2194 C. Every licensed marijuana testing facility shall keep records of the names and addresses of all licensees  
2195 or persons who submit marijuana or marijuana products to the marijuana testing facility.

2196 D. The Board and its special agents shall be allowed free access during reasonable hours to every place  
2197 in the Commonwealth and to the premises of every licensee or for the purpose of examining and inspecting  
2198 such place and all records, invoices, and accounts therein.

2199 For the purposes of a Board inspection of the records of any retail marijuana store licensees, "reasonable  
2200 hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the  
2201 public substantially during the same hours, "reasonable hours" means the business hours when the licensee  
2202 is open to the public. At any other time of day, if the retail marijuana store licensee's records are not  
2203 available for inspection, the licensee shall provide the records to a special agent of the Board within 24  
2204 hours after a request is made to inspect the records.

2205 **CHAPTER 8.**

2206 **ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.**

2207 **§ 4.1-800. Marijuana cultivation facility license.**

2208 A. The Board may issue any of the following marijuana cultivation facility licenses, which shall authorize  
2209 the licensee to cultivate, label, and package marijuana; to purchase or take possession of marijuana plants  
2210 and seeds from other marijuana cultivation facilities; to transfer possession of and sell marijuana, immature  
2211 marijuana plants, and marijuana seeds to retail marijuana stores; to transfer possession of marijuana,  
2212 immature marijuana plants, and marijuana seeds to marijuana transporters; to transfer possession of and  
2213 sell marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer  
2214 possession of and sell marijuana to marijuana processing facilities; and to transport marijuana, immature  
2215 marijuana plants, and marijuana seeds from the marijuana cultivation facility's licensed premises to another  
2216 licensed marijuana establishment:

2217 1. Tier I marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana  
2218 indoors or outdoors with a canopy that does not exceed limits established by the Board.

2219 2. Tier II marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana  
2220 indoors or outdoors with a canopy that does not exceed limits established by the Board.

2221 3. Tier III marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana  
2222 indoors with a canopy that does not exceed limits established by the Board.

2223 4. Tier IV marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana  
2224 indoors with a canopy that does not exceed limits established by the Board.

2225 5. Tier V marijuana cultivation facility license, which shall authorize the licensee to cultivate marijuana

2226 indoors with a canopy that does not exceed 35,000 square feet.

2227 In consideration of (i) market demand, (ii) utilization rates, (iii) sales data, (iv) product transfers, (v) inventory data, and (vi) the volume of license applications and issuances, the Board shall establish canopy limits not to exceed 35,000 square feet for tier I, II, III, and IV marijuana cultivation facility licenses set forth in this subsection and may adjust the canopy of tier V marijuana cultivation facilities within the square footage parameters set forth in this subsection if deemed appropriate. The Board may increase the canopy of a tier V marijuana cultivation facility beyond the square footage parameters set forth in this subsection if the Board determines that such increase will assist or encourage participation by impact licensees in the industry.

2235 B. In accordance with the requirements of § 4.1-611, a marijuana cultivation facility licensee shall track the marijuana it cultivates from seed or immature marijuana plant to the point at which the marijuana plant or the marijuana produced by the marijuana plant is transported or transferred to a marijuana testing facility, a marijuana transporter, another marijuana cultivation facility, a marijuana processor, or a retail marijuana store or is disposed of or destroyed.

2240 C. The cultivation of marijuana by a marijuana cultivation facility licensee in a secure agricultural greenhouse shall be considered indoor cultivation and shall be permitted, provided that the secure agricultural greenhouse is surrounded by a privacy fence that is no less than eight feet tall and is subject to monitored ingress and egress.

2244 D. All areas within the licensed premises of a marijuana cultivation facility in which marijuana is cultivated, labeled, packaged, or stored shall meet all sanitary standards specified in regulations adopted by the Board.

2247 **§ 4.1-801. Marijuana processing facility license.**

2248 A. The Board may issue marijuana processing facility licenses, which shall authorize the licensee to process, label, and package marijuana and marijuana products; to purchase or take possession of marijuana from a marijuana cultivation facility or another marijuana processing facility; to transfer possession of and sell marijuana and marijuana products to retail marijuana stores or other marijuana processing facilities; to transfer possession of marijuana and marijuana products to marijuana transporters; and to transport marijuana and marijuana products from the marijuana processing facility's licensed premises to another licensed marijuana establishment.

2255 B. All areas within the licensed premises of a marijuana processing facility in which marijuana and marijuana products are processed shall meet all sanitary standards specified in regulations adopted by the Board. A marijuana processing facility that processes an edible marijuana product shall comply with the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and any regulations adopted pursuant thereto.

2259 C. In accordance with the requirements of § 4.1-611, a marijuana processing facility licensee shall track the marijuana it uses in its processing from the point the marijuana is delivered or transferred to the marijuana processing facility by a marijuana transporter licensee to the point the marijuana or marijuana products produced using the marijuana are delivered or transferred to another marijuana processing facility, a retail marijuana store, a marijuana testing facility, or a marijuana transporter or are disposed of or destroyed.

2265 **§ 4.1-802. Retail marijuana store license.**

2266 A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to purchase or take possession of marijuana, marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility or marijuana processing facility; to take possession of marijuana, marijuana products, immature marijuana plants, or marijuana seeds from a marijuana transporter; to sell marijuana, marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to consumers on premises approved by the Board; to deliver marijuana, marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds only in person to consumers; to transfer possession of marijuana, marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to marijuana delivery operators; and to transport marijuana, marijuana products, marijuana paraphernalia, immature marijuana plants, and marijuana seeds from the retail marijuana store's licensed premises to another retail marijuana store.

2277 B. Retail marijuana stores shall be operated in accordance with the following provisions:

2278 1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.

2279 2. A retail marijuana store shall be permitted to sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds to consumers only (i) in a direct, face-to-face exchange; (ii) using a licensed marijuana delivery operator; or (iii) by delivery in person to consumers at any residence, including a temporary residence, or business; however, a retail marijuana store shall not deliver marijuana, marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to (a) any military base, child day center, school, or correctional facility; (b) the State Capitol; or (c) any public gathering places, including sporting events, festivals, fairs, races, concerts, and terminals of public transportation companies. A retail marijuana store shall not be permitted to sell marijuana, marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds using:

2288 a. An automated dispensing or vending machine;  
2289 b. A drive-through sales window; or  
2290 c. An internet-based sales platform.

2291 3. A retail marijuana store shall not be permitted to sell more than two and one-half ounces of marijuana  
2292 or an equivalent amount of marijuana products as determined by regulation promulgated by the Board  
2293 during a single transaction to one person.

2294 4. A retail marijuana store shall not market marijuana, marijuana products, marijuana paraphernalia,  
2295 immature marijuana plants, or marijuana seeds through an internet-based sales platform operated by a third  
2296 party or fulfill any order referred by such internet-based sales platform operated by a third party.

2297 5. A retail marijuana store shall not:

2298 a. Give away any marijuana, marijuana products, immature marijuana plants, or marijuana seeds except  
2299 as otherwise permitted by this subtitle; or

2300 b. Sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds to any person  
2301 when at the time of such sale he knows or has reason to believe that the person attempting to purchase the  
2302 marijuana, marijuana product, immature marijuana plant, or marijuana seeds is intoxicated or is attempting  
2303 to purchase marijuana for someone younger than 21 years of age.

2304 6. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track all  
2305 marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which the  
2306 marijuana, marijuana products, immature marijuana plants, or marijuana seeds are delivered or transferred  
2307 to the retail marijuana store to the point at which the marijuana, marijuana products, immature marijuana  
2308 plants, or marijuana seeds are sold to a consumer, delivered or transferred to a marijuana testing facility,  
2309 transferred to a marijuana delivery operator, or disposed of or destroyed.

2310 7. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et seq.) of  
2311 Title 3.2.

2312 C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the existence of  
2313 a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a  
2314 means to report crimes or gain assistance. The notice required by this subsection shall (i) be posted in a  
2315 place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of  
2316 § 40.1-11.3.

2317 D. Each retail marijuana store licensee shall prominently display and make available for dissemination to  
2318 consumers Board-approved information regarding the potential risks of marijuana use.

2319 E. Each retail marijuana store licensee shall provide training, established by the Board, to all employees  
2320 educating them on how to discuss the potential risks of marijuana use with consumers.

2321 F. All areas within the licensed premises of a retail marijuana store in which marijuana, marijuana  
2322 products, immature marijuana plants, or marijuana seeds are sold or stored shall meet all sanitary standards  
2323 specified in regulations adopted by the Board.

2324 **§ 4.1-803. Microbusiness license.**

2325 A. The Board may issue microbusiness licenses, which shall authorize the licensee to conduct any  
2326 activities authorized for marijuana cultivation facilities pursuant to § 4.1-800, marijuana processing  
2327 facilities pursuant to § 4.1-801, and retail marijuana stores pursuant to § 4.1-802, as determined by the  
2328 Board; however, (i) a microbusiness licensee shall process and sell only marijuana or marijuana products  
2329 cultivated or processed by such microbusiness licensee at its licensed premises; (ii) a microbusiness license  
2330 shall authorize the licensee to cultivate marijuana indoors or outdoors with an indoor canopy that does not  
2331 exceed 5,000 square feet and an outdoor canopy that does not exceed 10,000 square feet, or such other  
2332 comparable limits as the Board may establish by regulation; and (iii) a microbusiness licensee shall not hold  
2333 or control any other license and may operate only one licensed premises.

2334 B. Unless otherwise provided by law or the Board, a microbusiness licensee shall be subject to the same  
2335 statutory requirements and regulations as marijuana cultivation facilities, marijuana processing facilities,  
2336 and retail marijuana stores, including requirements for (i) tracking all marijuana, marijuana products,  
2337 immature marijuana plants, or marijuana seeds in accordance with § 4.1-611 and (ii) ensuring all areas  
2338 within the licensed premises of the microbusiness meet all sanitary standards specified in regulations  
2339 adopted by the Board.

2340 **§ 4.1-804. Marijuana transporter license.**

2341 A. The Board may issue marijuana transporter licenses, which shall authorize the licensee to take  
2342 possession of marijuana, marijuana products, immature marijuana plants, and marijuana seeds from a  
2343 marijuana cultivation facility, a marijuana processing facility, a retail marijuana store, or another marijuana  
2344 transporter; to transfer possession of marijuana, marijuana products, immature marijuana plants, and  
2345 marijuana seeds to a marijuana cultivation facility, marijuana processing facility, retail marijuana store, or  
2346 another marijuana transporter; and to transport marijuana, marijuana products, immature marijuana plants,  
2347 and marijuana seeds from one licensed establishment to another.

2348 B. All areas within the licensed premises of a marijuana transporter in which marijuana and marijuana  
2349 products are stored shall meet all sanitary standards specified in regulations adopted by the Board.

2350       C. In accordance with the requirements of § 4.1-611, a marijuana transporter licensee shall track the  
 2351 marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which the  
 2352 marijuana, marijuana products, plants, or seeds are delivered or transferred to the marijuana transporter to  
 2353 the point at which the marijuana, marijuana products, plants, or seeds are transferred to a marijuana  
 2354 processor, marijuana transporter, retail marijuana store, or marijuana testing facility or are disposed of or  
 2355 destroyed.

2356       **§ 4.1-805. Marijuana delivery operator license.**

2357       A. The Board may issue marijuana delivery operator licenses, which shall authorize the licensee to take  
 2358 possession of marijuana or marijuana products from a retail marijuana store, microbusiness, or dual-use  
 2359 marijuana facility and deliver such marijuana or marijuana products only in person to consumers at any  
 2360 residence, including a temporary residence, or business; however, a delivery operator licensee shall not  
 2361 deliver marijuana or marijuana products to (i) any military base, child day center, school, or correctional  
 2362 facility; (ii) the State Capitol; or (iii) any public gathering places, including sporting events, festivals, fairs,  
 2363 races, concerts, and terminals of public transportation companies.

2364       B. All areas within the licensed premises of a marijuana delivery operator licensee in which marijuana  
 2365 and marijuana products are stored shall meet all sanitary standards specified in regulations adopted by the  
 2366 Board.

2367       C. In accordance with the requirements of § 4.1-611, a marijuana delivery operator licensee shall track  
 2368 the marijuana or marijuana products from the point at which the marijuana or marijuana products are  
 2369 transferred to the marijuana delivery operator to the point at which the marijuana or marijuana products are  
 2370 delivered or transferred to the consumer or are disposed of or destroyed.

2371       **§ 4.1-806. Marijuana testing facility license.**

2372       A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to develop,  
 2373 research, or test marijuana, marijuana products, and other substances.

2374       B. A marijuana testing facility may develop, research, or test marijuana and marijuana products for (i)  
 2375 that facility, (ii) another licensee, or (iii) a person who intends to use the marijuana or marijuana product for  
 2376 personal use as authorized under § 4.1-1100.

2377       C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a marijuana  
 2378 testing facility from developing, researching, or testing substances that are not marijuana or marijuana  
 2379 products for that facility or for another person.

2380       D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and  
 2381 maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for  
 2382 Standardization by a third-party accrediting body.

2383       E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track all  
 2384 marijuana and marijuana products it receives from a licensee for testing purposes from the point at which the  
 2385 marijuana or marijuana products are delivered or transferred to the marijuana testing facility to the point at  
 2386 which the marijuana or marijuana products are disposed of or destroyed.

2387       F. A person that has an interest in a marijuana testing facility license shall not have any interest in a  
 2388 licensed marijuana cultivation facility, licensed marijuana processing facility, licensed marijuana  
 2389 transporter, licensed retail marijuana store, licensed microbusiness, or licensed dual-use marijuana facility.

2390       G. All areas within the licensed premises of a marijuana testing facility in which marijuana or marijuana  
 2391 products are tested or stored shall meet all sanitary standards specified in regulations adopted by the Board.

2392       **§ 4.1-807. Dual-use marijuana facility license.**

2393       A. The Board may issue dual-use marijuana facility licenses to pharmaceutical processors or cannabis  
 2394 dispensing facilities that have been issued a permit by the Board to operate pursuant to Chapter 16  
 2395 (§ 4.1-1600 et seq.).

2396       B. A dual-use marijuana facility license issued to a pharmaceutical processor shall authorize the licensee  
 2397 to (i) continue to operate as a pharmaceutical processor pursuant to Chapter 16 (§ 4.1-1600 et seq.) and (ii)  
 2398 conduct any activities authorized for marijuana cultivation facilities pursuant to § 4.1-800, marijuana  
 2399 processing facilities pursuant to § 4.1-801, and retail marijuana stores pursuant to § 4.1-802; however, a  
 2400 dual-use marijuana facility license shall authorize a pharmaceutical processor to cultivate marijuana  
 2401 indoors with a canopy that does not exceed 70,000 square feet, whether such canopy is utilized on the  
 2402 premises of the pharmaceutical processor or collectively on the premises of the pharmaceutical processor  
 2403 and one additional cultivation location established by the pharmaceutical processor pursuant to § 4.1-1602.

2404       C. A dual-use marijuana facility license issued to a cannabis dispensing facility shall authorize the  
 2405 licensee to (i) continue to operate as a cannabis dispensing facility pursuant to Chapter 16 (§ 4.1-1600 et  
 2406 seq.) and (ii) conduct any activities authorized for a retail marijuana store pursuant to § 4.1-802.

2407       D. Unless otherwise provided by law or the Board, a dual-use marijuana facility licensee shall be subject  
 2408 to the same statutory requirements and regulations as marijuana cultivation facilities, marijuana processing  
 2409 facilities, and retail marijuana stores, including requirements for (i) tracking all marijuana, marijuana  
 2410 products, immature marijuana plants, or marijuana seeds in accordance with § 4.1-611 and (ii) ensuring all  
 2411 areas within the licensed premises of the pharmaceutical processor or cannabis dispensing facility meet all

2412 sanitary standards specified in regulations adopted by the Board.

2413 **§ 4.1-808. Multiple licenses awarded to one person; limitations.**

2414 A. As used in this section, "interest" means a direct or indirect equity ownership interest, a partial equity  
2415 ownership interest, or any other financial or economic interest representing at least 10 percent or more of  
2416 the ownership, voting power, or economic value of an entity, including being an investor, partner, member,  
2417 officer, or director or serving in any other management position.

2418 B. A person may possess or hold interest in one or any combination of the following licenses pursuant to  
2419 Board regulations: tier I marijuana cultivation facility license, tier II marijuana cultivation facility license,  
2420 tier III marijuana cultivation facility license, tier IV marijuana cultivation facility license, tier V marijuana  
2421 cultivation facility license, marijuana processing facility license, marijuana transporter license, marijuana  
2422 delivery operator license, or retail marijuana store license. Board regulations shall be drawn to ensure that  
2423 all licensees have an equal and meaningful opportunity to participate in the market. Moreover, except as  
2424 provided in subsection C, (i) no person shall be granted or hold interest in more than five total licenses, not  
2425 including marijuana transporter licenses, issued pursuant to this subtitle or more than one tier V marijuana  
2426 cultivation facility license; (ii) no person that has been granted or holds interest in a marijuana cultivation  
2427 facility license, marijuana processing facility license, marijuana transporter license, marijuana delivery  
2428 operator license, retail marijuana store license, microbusiness license, or dual-use marijuana facility license  
2429 shall be issued or hold interest in a marijuana testing facility license; and (iii) no person that has been  
2430 granted or holds interest in a microbusiness license shall be issued or hold interest in any other marijuana  
2431 establishment.

2432 C. Notwithstanding any other provision of law, no person may possess or hold an interest in more than six  
2433 dual-use marijuana facility licenses.

2434 **§ 4.1-809. Temporary permits required in certain instances.**

2435 A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure, secured  
2436 creditor's, or judicial auction sale the premises or property of a person licensed by the Board and who has  
2437 become lawfully entitled to the possession of the licensed premises to continue to operate the marijuana  
2438 establishment to the same extent as the license holder for a period not to exceed 60 days or for such longer  
2439 period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any  
2440 licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be  
2441 issued in advance, conditioned on the requirements in this subsection.

2442 B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board for any  
2443 cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a temporary  
2444 permit shall be effective upon service of the order of revocation upon the permittee or upon the expiration of  
2445 three business days after the order of the revocation has been mailed to the permittee at either his residence  
2446 or the address given for the business in the permit application. No further notice shall be required.

2447 **§ 4.1-810. Licensee shall maintain possession of premises.**

2448 As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises of  
2449 the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease, rental  
2450 agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises. If  
2451 the licensee fails to maintain possession of the licensed premises, the license shall be revoked by the Board.

2452 **§ 4.1-811. Conditions under which the Board shall or may refuse to grant licenses.**

2453 A. The Board may refuse to grant any license if it has reasonable cause to believe that the granting of the  
2454 license would be detrimental to the interest, morals, safety, or welfare of the public or would be inconsistent  
2455 with the provisions of this subtitle.

2456 B. The Board shall refuse to grant any license if it has reasonable cause to believe that:

2457 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an  
2458 association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the  
2459 applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital  
2460 stock, or if the applicant is a limited liability company, any member-manager or any member owning 10  
2461 percent or more of the membership interest of the limited liability company:

2462 a. Is not 21 years of age or older;

2463 b. Has been convicted in any court of a felony, other than a conviction for a felony violation of  
2464 § 18.2-248.1, or any crime or offense involving moral turpitude under the laws of any state or of the United  
2465 States within seven years of the date of the application or has not completed all terms of sentencing and  
2466 probation resulting from any such conviction;

2467 c. Knowingly employs or allows to volunteer someone younger than 21 years of age;

2468 d. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership  
2469 interests in the business that have not been disclosed;

2470 e. Has not demonstrated financial responsibility sufficient to meet the requirements of the business  
2471 proposed to be licensed;

2472 f. Has misrepresented a material fact in applying to the Board for a license;

2473 g. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or

2474 governmental agency or authority, by making or filing any report, document, or tax return required by statute  
 2475 or regulation that is fraudulent or contains a false representation of a material fact, or has willfully deceived  
 2476 or attempted to deceive the Board, or any federal, state, or local government or governmental agency or  
 2477 authority, by making or maintaining business records required by statute or regulation that are false or  
 2478 fraudulent;

2479 h. Is violating or allowing the violation of any provision of this subtitle in his establishment at the time his  
 2480 application for a license is pending;

2481 i. Is a full-time or part-time employee of the Department of State Police or of a police department or  
 2482 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof,  
 2483 and who is responsible for the enforcement of the penal, traffic, or motor vehicle laws of the Commonwealth;

2484 j. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the Board  
 2485 for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.); or

2486 k. Is physically unable to carry on the business for which the application for a license is filed or has been  
 2487 adjudicated incapacitated.

2488 2. The applicant is a member or employee of the Board or is a corporation or other business entity in  
 2489 which a member or employee of the Board is a stockholder or has any other economic interest. Whenever any  
 2490 other elected or appointed official of the Commonwealth or any political subdivision thereof applies for such  
 2491 a license or continuance thereof, he shall state on the application the official position he holds, and whenever  
 2492 a corporation or other business entity in which any such official is a stockholder or has any other economic  
 2493 interest applies for such a license, it shall state on the application the full economic interests of each such  
 2494 official in such corporation or other business entity.

2495 3. The place to be occupied by the applicant:

2496 a. Does not conform to the requirements of the governing body of the county, city, or town in which such  
 2497 place is located with respect to sanitation, health, construction, or equipment, or to any similar requirements  
 2498 established by the laws of the Commonwealth or by Board regulation;

2499 b. Is so located that granting a license and operation thereunder by the applicant would result in  
 2500 violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local  
 2501 ordinances relating to peace and good order;

2502 c. When the applicant is applying for a retail marijuana store license or microbusiness license, is (i)  
 2503 located within 1,000 feet of any place of religious worship; hospital; public, private, or parochial school or  
 2504 institution of higher education; public or private playground or other similar recreational facility; child day  
 2505 program; substance use disorder treatment facility; or federal, state, or local government-operated facility,  
 2506 unless the locality has adopted an ordinance decreasing the minimum distance requirement between retail  
 2507 marijuana stores and such facilities, programs, or institutions or (ii) so located with respect to any such  
 2508 facilities, programs, or institutions that the operation of such place under such license will adversely affect or  
 2509 interfere with the normal, orderly conduct of the affairs of such facilities, programs, or institutions;

2510 d. When the applicant is applying for a retail marijuana store license or microbusiness license, is so  
 2511 located with respect to any residence or residential area that the operation of such place under such license  
 2512 will adversely affect real property values or substantially interfere with the usual quietude and tranquility of  
 2513 such residence or residential area;

2514 e. When the applicant is applying for a retail marijuana store license or microbusiness license, is located  
 2515 within 1,000 feet of an existing retail marijuana store, unless the locality has adopted an ordinance  
 2516 decreasing the distance requirement between retail marijuana stores;

2517 f. When the applicant is applying for a retail marijuana store license or microbusiness license, is so  
 2518 constructed, arranged, or illuminated that law-enforcement officers and special agents of the Board are  
 2519 prevented from ready access to and reasonable observation of any room or area within which marijuana or  
 2520 marijuana products are to be sold; or

2521 g. Is an establishment where alcoholic beverages, tobacco, or tobacco products are manufactured, sold,  
 2522 or used.

2523 Nothing in this subdivision 3 shall be construed to require an applicant to have secured a place or  
 2524 premises until the final stage of the license approval process.

2525 4. The number of licenses existing in the locality is such that the granting of a license is detrimental to the  
 2526 interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall consider (i) the  
 2527 criteria established by the Board to evaluate new licensees based on the density of retail marijuana stores in  
 2528 the community; (ii) the character of, population of, number of similar licenses in, and number of all licenses  
 2529 existent in the particular county, city, or town and the immediate neighborhood concerned; (iii) the effect that  
 2530 a new license may have on such county, city, town, or neighborhood in conforming with the purposes of this  
 2531 subtitle; and (iv) the objections, if any, that may have been filed by a local governing body or local residents.

2532 5. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any political  
 2533 subdivision thereof that warrants refusal by the Board to grant any license.

2534 6. The Board is not authorized under this subtitle to grant such license.

2535 § 4.1-812. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.

2536     A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial  
2537 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in  
2538 subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided by the  
2539 Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from  
2540 any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall  
2541 not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither  
2542 mandamus nor injunction shall lie in any such case.

2543     B. The Board may refuse a hearing on any application for the granting of any retail marijuana store  
2544 license, provided that such:

2545       1. License for the applicant has been refused or revoked within a period of 12 months;

2546       2. License for any premises has been refused or revoked at that location within a period of 12 months; or

2547       3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted by the  
2548 Board to expire for nonpayment of license fee, and at the time of expiration of such license, there was a  
2549 pending and unadjudicated charge, either before the Board or in any court, against the licensee alleging a  
2550 violation of this subtitle.

2551     C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time of  
2552 expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the  
2553 Board may refuse a hearing on an application for a new license until after the date on which the suspension  
2554 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.**

2558     A. The Board may suspend or revoke any license if it has reasonable cause to believe that:

2559       1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an  
2560 association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the  
2561 licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock,  
2562 or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or  
2563 more of the membership interest of the limited liability company:

2564           a. Has misrepresented a material fact in applying to the Board for such license;

2565           b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-903,  
2566 has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.), or Chapter  
2567 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or failed or  
2568 refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to comply with  
2569 any of the conditions or restrictions of the license granted by the Board;

2570           c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under  
2571 the laws of any state or of the United States;

2572           d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other  
2573 persons have ownership interests in the business that have not been disclosed;

2574           e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business  
2575 conducted under the license granted by the Board;

2576           f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed  
2577 premises;

2578           g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become  
2579 a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of  
2580 ill repute, or has allowed any form of illegal gambling, as defined in § 18.2-325, to take place upon such  
2581 premises;

2582           h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such  
2583 licensed premises;

2584           i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana product  
2585 except as provided under this subtitle;

2586           j. Is physically unable to carry on the business conducted under such license or has been adjudicated  
2587 incapacitated;

2588           k. Has possessed any illegal gambling device upon the licensed premises;

2589           l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly  
2590 allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use, controlled  
2591 substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as those terms  
2592 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  
2593 Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired  
2594 to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug  
2595 Control Act. The provisions of this subdivision l shall also apply to any conduct related to the operation of  
2596 the licensed business that facilitates the commission of any of the offenses set forth herein;

2597           m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises

2598 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of  
 2599 public property immediately adjacent to the licensed premises from becoming a place where patrons of the  
 2600 establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1  
 2601 (§ 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.),  
 2602 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  
 2603 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  
 2604 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  
 2605 violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to  
 2606 the public safety;

2607 n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious  
 2608 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises  
 2609 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of  
 2610 public property immediately adjacent to the licensed premises; or

2611 o. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the Board  
 2612 for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.).

2613 2. The place occupied by the licensee:

2614 a. Does not conform to the requirements of the governing body of the county, city, or town in which such  
 2615 establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar  
 2616 requirements established by the laws of the Commonwealth or by Board regulations;

2617 b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

2618 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,  
 2619 prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are  
 2620 regularly used or distributed. The Board may consider the general reputation in the community of such  
 2621 establishment in addition to any other competent evidence in making such determination.

2622 3. The licensee or any employee of the licensee discriminated against any member of the Armed Forces of  
 2623 the United States by prices charged or otherwise.

2624 4. Any cause exists for which the Board would have been entitled to refuse to grant such license had the  
 2625 facts been known.

2626 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties  
 2627 or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified  
 2628 by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding  
 2629 amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with  
 2630 respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by  
 2631 the same locality to settle the outstanding liability.

2632 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its  
 2633 agents or employees constituting a pattern or practice of employing unauthorized aliens on the licensed  
 2634 premises in the Commonwealth.

2635 7. The Board finds that the licensee assigned, sold, or transferred a license or changed ownership or  
 2636 control of the license without prior written approval of the Board as required pursuant to § 4.1-702.

2637 8. Any other cause authorized by this subtitle.

2638 B. The Board shall promulgate regulations regarding suspension and revocation standards and protocols.  
 2639 § 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.

2640 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the Administrative  
 2641 Process Act or § 4.1-809 or 4.1-903, the Board may summarily suspend any license or permit if it has  
 2642 reasonable cause to believe that an act of violence resulting in death or serious bodily injury, or a recurrence  
 2643 of such acts, has occurred on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed  
 2644 premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent  
 2645 to the licensed premises, and the Board finds that there exists a continuing threat to public safety and that  
 2646 summary suspension of the license or permit is justified to protect the health, safety, or welfare of the public.

2647 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall  
 2648 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of any  
 2649 such act of violence. If the Board determines suspension is warranted, it shall immediately notify the licensee  
 2650 of its intention to temporarily suspend his license pending the outcome of a formal investigation. Such  
 2651 temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period, the  
 2652 licensee may petition the Board for a restricted license pending the results of the formal investigation and  
 2653 proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the Board  
 2654 shall have discretion to impose appropriate restrictions based on the facts presented.

2655 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a  
 2656 formal investigation. The formal investigation shall be completed within 10 days of its commencement and  
 2657 the findings reported immediately to the Secretary of the Board. If, following the formal investigation, the  
 2658 Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held within  
 2659 five days of the completion of the formal investigation. A decision shall be rendered within 10 days of the

2660 conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the hearing, the  
2661 order of suspension shall be vacated and the license reinstated. Any appeal by the licensee shall be filed  
2662 within 10 days of the decision and heard by the Board within 20 days of the decision. The Board shall render  
2663 a decision on the appeal within 10 days of the conclusion of the appeal hearing.

2664 D. Service of any order of suspension issued pursuant to this section shall be made by a special agent of  
2665 the Board in person and by certified mail to the licensee. The order of suspension shall take effect  
2666 immediately upon service.

2667 E. This section shall not apply to temporary permits granted under § 4.1-809.

2668 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

2669 The Board shall suspend or revoke any license if it finds that:

2670 1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a  
2671 gambling device, upon the premises for which the Board has granted a retail marijuana store license.

2672 2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local government  
2673 or governmental agency or authority, by making or filing any report, document, or tax return required by  
2674 statute or regulation that is fraudulent or contains a willful or knowing false representation of a material fact  
2675 or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or  
2676 governmental agency or authority, by making or maintaining business records required by statute or  
2677 regulation that are false or fraudulent.

2678 3. The licensee is not operational within 24 months of the issuance of the license.

2679 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.**

2680 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or  
2681 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the  
2682 Administrative Process Act (§ 2.2-4000 et seq.).

2683 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee,  
2684 permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the  
2685 licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or  
2686 present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board  
2687 and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle  
2688 against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or  
2689 copies or portions thereof, that are within the possession, custody, or control of the Board and upon which  
2690 the Board intends to rely as evidence in any adversarial proceeding under this subtitle against the licensee.  
2691 In addition, any subpoena for the production of documents issued to any person at the request of the licensee  
2692 or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought within 10  
2693 working days, notwithstanding anything to the contrary in § 4.1-604.

2694 If the Board fails to provide for inspection or copying under this section for the licensee after a written  
2695 request, the Board shall be prohibited from introducing into evidence any items the licensee would have  
2696 lawfully been entitled to inspect or copy under this section.

2697 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall be  
2698 subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such review  
2699 shall extend to the entire evidentiary record of the proceedings provided by the Board in accordance with the  
2700 Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court.  
2701 Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed,  
2702 or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction  
2703 shall lie in any such case.

2704 B. In suspending any license, the Board may impose, as a condition precedent to the removal of such  
2705 suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in  
2706 investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and  
2707 collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty  
2708 exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the  
2709 violation or \$5,000 for the second or subsequent violation occurring within five years immediately preceding  
2710 the date of the second or subsequent violation. However, if the violation involved selling marijuana or  
2711 marijuana products to a person prohibited from purchasing marijuana or marijuana products or allowing  
2712 consumption of marijuana or marijuana products, the Board may impose a civil penalty not to exceed \$3,000  
2713 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000  
2714 for a second or subsequent violation occurring within five years immediately preceding the date of the second  
2715 or subsequent violation in lieu of such suspension or any portion thereof, or both. The Board may also  
2716 impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$25,000 in  
2717 investigating the licensee and in holding the proceeding resulting in the violation in addition to any  
2718 suspension or civil penalty incurred.

2719 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his  
2720 license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent  
2721 agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the option to (a)

2722 admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal  
 2723 under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed restrictions for  
 2724 operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's  
 2725 parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as  
 2726 applicable, or (4) proceed to a hearing.

2727 D. The Board shall, by regulation or written order:

2728 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial  
 2729 hearing;

2730 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of  
 2731 suspension may be accepted for a first offense occurring within three years immediately preceding the date of  
 2732 the violation;

2733 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil  
 2734 penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to its  
 2735 employees marijuana seller training certified in advance by the Board;

2736 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license  
 2737 and the civil charge acceptable in lieu of such suspension; and

2738 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee  
 2739 has had no prior violations within five years immediately preceding the date of the violation. No waiver shall  
 2740 be granted by the Board, however, for a licensee's willful and knowing violation of this subtitle or Board  
 2741 regulations.

2742 **§ 4.1-904. Suspension or revocation; disposition of marijuana or marijuana products on hand;  
 2743 termination.**

2744 A. Marijuana or marijuana products owned by or in the possession of or for sale by any licensee at the  
 2745 time the license of such person is suspended or revoked may be disposed of as follows:

2746 1. Sold to persons in the Commonwealth licensed to sell such marijuana or marijuana products upon  
 2747 permits granted by the Board in accordance with § 4.1-809 and conditions specified by the Board; or

2748 2. Destroyed by the Board or its designee.

2749 B. All marijuana or marijuana products owned by or in the possession of any person whose license is  
 2750 suspended or revoked shall be disposed of by such person in accordance with the provisions of this section  
 2751 within 60 days from the date of such suspension or revocation.

2752 C. Marijuana or marijuana products owned by or in the possession of or for sale by persons whose  
 2753 licenses have been terminated other than by suspension or revocation may be disposed of in accordance with  
 2754 subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.

2755 D. All marijuana or marijuana products owned by or remaining in the possession of any person described  
 2756 in subsection A or C after the expiration of such period shall be deemed contraband and forfeited to the  
 2757 Commonwealth in accordance with the provisions of § 4.1-1303.

2758 CHAPTER 10.

2759 ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.

2760 **§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.**

2761 A. Every person intending to apply for any license authorized by this subtitle shall file with the Board an  
 2762 application on forms provided by the Board and a statement in writing by the applicant swearing and  
 2763 affirming that all of the information contained therein is true.

2764 B. Such applications, including applications for renewal, shall include any information necessary for the  
 2765 Board to determine whether the applicant meets or continues to meet the criteria set forth in subdivision B 13  
 2766 of § 4.1-606.

2767 C. Applicants for licenses for establishments that are otherwise required to obtain an inspection by the  
 2768 Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a pending  
 2769 request for such inspection. If the applicant provides proof of inspection or proof of a pending request for an  
 2770 inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending  
 2771 application or inspection, such license shall authorize the licensee to purchase marijuana, marijuana  
 2772 products, immature marijuana plants, or marijuana seeds in accordance with the provisions of this subtitle;  
 2773 however, the licensee shall not sell marijuana, marijuana products, immature marijuana plants, or marijuana  
 2774 seeds until an inspection is completed.

2775 D. Each applicant for a license under the provisions of this subtitle shall post a notice of his application  
 2776 with the Board on the front door of the building, place, or room where he proposes to engage in such  
 2777 business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such  
 2778 information as required by the Board, including a statement that any objections shall be submitted to the  
 2779 Board not more than 30 days following initial posting of the notice required pursuant to this subsection.

2780 The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a  
 2781 newspaper published in or having a general circulation in the county, city, or town wherein such applicant  
 2782 proposes to engage in such business. Such notice shall contain such information as required by the Board,  
 2783 including a statement that any objections to the issuance of the license be submitted to the Board not later

2784 than 30 days from the date of the initial newspaper publication.

2785 E. The Board shall conduct a background investigation on each license applicant, which shall include a  
2786 criminal history records search and may include a fingerprint-based national criminal history records search  
2787 and a requirement for the provision of personal descriptive information to be forwarded through the Central  
2788 Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal  
2789 history record information regarding such applicant. The Central Criminal Records Exchange shall forward  
2790 the results of the criminal history background check to the Board or its designee, which shall be a  
2791 governmental entity.

2792 However, the Board may waive, for good cause shown, the requirement for a criminal history records  
2793 search and completed personal data form for officers, directors, nonmanaging members, or limited partners  
2794 of any applicant corporation, limited liability company, or limited partnership. In considering criminal  
2795 history record information, subject to the provisions of subdivision B 1 b of § 4.1-811, the Board shall not  
2796 disqualify an applicant because of a past conviction for a marijuana-related offense.

2797 F. The Board shall notify the local governing body of each license application through the town manager,  
2798 city manager, county administrator, or other designee of the locality. Local governing bodies shall submit  
2799 objections to the granting of a license within 30 days of the filing of the application.

2800 G. Each applicant shall pay the required application fee at the time the application is filed. The license  
2801 application fee shall be determined by the Board and shall be in addition to the actual cost charged to the  
2802 Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records  
2803 Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central  
2804 Criminal Records Exchange for each criminal history records search required by the Board. Application fees  
2805 shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.

2806 H. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however, all  
2807 licensees shall file and maintain with the Board a current, accurate record of the information required by the  
2808 Board pursuant to subsection A and notify the Board of any changes to such information in accordance with  
2809 Board regulations.

2810 I. Every application for a permit granted pursuant to § 4.1-809 shall be on a form provided by the Board.  
2811 Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as  
2812 otherwise provided by law.

2813 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for  
2814 applicable licenses to sell marijuana or marijuana products computed to the nearest cent and multiplied by  
2815 the number of months for which the permit is granted.

2816 J. The Board shall have the authority to increase state license fees. The Board shall set the amount of  
2817 such increases on the basis of the consumer price index and shall not increase fees more than once every  
2818 three years. Prior to implementing any state license fee increase, the Board shall provide notice to all  
2819 licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that  
2820 would be required for any license affected by the Board's proposed fee increases. Such notice shall be  
2821 provided on or before November 1 in any year in which the Board has decided to increase state license fees,  
2822 and such increases shall become effective July 1 of the following year.

#### 2823 § 4.1-1001. Labor peace agreements.

2824 A. For purposes of this section:

2825 "Bona fide labor organization" means a labor organization, as defined by 29 U.S.C. § 402(i), that is  
2826 actively seeking to represent marijuana establishment employees in the Commonwealth. In determining  
2827 whether a labor organization is a bona fide labor organization, the Authority shall consider each of the  
2828 following as indicative, but not determinative, of a finding that a labor organization is a bona fide labor  
2829 organization:

2830 1. The labor organization has been recognized or certified as the bargaining representative for marijuana  
2831 establishment employees in the Commonwealth;

2832 2. The labor organization has executed current collective bargaining agreements with marijuana  
2833 establishment employers in the Commonwealth;

2834 3. The labor organization has spent resources as part of current and active attempts to organize and  
2835 represent marijuana establishments in the Commonwealth;

2836 4. The labor organization has filed the annual report required by 29 U.S.C. § 431(b) for the three years  
2837 immediately preceding;

2838 5. The labor organization has audited financial reports covering the three years immediately preceding;

2839 6. The existence of written bylaws or a constitution for the three years immediately preceding; and

2840 7. The labor organization's affiliation with any regional or national association of unions, including  
2841 central labor councils.

2842 "Labor peace agreement" means an agreement between a marijuana establishment and a bona fide labor  
2843 organization that, at a minimum, protects the Commonwealth's proprietary interests by prohibiting the labor  
2844 organization from engaging in picketing, work stoppages, or boycotts against the marijuana establishment.

2845 B. All marijuana establishment license applicants, renewal applicants, and license holders shall have

2846 entered into, maintained, and abided by the terms of a labor peace agreement. Such labor peace agreement  
 2847 requirement is an ongoing material condition of the license, of which a violation may result in denial,  
 2848 suspension, or revocation of the license.

2849 C. All initial marijuana establishment license applicants shall submit a labor peace agreement attestation  
 2850 (LPA attestation) signed by both the applicant and the bona fide labor organization stating that the applicant  
 2851 meets this section's requirements and has entered into, maintained, and abided by the terms of the LPA  
 2852 attestation. All renewal applicants must submit a new LPA attestation executed within 10 days of the  
 2853 submission date of the renewal application. An applicant's failure to submit a timely LPA attestation shall  
 2854 result in a denial of the initial or renewal license.

2855 D. The Authority shall be required to determine a schedule establishing the ongoing review of the status  
 2856 and maintenance of a labor peace agreement to assess eligibility of license holder. Upon review and findings  
 2857 of unsatisfactory status or the insufficient maintenance of a labor peace agreement, the Authority shall  
 2858 suspend a licensee for a marijuana establishment.

2859 **§ 4.1-1002. Fees for state licenses.**

2860 A. Annual fees on state licenses shall be established by the Board in an amount sufficient to cover the  
 2861 costs of regulating the marijuana establishment.

2862 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal  
 2863 to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by the number of  
 2864 months in the license period, and then increased by five percent. Such fee shall not be refundable, except as  
 2865 provided in § 4.1-1003.

2866 C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state restaurant  
 2867 license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this subtitle, shall  
 2868 be liable to state merchants' license taxation, state restaurant license taxation, and other state taxation.

2869 D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license purchased in  
 2870 person from the Board if such license is available for purchase online.

2871 **§ 4.1-1003. Refund of state license fee.**

2872 A. The Board may (i) correct erroneous assessments made by it against any person, (ii) refund any  
 2873 amounts collected through erroneous assessments or collected as fees on license applications that are  
 2874 subsequently refused or withdrawn, and (iii) allow credit for any license fees paid for any license that is  
 2875 subsequently merged or changed into another license during the same license period. No refund shall be  
 2876 made of any such amount, however, unless made within three years from the date of collection of the same.

2877 B. In any case where a licensee has changed its name or form of organization during a license period  
 2878 without any change being made in its ownership, and because of such change is required to pay an additional  
 2879 license fee for such period, the Board shall refund to such licensee the amount of such fee so paid in excess of  
 2880 the required license fee for such period.

2881 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of  
 2882 state license fees paid pursuant to subsection A of § 4.1-1002 if the place of business designated in the license  
 2883 is destroyed by an act of God, including a fire, earthquake, hurricane, storm, or similar natural disaster or  
 2884 phenomenon.

2885 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of  
 2886 moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

2887 **§ 4.1-1004. Marijuana taxes; exceptions.**

2888 A. A tax of eight percent is levied on the sale in the Commonwealth of any marijuana or marijuana  
 2889 products. Subject to the provisions of subsection C, the tax shall be in addition to any tax imposed under the  
 2890 Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) or any other provision of federal, state, or local  
 2891 law. The tax shall not apply to any sale:

- 2892 1. From a marijuana establishment to another marijuana establishment.
- 2893 2. Of cannabis products for treatment under the provisions of Chapter 16 (§ 4.1-1600 et seq.).
- 2894 3. Of industrial hemp by a grower, processor, or handler under the provisions of Chapter 41.1  
 2895 (§ 3.2-4112 et seq.) of Title 3.2.
- 2896 4. Of a hemp product.

2897 B. 1. Each locality shall by ordinance levy an additional local tax on any sale taxable under subsection A  
 2898 at a rate not less than one percent but not greater than three and one-half percent. Other than the tax  
 2899 authorized and identified in this subsection, a locality shall not impose any other tax on a sale taxable under  
 2900 subsection A. The tax imposed by a surrounding county under this subsection shall not apply within the limits  
 2901 of any town. Each locality shall, within 30 days, notify the Authority and any retail marijuana store in such  
 2902 locality of the ordinance enacted pursuant to this subsection. The ordinance shall take effect on the first day  
 2903 of the second month following its enactment and such rate shall be effective for at least three years.

2904 2. Nothing in this subsection shall be construed to (i) prohibit a locality from imposing any tax authorized  
 2905 by law on a person or property regulated under this subtitle or (ii) limit the authority of any locality to  
 2906 impose a license or privilege tax or fee on a business engaged in whole or in part in sales taxable under  
 2907 subsection A if such tax or fee is (a) based on an annual or per-event flat fee authorized by law or (b) an

2908 annual license or privilege tax authorized by law and such tax includes sales or receipts taxable under  
2909 subsection A in its taxable measure.

2910 C. Any tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) on a sale taxable  
2911 under subsection A shall be limited to a 1.125 percent tax, which shall be distributed as follows: (i) the  
2912 revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C, and D of  
2913 § 58.1-638 and (ii) the revenue from the tax at the rate of 0.125 percent shall be distributed as provided in  
2914 subdivision F 2 of § 58.1-638. No other tax shall be levied pursuant to the Virginia Retail Sales and Use Tax  
2915 Act (§ 58.1-600 et seq.) on a sale taxable under subsection A.

2916 D. All revenues remitted to the Authority under this subsection shall be disposed of as provided in  
2917 § 4.1-614.

2918 **§ 4.1-1005. Tax returns and payments; commissions; interest.**

2919 A. For any sale taxable under § 4.1-1004, the seller shall be liable for collecting any taxes due. All taxes  
2920 collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not be liable  
2921 for collecting or remitting the taxes or filing a return.

2922 B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1004 shall file a  
2923 return under oath with the Authority and pay any taxes due. Upon written application by a person filing a  
2924 return, the Authority may, if it determines good cause exists, grant an extension to the end of the calendar  
2925 month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the accrual of  
2926 any interest or penalties under § 4.1-1008.

2927 C. The Authority may accept payment by any commercially acceptable means, including cash, checks,  
2928 credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under this  
2929 subtitle. The Board may assess a service charge for the use of a credit or debit card.

2930 D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit card, or  
2931 automated clearinghouse transfer information and use such information for future payments of taxes,  
2932 interest, or penalties due under this subtitle. The Authority may assess a service charge for any payments  
2933 made under this subsection. The Authority may procure the services of a third-party vendor for the secure  
2934 storage of information collected pursuant to this subsection.

2935 E. If any person liable for tax under § 4.1-1004 sells out his business or stock of goods or quits the  
2936 business, such person shall make a final return and payment within 15 days after the date of selling or  
2937 quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase  
2938 money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner  
2939 produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or  
2940 interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as provided  
2941 in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties due and  
2942 unpaid on account of the operation of the business by any former owner.

2943 F. When any person fails to timely pay the full amount of tax due under § 4.1-1004, interest at a rate  
2944 determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under  
2945 § 4.1-1004 shall, if applicable, be subject to penalties as provided in §§ 4.1-1205 and 4.1-1206.

2946 **§ 4.1-1006. Bonds.**

2947 The Authority may, when deemed necessary and advisable to do so in order to secure the collection of the  
2948 taxes levied under § 4.1-1004, require any person subject to such tax to file a bond, with such surety as it  
2949 determines is necessary to secure the payment of any tax, penalty, or interest due or that may become due  
2950 from such person. In lieu of such bond, securities approved by the Authority may be deposited with the State  
2951 Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold by the State  
2952 Treasurer at the request of the Authority at public or private sale if it becomes necessary to do so in order to  
2953 recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the surplus, if any, above  
2954 the amounts due shall be returned to the person who deposited the securities.

2955 **§ 4.1-1007. Refunds.**

2956 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to § 4.1-1004  
2957 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise deemed to be  
2958 unsalable by reason of fire or any other providential cause before sale to the consumer; (ii) destroyed  
2959 voluntarily, after notice to and approval by the Authority of such destruction, because the taxable items were  
2960 defective; or (iii) destroyed in any manner while in the possession of a common, private, or contract carrier,  
2961 the Authority shall certify such facts to the Comptroller for approval of a refund payment from the state  
2962 treasury to such extent as may be proper.

2963 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable items  
2964 that have been sold by such person in such manner as to be exempt from the tax, the Authority shall certify  
2965 such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may  
2966 be proper.

2967 C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-1004 has  
2968 been collected or charged to the account of the buyer, the seller shall be entitled to a refund of the amount of  
2969 tax so collected or charged in the manner prescribed by the Authority. The amount of tax so refunded to the

2970 seller shall not, however, include the tax paid upon any amount retained by the seller after such return of  
 2971 merchandise. In case the tax has not been remitted by the seller, the seller may deduct the same in submitting  
 2972 his return.

**2973 § 4.1-1008. Statute of limitations; civil remedies for collecting past-due taxes, interest, and penalties.**

2974 A. The taxes imposed under § 4.1-1004 shall be assessed within three years from the date on which such  
 2975 taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the  
 2976 Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the  
 2977 collection of such taxes may be begun without assessment, at any time within six years from such date. The  
 2978 Authority shall not examine any person's records beyond the three-year period of limitations unless it has  
 2979 reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a  
 2980 return and failed to do so.

2981 B. If any person fails to file a return as required by this section, or files a return that is false or  
 2982 fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person and  
 2983 assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10 days'  
 2984 notice requiring such person to provide any records as it may require relating to the business of such person  
 2985 for the taxable period. The Authority may require such person or the agents and employees of such person to  
 2986 give testimony or to answer interrogatories under oath administered by the Authority respecting taxable  
 2987 sales, the filing of the return, and any other relevant information. If any person fails to file a required return,  
 2988 refuses to provide required records, or refuses to answer interrogatories from the Authority, the Authority  
 2989 may make an estimated assessment based upon the information available to it and issue a memorandum of  
 2990 lien under subsection C for the collection of any taxes, interest, or penalties. The estimated assessment shall  
 2991 be deemed *prima facie* correct.

2992 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay  
 2993 within 30 days after the due date, taking into account any extensions granted by the Authority, the Authority  
 2994 may file a memorandum of lien in the circuit court clerk's office of the county or city in which the person's  
 2995 place of business is located or in which the person resides. If the person has no place of business or residence  
 2996 within the Commonwealth, the memorandum may be filed in the Circuit Court of the City of Richmond. A  
 2997 copy of the memorandum may also be filed in the clerk's office of all counties and cities in which the person  
 2998 owns real estate. Such memorandum shall be recorded in the judgment docket book and shall have the effect  
 2999 of a judgment in favor of the Commonwealth, to be enforced as provided in Article 19 (§ 8.01-196 et seq.) of  
 3000 Chapter 3 of Title 8.01, except that a writ of fieri facias may issue at any time after the memorandum is filed.  
 3001 The lien on real estate shall become effective at the time the memorandum is filed in the jurisdiction in which  
 3002 the real estate is located. No memorandum of lien shall be filed unless the person is first given 10 or more  
 3003 days' prior notice of intent to file a lien; however, in those instances where the Authority determines that the  
 3004 collection of any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the  
 3005 provision of such notice, notification may be provided to the person concurrent with the filing of the  
 3006 memorandum of lien. Such notice shall be given to the person at his last known address.

3007 2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal  
 3008 under § 4.1-1009.

3009 3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the  
 3010 Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or  
 3011 paying any tax owed to the Commonwealth. The Authority shall also post notices of distress on each of the  
 3012 doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or satisfactory  
 3013 arrangements for payment have not been made, the Authority may cause a writ of fieri facias to be issued. It  
 3014 shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the  
 3015 Authority. In the event that the person against whom the distress has been applied subsequently appeals  
 3016 under § 4.1-1009, the person shall have the right to post bond equaling the amount of liability in lieu of  
 3017 payment until the appeal is resolved.

3018 4. A person may petition the Authority after a memorandum of lien has been filed under this subsection if  
 3019 the person alleges an error in the filing of the lien. The Authority shall make a determination on such petition  
 3020 within 14 days. If the Authority determines that the filing was erroneous, it shall issue a certificate of release  
 3021 of the lien within seven days after such determination is made.

**3022 § 4.1-1009. Appeals.**

3023 Any tax imposed under § 4.1-1004, any interest imposed under § 4.1-1008, any action of the Authority  
 3024 under § 4.1-1204, and any penalty imposed under § 4.1-1205 or 4.1-1206 shall be subject to review under the  
 3025 Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of  
 3026 the proceedings provided by the Authority in accordance with the Administrative Process Act. An appeal  
 3027 shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding § 8.01-676.1, the final  
 3028 judgment or order of a circuit court shall not be suspended, stayed, or modified by such circuit court pending  
 3029 appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

3030 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or  
 3031 older lawful; penalties.**

3032     A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person  
3033     21 years of age or older may lawfully possess on his person or in any public place not more than ~~one ounce~~  
3034     *two and one-half ounces* of marijuana or an equivalent amount of marijuana product as determined by  
3035     regulation promulgated by the Board.

3036     B. Any person who possesses on his person or in any public place marijuana or marijuana products in  
3037     excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25 except as  
3038     otherwise provided in this section. The penalty for any violations of this section by an adult shall be  
3039     prepayable according to the procedures in § 16.1-69.40:2.

3040     C. With the exception of possession by a person in his residence or possession by a licensee in the course  
3041     of his duties related to such licensee's marijuana establishment, any person who possesses on his person or in  
3042     any public place (i) more than four ounces but not more than one pound of marijuana or an equivalent amount  
3043     of marijuana product as determined by regulation promulgated by the Board is guilty of a Class 3  
3044     misdemeanor and, for a second or subsequent offense, a Class 2 misdemeanor and (ii) more than one pound  
3045     of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the  
3046     Board is guilty of a felony punishable by a term of imprisonment of not less than one year nor more than 10  
3047     years and a fine of not more than \$250,000, or both.

3048     D. The provisions of this section shall not apply to members of federal, state, county, city, or town  
3049     law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of  
3050     dogs trained in the detection of controlled substances when possession of marijuana is necessary for the  
3051     performance of their duties.

3052     **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

3053     A. Notwithstanding the provisions of subdivision (e) of § 18.2-248.1, a person 21 years of age or older  
3054     may cultivate up to four marijuana plants for personal use at their place of residence; however, at no point  
3055     shall a household contain more than four marijuana plants. For purposes of this section, a "household" means  
3056     those individuals, whether related or not, who live in the same house or other place of residence.

3057     A person may only cultivate marijuana plants pursuant to this section at such person's main place of  
3058     residence.

3059     A violation of this subsection shall be punishable as follows:

3060     1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a civil  
3061     penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2  
3062     misdemeanor for a third and any subsequent offense;

3063     2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

3064     3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

3065     4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of  
3066     not less than one year nor more than 10 years or a fine of not more than \$250,000, or both.

3067     B. A person who cultivates marijuana for personal use pursuant to this section shall:

3068     1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars, or  
3069     other optical aids;

3070     2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

3071     3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or  
3072     identification number, and a notation that the marijuana plant is being grown for personal use as authorized  
3073     under this section.

3074     Any person who violates this subsection is subject to a civil penalty of no more than \$25. The penalty for  
3075     any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

3076     C. A person shall not manufacture marijuana concentrate from home cultivated marijuana. The owner of a  
3077     property or parcel or tract of land may not intentionally or knowingly allow another person to manufacture  
3078     marijuana concentrate from home cultivated marijuana within or on that property or land.

3079     **§ 4.1-1102. Illegal cultivation or processing of marijuana or marijuana products; conspiracy; penalties.**

3080     A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate or process  
3081     marijuana or marijuana products in the Commonwealth without being licensed to cultivate or process such  
3082     marijuana or marijuana products.

3083     B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

3084     C. If two or more persons conspire together to do any act that is in violation of subsection A, and one or  
3085     more of such persons does any act to effect the object of the conspiracy, each of the parties to such  
3086     conspiracy is guilty of a Class 6 felony.

3087     **§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

3088     A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who  
3089     are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i)  
3090     marijuana is given away contemporaneously with another reciprocal transaction between the same parties;  
3091     (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services;  
3092     or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

3093     B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give, or

3094 distribute any marijuana or marijuana products except as permitted by this chapter or provided in subsection  
 3095 C, he is guilty of a Class 2 misdemeanor.

3096 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

3097 C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not  
 3098 exceed two and one-half ounces or of an equivalent amount of marijuana products.

3099 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal age; penalties.**

3101 A. No person shall, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), sell, give, or  
 3102 distribute any marijuana or marijuana products to any individual when at the time of such sale he knows or  
 3103 has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age or (ii)  
 3104 intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

3105 B. Any person who sells, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), any  
 3106 marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of the  
 3107 sale does not require the individual to present bona fide evidence of legal age indicating that the individual is  
 3108 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to  
 3109 any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the  
 3110 United States or the District of Columbia, military identification card, United States passport or foreign  
 3111 government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any  
 3112 other valid government-issued identification card bearing the individual's photograph, signature, height,  
 3113 weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of  
 3114 the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes  
 3115 of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.

3116 C. No person shall be convicted of both subsections A and B for the same sale.

3117 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue; exceptions; penalties; forfeiture; treatment and education programs and services.**

3119 A. No person to whom marijuana or marijuana products may not lawfully be sold under § 4.1-1104 shall  
 3120 consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or marijuana  
 3121 products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-enforcement officer or his  
 3122 agent when possession of marijuana or marijuana products is necessary in the performance of his duties.  
 3123 Such person may be prosecuted either in the county or city in which the marijuana or marijuana products  
 3124 were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia  
 3125 of consumption of marijuana or marijuana products.

3126 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more  
 3127 than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if  
 3128 available, that in the opinion of the court best suits the needs of the accused.

3129 C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who violates  
 3130 subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter  
 3131 a substance abuse treatment or education program or both, if available, that in the opinion of the court best  
 3132 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  
 3133 16.1-278.9, the court shall treat the juvenile as delinquent.

3134 D. Any such substance abuse treatment or education program to which a juvenile is ordered pursuant to  
 3135 this section shall be provided by (i) a program licensed by the Department of Behavioral Health and  
 3136 Developmental Services or (ii) a similar program available through a facility or program operated by or  
 3137 under contract with the Department of Juvenile Justice or a locally operated court services unit or a program  
 3138 funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.). Any such  
 3139 substance abuse treatment or education program to which a person 18 years of age or older is ordered  
 3140 pursuant to this section shall be provided by (a) a program licensed by the Department of Behavioral Health  
 3141 and Developmental Services or (b) a program or services made available through a community-based  
 3142 probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one  
 3143 has been established for the locality. When an offender is ordered to a local community-based probation  
 3144 services agency, the local community-based probation services agency shall be responsible for providing for  
 3145 services or referring the offender to education or treatment services as a condition of probation.

3146 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender  
 3147 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years of  
 3148 age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor  
 3149 vehicle; (ii) altered, fictitious, facsimile, or simulated document, including a birth certificate or student  
 3150 identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3  
 3151 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student  
 3152 identification card of another person in order to establish a false identification or false age for himself to  
 3153 consume, purchase, or attempt to consume or purchase marijuana or marijuana products. Any person  
 3154 convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

3155 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be

3156     *deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.*

3157     *G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or local*  
3158     *law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from*  
3159     *an administrative penalty for a violation of § 4.1-1104.*

**3160     § 4.1-1106. Purchasing marijuana or marijuana products for one to whom they may not be sold;**  
**3161     penalties; forfeiture.**

3162     *A. Any person who purchases marijuana or marijuana products for another person and at the time of such*  
3163     *purchase knows or has reason to believe that the person for whom the marijuana or marijuana products were*  
3164     *purchased was intoxicated is guilty of a Class 1 misdemeanor.*

3165     *B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of marijuana or*  
3166     *marijuana products to, another person when he knows or has reason to know that such person is younger*  
3167     *than 21 years of age, except by any federal, state, or local law-enforcement officer when possession of*  
3168     *marijuana or marijuana products is necessary in the performance of his duties, is guilty of a Class 1*  
3169     *misdemeanor.*

3170     *C. Any marijuana or marijuana products purchased in violation of this section shall be deemed*  
3171     *contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.*

**3172     § 4.1-1113. Maintaining common nuisances; penalties.**

3173     *A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of every*  
3174     *description where marijuana or marijuana products are manufactured, processed, stored, sold, dispensed,*  
3175     *given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed common*  
3176     *nuisances.*

3177     *No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common*  
3178     *nuisance.*

3179     *Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.*

3180     *B. In addition, after due notice and an opportunity to be heard on the part of any owner or lessor not*  
3181     *involved in the original offense, by a proceeding analogous to that provided in § 4.1-1303 and upon proof of*  
3182     *guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or other place, or*  
3183     *any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the penalty of*  
3184     *not less than \$500 and with security to be approved by the court, conditioned that the premises shall not be*  
3185     *used for unlawful purposes, or in violation of the provisions of this subtitle for a period of five years, turn the*  
3186     *same over to its owner or lessor, or proceeding may be had in equity as provided in § 4.1-1300.*

3187     *C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or*  
3188     *lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii) had*  
3189     *the right, because of such unlawful use, to enter and repossess the property.*

**3190     § 4.1-1114. Maintaining a fortified drug house; penalty.**

3191     *Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,*  
3192     *dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its*  
3193     *original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-*  
3194     *enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,*  
3195     *processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a*  
3196     *fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5*  
3197     *felony.*

**3198     § 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

3199     *No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or any*  
3200     *agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum of any*  
3201     *hearing held and conducted by the Board, any Board member, or any agent authorized by the Board to hold*  
3202     *and conduct such hearing.*

3203     *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

**3204     § 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

3205     *No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional*  
3206     *correctional facility or any person committed to the Department of Juvenile Justice in any juvenile*  
3207     *correctional center any marijuana or marijuana products.*

3208     *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

**3209     § 4.1-1118. Separation of plant resin by butane extraction; penalty.**

3210     *A. No person shall separate plant resin by butane extraction or another method that utilizes a substance*  
3211     *with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of*  
3212     *any residential structure.*

3213     *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

**3214     § 4.1-1119. Attempts; aiding or abetting; penalty.**

3215     *No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another in*  
3216     *doing, or attempting to do, any of the things prohibited by this subtitle.*

3217     *On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may find*

3218 the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the  
 3219 defendant were solely guilty of such violation.

3220 **§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

3221 Any violation under this subtitle that is subject to a civil penalty is a civil offense and, *except in the case*  
 3222 *of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be proceeded*  
 3223 *against pursuant to § 16.1-260*, shall be charged by summons. A summons for a violation under this subtitle  
 3224 that is subject to a civil penalty may be executed by a law-enforcement officer when such violation is  
 3225 observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in  
 3226 a form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to  
 3227 § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the Drug Offender  
 3228 Assessment and Treatment Fund established pursuant to § 18.2-251.02.

3229 **CHAPTER 12.**

3230 **PROHIBITED PRACTICES BY LICENSEES.**

3231 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

3232 A. No licensee or any agent or employee of such licensee shall:

3233 1. Cultivate, process, transport, sell, or test any marijuana or marijuana products of a kind other than  
 3234 that which such license or this subtitle authorizes him to cultivate, process, transport, sell, or test;

3235 2. Sell marijuana or marijuana products to any person other than a person to whom such license or this  
 3236 subtitle authorizes him to sell;

3237 3. Cultivate, process, transport, sell, or test marijuana or marijuana products that such license or this  
 3238 subtitle authorizes him to sell, but in any place or in any manner other than such license or this subtitle  
 3239 authorizes him to cultivate, process, transport, sell, or test;

3240 4. Cultivate, process, transport, sell, or test any marijuana or marijuana products when forbidden by this  
 3241 subtitle;

3242 5. Keep or allow to be kept, other than in his residence and for his personal use, any marijuana or  
 3243 marijuana products other than that which he is authorized to cultivate, process, transport, sell, or test by  
 3244 such license or by this subtitle;

3245 6. Keep any marijuana or marijuana product other than in the container in which it was purchased by  
 3246 him; or

3247 7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee.

3248 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3249 **§ 4.1-1201. Prohibited acts by employees of marijuana store licensees; civil penalty.**

3250 A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee, microbusiness licensee,  
 3251 or his agent or employee shall use or consume any marijuana or marijuana products (i) on the licensed  
 3252 premises, except for certain sampling for quality control purposes in accordance with Board regulations or  
 3253 (ii) while on duty and in a position that is involved in the selling of marijuana or marijuana products to  
 3254 consumers.

3255 B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana or  
 3256 marijuana products.

3257 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to  
 3258 exceed \$500.

3259 **§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person without a  
 3260 license; penalty.**

3261 Except as otherwise provided in § 4.1-808, no retail marijuana store licensee shall purchase for resale or  
 3262 sell any marijuana, marijuana products, immature marijuana plants, or marijuana seeds purchased from  
 3263 anyone other than a marijuana cultivation facility or marijuana processing facility.

3264 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3265 **§ 4.1-1203. Prohibiting transfer of marijuana or marijuana products by certain licensees; penalty.**

3266 A. No licensed marijuana establishment shall transfer any marijuana or marijuana products from one  
 3267 licensed place of business to another licensed place of business unless (i) such licensed marijuana  
 3268 establishment is authorized to transfer marijuana or marijuana products from one licensed place of business  
 3269 to another licensed place of business and the transfer is completed by the licensee or an employee of the  
 3270 licensee or (ii) such transfer is completed by a marijuana transporter licensee.

3271 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

3272 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

3273 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any  
 3274 licensee selling, renting, lending, buying for, or giving to any person any advertising materials or  
 3275 decorations under circumstances prohibited by this title or Board regulations.

3276 Any person found by the Board to have violated this section shall be subject to a civil penalty as  
 3277 authorized in § 4.1-903.

3278 **§ 4.1-1205. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or to  
 3279 allow examination and inspection; penalty.**

3280     A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1004; (ii) deliver, keep, and  
3281     preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or (iii)  
3282     allow such records, invoices, and accounts or his place of business to be examined and inspected in  
3283     accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1  
3284     misdemeanor.

3285     B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority may  
3286     suspend or revoke any license of such licensee that was issued by the Authority.

3287     **§ 4.1-1206. Nonpayment of marijuana tax; penalties.**

3288     A. No person shall make a sale taxable under § 4.1-1004 without paying all applicable taxes due. No  
3289     retail marijuana store licensee shall purchase, receive, transport, store, or sell any marijuana or marijuana  
3290     products on which such retailer has reason to know such tax has not been paid and may not be paid. Any  
3291     person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

3292     B. Any person who fails to file a return required for a tax due under § 4.1-1004 is subject to a civil  
3293     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  
3294     than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during which  
3295     the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

3296     C. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of  
3297     any tax due on marijuana or marijuana products, a civil penalty of 50 percent of the amount of the proper tax  
3298     due shall be assessed. Such penalty shall be in addition to any penalty imposed under subsection B. It shall  
3299     be *prima facie* evidence of willful intent to defraud the Commonwealth when any person reports its taxable  
3300     sales to the Authority at 50 percent or less of the actual amount.

3301     D. If any check tendered for any amount due under § 4.1-1004 or this section is not paid by the bank on  
3302     which it is drawn, and the person that tendered the check fails to pay the Authority the amount due within five  
3303     days after the Authority gives it notice that such check was returned unpaid, the person that tendered the  
3304     check is guilty of a violation of § 18.2-182.1.

3305     E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same manner  
3306     as if they were a part of the tax imposed.

3307     **§ 4.1-1300. Enjoining nuisances.**

3308     A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney for the  
3309     Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in § 4.1-1113  
3310     exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common nuisance.

3311     B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the knowledge  
3312     or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or marijuana products  
3313     are cultivated, processed, stored, sold, dispensed, given away, or used in such house, building, or other place  
3314     described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction shall be granted as soon as  
3315     the bill is presented to the court. The injunction shall enjoin and restrain the owners and tenants and their  
3316     agents and employees, and any person connected with such house, building, or other place, and all persons  
3317     whomsoever from cultivating, processing, storing, selling, dispensing, giving away, or using marijuana or  
3318     marijuana products on such premises. The injunction shall also restrain all persons from removing any  
3319     marijuana or marijuana products then on such premises until the further order of the court. If the court is  
3320     satisfied that the material allegations of the bill are true, although the premises complained of may not then  
3321     be unlawfully used, it shall continue the injunction against such place for a period of time as the court deems  
3322     proper. The injunction may be dissolved if a proper case is shown for dissolution.

3323     **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.**

3324     A. All apparatus and materials for the cultivation or processing of marijuana or marijuana products, all  
3325     marijuana or marijuana products and materials used in their manufacture or processing, and all containers  
3326     in which marijuana or marijuana products may be found that are kept, stored, possessed, or in any manner  
3327     used in violation of the provisions of this subtitle, and any dangerous weapons as described in § 18.2-308  
3328     that may be used or that may be found upon the person, or in any vehicle that such person is using, to aid  
3329     such person in the unlawful cultivation, manufacture, processing, transportation, or sale of marijuana or  
3330     marijuana products, or found in the possession of such person, or any horse, mule, or other beast of burden  
3331     or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the immediate vicinity  
3332     of any place where marijuana or marijuana products are being unlawfully manufactured or processed and  
3333     where such animal or vehicle is being used to aid in the unlawful manufacture or processing, shall be deemed  
3334     contraband and shall be forfeited to the Commonwealth.

3335     B. Proceedings for the confiscation of the property in subsection A shall be in accordance with § 4.1-1303  
3336     for all such property except motor vehicles, which proceedings shall be in accordance with Chapter 22.1  
3337     (§ 19.2-386.1 *et seq.*) of Title 19.2.

3338     **§ 4.1-1303. Confiscation proceedings; disposition of forfeited articles.**

3339     A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and  
3340     forfeited to the Commonwealth under this subtitle shall be as provided in this section.

3341     B. Whenever any article declared contraband under the provisions of this subtitle and required to be

3342 forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with the  
 3343 enforcement of this subtitle, he shall produce the contraband article and any person in whose possession it  
 3344 was found. In those cases where no person is found in possession of such articles, the return shall so state  
 3345 and a copy of the warrant shall be posted on the door of the buildings or room where the articles were found,  
 3346 or if there is no door, then in any conspicuous place upon the premises.

3347 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to remove  
 3348 such item to a place of safe storage from the place where seized, the seizing officer may destroy such item  
 3349 only as necessary to prevent use of all or any part thereof. The destruction shall be in the presence of at least  
 3350 one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction  
 3351 to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for  
 3352 seizure and destruction, an estimate of the fair cash value of the item destroyed, and the materials remaining  
 3353 after such destruction. The report shall include a statement that, from facts within their own knowledge, the  
 3354 seizing officer and witness have no doubt whatever that the item was set up for use, or had been used in the  
 3355 unlawful cultivation, processing, or manufacture of marijuana, and that it was impracticable to remove such  
 3356 apparatus to a place of safe storage.

3357 In case of seizure of any quantity of marijuana or marijuana products for any offense involving forfeiture  
 3358 of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose  
 3359 of unlawful cultivation, processing, or manufacture of marijuana or marijuana products or any other  
 3360 violation of this subtitle. The destruction shall be in the presence of at least one credible witness, and such  
 3361 witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The  
 3362 report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a  
 3363 statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever  
 3364 that the marijuana or marijuana products were intended for use in the unlawful cultivation, processing, or  
 3365 manufacture of marijuana or marijuana products or were intended for use in violation of this subtitle.

3366 C. Upon the return of the warrant as provided in this section, the court shall fix a time not less than 10  
 3367 days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on such  
 3368 return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept,  
 3369 stored, or possessed in violation of this subtitle.

3370 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the  
 3371 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn  
 3372 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the  
 3373 hearing and file a written claim setting forth particularly the character and extent of his interest. The court  
 3374 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and  
 3375 determine the validity of such claim.

3376 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be  
 3377 turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a  
 3378 bar to any prosecution under any other provision of this subtitle.

3379 D. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this  
 3380 section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be  
 3381 paid into the Literary Fund.

3382 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in  
 3383 accordance with this section are usable, should not be destroyed, and cannot be sold, or whose sale would be  
 3384 impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the  
 3385 local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be  
 3386 made showing the nature of the foodstuffs and amount given, to whom given, and the date when given and  
 3387 shall be kept in the offices of the Board.

3388 **§ 4.1-1304. Contraband marijuana or marijuana products.**

3389 Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the  
 3390 Board authorizing the transportation of marijuana or marijuana products within the Commonwealth when  
 3391 other Board regulations applicable to such transportation have been complied with shall not be cause for  
 3392 deeming such marijuana or marijuana products contraband.

3393 **§ 4.1-1305. Punishment for violations of title or regulations; bond.**

3394 A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to  
 3395 the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating  
 3396 any Board regulation is guilty of a Class 1 misdemeanor.

3397 B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is  
 3398 convicted of a violation of any provision of this subtitle may require such defendant to execute bond based  
 3399 upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that  
 3400 the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is  
 3401 required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged  
 3402 by the court, provided that he shall not be confined for a period longer than six months. If any such bond  
 3403 required by a court is not given during the term of the court by which conviction is had, it may be given

3404 before any judge or before the clerk of such court.

3405 C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing to  
3406 continue the license of any person convicted of a violation of any provision of this subtitle.

3407 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant  
3408 has been notified that such a case is pending.

3409 **§ 4.1-1306. Witness not excused from testifying because of self-incrimination.**

3410 No person shall be excused from testifying or from producing books, papers, correspondence,  
3411 memoranda, or other records for the Commonwealth as to any offense alleged to have been committed by  
3412 another under this subtitle by reason of his testimony or other evidence tending to incriminate himself, but  
3413 the testimony given and evidence so produced by such person on behalf of the Commonwealth when called  
3414 for by the trial judge or court trying the case, or by the attorney for the Commonwealth, or when summoned  
3415 by the Commonwealth and sworn as a witness by the court or the clerk and sent before the grand jury, shall  
3416 be in no case used against him nor shall he be prosecuted as to the offense as to which he testifies.

3417 **§ 4.1-1307. Previous convictions.**

3418 In any indictment, information, or warrant charging any person with a violation of any provision of this  
3419 subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that such  
3420 person has been previously convicted of a violation of this subtitle.

3421 **§ 4.1-1308. Label on sealed container prima facie evidence of marijuana content.**

3422 In any prosecution for violations of this subtitle, where a sealed container is labeled as containing  
3423 marijuana or marijuana products, such labeling shall be prima facie evidence of the marijuana content of the  
3424 container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana  
3425 content of a container, whether sealed or not.

3426 **§ 4.1-1309. No recovery for marijuana or marijuana products illegally sold.**

3427 No action to recover the price of any marijuana or marijuana products sold in contravention of this  
3428 subtitle may be maintained.

3429 **§ 4.1-1402. Outdoor advertising restrictions; limitations; variances.**

3430 A. No outdoor advertising regarding marijuana, marijuana products, or any substance containing a  
3431 synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall be placed within 500  
3432 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign  
3433 face upon which the advertisement is placed to the nearest edge of a building or structure located on the real  
3434 property of (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or  
3435 parochial school or an institution of higher education; (iii) a public or private playground or similar  
3436 recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use.

3437 B. However, (i) if there is no building or structure on a playground or similar recreational facility, the  
3438 measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the  
3439 property line of such playground or similar recreational facility and (ii) if a public or private school providing  
3440 grades K through 12 education is located across the road from a sign, the measurement shall be from the  
3441 nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or  
3442 structure located on such real property across the road.

3443 C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a  
3444 church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or  
3445 an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a  
3446 substance use disorder treatment center; or (v) a dwelling used for residential use, but the circumstances  
3447 change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the  
3448 advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in  
3449 no event more than one year from the date of the change in circumstances.

3450 D. The Board may grant a permit authorizing a variance from the distance requirements of this section  
3451 upon a finding that the placement of the advertisement on a sign will not unduly expose children to  
3452 advertising regarding marijuana, marijuana products, or any substance containing a synthetic  
3453 tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol.

3454 E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included  
3455 in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its  
3456 agents.

3457 F. Any signs placed on the property of a marijuana establishment shall not (i) display imagery of  
3458 marijuana or the use of marijuana or (ii) draw undue attention to the facility, but may be designed to assist  
3459 consumers to find the marijuana establishment.

3460 G. Nothing in this section shall be construed to authorize billboard signs containing outdoor advertising  
3461 regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or  
3462 synthetic derivative of tetrahydrocannabinol on property zoned agricultural or residential, or on any unzoned  
3463 property. Nor shall this section be construed to authorize the erection of new billboard signs containing  
3464 outdoor advertising that would be prohibited under state law or local ordinance.

3465 G. All lawfully erected outdoor signs regarding marijuana, marijuana products, or any substance

3466 containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with  
 3467 the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and  
 3468 regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor  
 3469 directional sign regarding marijuana, marijuana products, or any substance containing a synthetic  
 3470 tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol that is located or to be located on  
 3471 highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program  
 3472 administered by the Virginia Department of Transportation or its agents.

3473 **§ 4.1-1403. Board to establish regulations for marijuana testing.**

3474 *The Board shall establish a testing program for marijuana and marijuana products. Except as otherwise  
 3475 provided in this subtitle or otherwise provided by law, the program shall require a licensee, prior to selling  
 3476 or distributing marijuana or a marijuana product to a consumer or to another licensee, to submit a  
 3477 representative sample of the marijuana or marijuana product, not to exceed 10 percent of the total harvest or  
 3478 batch, to a licensed marijuana testing facility for testing to ensure that the marijuana or marijuana product  
 3479 does not exceed the maximum level of allowable contamination for any contaminant that is injurious to  
 3480 health and for which testing is required and to ensure correct labeling. The Board shall adopt regulations (i)  
 3481 establishing a testing program pursuant to this section; (ii) establishing acceptable testing and research  
 3482 practices, including regulations relating to testing practices, methods, and standards; quality control  
 3483 analysis; equipment certification and calibration; marijuana testing facility recordkeeping, documentation,  
 3484 and business practices; disposal of used, unused, and waste marijuana and marijuana products; and  
 3485 reporting of test results; (iii) identifying the types of contaminants that are injurious to health for which  
 3486 marijuana and marijuana products shall be tested under this subtitle; and (iv) establishing the maximum  
 3487 level of allowable contamination for each contaminant.*

3488 **§ 4.1-1404. Mandatory testing; scope; recordkeeping; notification; additional testing not required;  
 3489 required destruction; random testing.**

3490 A licensee may not sell or distribute marijuana or a marijuana product to a consumer or to another  
 3491 licensee under this subtitle unless a representative sample of the marijuana or marijuana product has been  
 3492 tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and the mandatory testing  
 3493 has demonstrated that (i) the marijuana or marijuana product does not exceed the maximum level of  
 3494 allowable contamination for any contaminant that is injurious to health and for which testing is required and  
 3495 (ii) the labeling on the marijuana or marijuana product is correct.

3496 B. Mandatory testing of marijuana and marijuana products under this section shall include testing for:

- 3497 1. Residual solvents;
- 3498 2. Heavy metals;
- 3499 3. Microbiological contaminants;
- 3500 4. Mycotoxins;
- 3501 5. Pesticide chemical residue; and
- 3502 6. Active ingredient analysis.

3503 Testing shall be performed on the final form in which the marijuana or marijuana product will be  
 3504 consumed.

3505 C. A licensee shall maintain a record of all mandatory testing that includes a description of the marijuana  
 3506 or marijuana product provided to the marijuana testing facility, the identity of the marijuana testing facility,  
 3507 and the results of the mandatory test.

3508 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested marijuana  
 3509 or marijuana product exceeds the maximum level of allowable tetrahydrocannabinol or contamination for  
 3510 any contaminant that is injurious to health and for which testing is required, the marijuana testing facility  
 3511 shall immediately quarantine, document, and properly destroy the marijuana or marijuana product and  
 3512 within seven days of completing the test shall notify the Board of the test results.

3513 A marijuana testing facility is not required to notify the Board of the results of any test:

3514 1. Conducted on marijuana or a marijuana product at the direction of a licensee pursuant to this section  
 3515 that demonstrates that the marijuana or marijuana product does not exceed the maximum level of allowable  
 3516 tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing  
 3517 is required;

3518 2. Conducted on marijuana or a marijuana product at the direction of a licensee for research and  
 3519 development purposes only, so long as the licensee notifies the marijuana testing facility prior to the  
 3520 performance of the test that the testing is for research and development purposes only; or

3521 3. Conducted on marijuana or a marijuana product at the direction of a person who is not a licensee.

3522 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee  
 3523 marijuana or a marijuana product that the licensee has not submitted for testing in accordance with this  
 3524 subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:

3525 1. The marijuana or marijuana product has previously undergone testing in accordance with this subtitle  
 3526 and regulations adopted pursuant to this subtitle at the direction of another licensee and the testing  
 3527 demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable

3528 tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing  
3529 is required;

3530 2. The mandatory testing process and the test results for the marijuana or marijuana product are  
3531 documented in accordance with the requirements of this subtitle and all applicable regulations adopted  
3532 pursuant to this subtitle;

3533 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the  
3534 marijuana or marijuana product and transfers of the marijuana or marijuana product to another licensee or  
3535 to a consumer can be easily identified; and

3536 4. The marijuana or marijuana product has not undergone any further processing, manufacturing, or  
3537 alteration subsequent to the performance of the prior testing under subsection A.

3538 F. Licensees shall be required to destroy harvested batches of marijuana or batches of marijuana  
3539 products whose testing samples indicate noncompliance with the health and safety standards required by this  
3540 subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures can  
3541 bring the marijuana or marijuana product into compliance with such required health and safety standards.

3542 G. A licensee shall comply with all requests for samples of marijuana and marijuana products for the  
3543 purpose of random testing by a state-owned laboratory or state-approved private laboratory.

3544 **§ 4.1-1405. Labeling and packaging requirements; prohibitions.**

3545 A. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer shall be  
3546 labeled with the following information:

3547 1. Identification of the type of marijuana or marijuana product;

3548 2. The license numbers of the marijuana cultivation facility, the marijuana processing facility, and the  
3549 retail marijuana store where the marijuana or marijuana product was cultivated, processed, and offered for  
3550 sale, as applicable;

3551 3. A statement of the net weight of the marijuana or marijuana product;

3552 4. In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients,  
3553 including pharmacologically active ingredients, tetrahydrocannabinol, cannabidiol, and other cannabinoid  
3554 content; (ii) all possible allergens; (iii) the amount of servings in the package; (iv) if the product contains  
3555 tetrahydrocannabinol, the total percentage and milligrams of tetrahydrocannabinol and cannabidiol included  
3556 in an edible cannabis product or topical cannabis product, the number of milligrams of tetrahydrocannabinol  
3557 and cannabidiol in each serving of the edible cannabis product or topical cannabis product, and the total  
3558 percentage of tetrahydrocannabinol and cannabidiol included in the inhalable cannabis product; and (v) the  
3559 potency of the tetrahydrocannabinol and other cannabinoid content;

3560 5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

3561 6. Instructions on usage, including information regarding the amount of marijuana or marijuana product  
3562 that constitutes a single serving;

3563 7. A recommended use by date or expiration date;

3564 8. For marijuana and marijuana products, the following statement, prominently displayed in bold print  
3565 and in a clear and legible fashion: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA  
3566 AND TETRAHYDROCANNABINOL (THC). MARIJUANA MAY ONLY BE SOLD TO AND USED BY  
3567 ADULTS 21 YEARS OF AGE OR OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF  
3568 MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT-FORMING.  
3569 MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE  
3570 CAUTION AND VISIT \_\_\_\_\_ (website maintained by the Board pursuant to § 4.1-604) FOR MORE  
3571 INFORMATION.";

3572 9. A universal symbol stamped or embossed on the packaging of any marijuana and marijuana products;

3573 10. A certificate of analysis, produced by licensed marijuana testing facility, that states the total  
3574 tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the  
3575 batch from which the substance originates; and

3576 11. Any other information required by Board regulations.

3577 B. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in  
3578 accordance with the provisions of this subtitle shall be packaged in the following manner:

3579 1. Marijuana and marijuana products shall be prepackaged in child-resistant, tamper-evident, and  
3580 resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-  
3581 resistant, tamper-evident, and resealable packaging that is opaque;

3582 2. Packaging for multiserving liquid marijuana products shall include an integral measurement  
3583 component; and

3584 3. Packaging shall comply with any other requirements imposed by Board regulations.

3585 C. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in  
3586 accordance with the provisions of this subtitle shall not:

3587 1. (i) Without authorization, bear, be packaged in a container or wrapper that bears, or otherwise be  
3588 labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying  
3589 mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a

3590 *product intended for human consumption other than the manufacturer, processor, packer, or distributor that  
3591 did in fact so manufacture, process, pack, or distribute such substance or (ii) otherwise be packaged or  
3592 labeled in violation of a federal trademark law or regulation;*

3593 *2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of age;*

3594 *3. Be labeled or packaged in a manner that obscures identifying information on the label;*

3595 *4. Be labeled or packaged using a false or misleading label;*

3596 *5. Depict, model the shape of, or use a label or package that depicts or models the shape of a human,  
3597 animal, vehicle, or fruit; and*

3598 *6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by Board  
3599 regulations.*

3600 **§ 4.1-1406. Other health and safety requirements for edible marijuana products and other marijuana  
3601 products deemed applicable by the Authority; health and safety regulations.**

3602 *A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other  
3603 marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a  
3604 consumer:*

3605 *1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.3;*

3606 *2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;*

3607 *3. Shall be processed and manufactured in a manner that results in the cannabinoid content within the  
3608 product being homogeneous throughout the product or throughout each element of the product that has a  
3609 cannabinoid content;*

3610 *4. Shall be processed and manufactured in a manner that results in the amount of marijuana concentrate  
3611 within the product being homogeneous throughout the product or throughout each element of the product  
3612 that contains marijuana concentrate;*

3613 *5. Shall have a universal symbol stamped or embossed on the packaging of each product;*

3614 *6. Shall not contain more than 10 milligrams of tetrahydrocannabinol per serving of the product and shall  
3615 not contain more than 100 milligrams of tetrahydrocannabinol per package of the product;*

3616 *7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically designed  
3617 to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to consumers, or (v)  
3618 are specifically designed to make the product appeal particularly to persons younger than 21 years of age;  
3619 and*

3620 *8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when the  
3621 trademarked product is used as a component of or ingredient in the edible marijuana product and the edible  
3622 marijuana product is not advertised or described for sale as containing the trademarked product.*

3623 *B. The Board shall adopt any additional labeling, packaging, or other health and safety regulations that it  
3624 deems necessary for marijuana and marijuana products to be sold or offered for sale by a licensee to a  
3625 consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection shall establish  
3626 mandatory health and safety standards applicable to the cultivation of marijuana, the processing and  
3627 manufacture of marijuana products, and the packaging and labeling of marijuana and marijuana products  
3628 sold by a licensee to a consumer. Such regulations shall address:*

3629 *1. Requirements for the storage, warehousing, and transportation of marijuana and marijuana products  
3630 by licensees;*

3631 *2. Sanitary standards for marijuana establishments, including sanitary standards for the processing and  
3632 manufacture of marijuana and marijuana products; and*

3633 *3. Limitations on the display of marijuana and marijuana products at retail marijuana stores.*

3634 **§ 4.1-1500. Definitions.**

3635 As used in this chapter, unless the context requires a different meaning:

3636 "CDFI" means a community development financial institution that provides credit and financial services  
3637 for underserved communities.

3638 "Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.

3639 "Funding" means loans and grants made from the Fund.

3640 "Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.

3641 "Social equity qualified cannabis licensee" means a person or business who meets the criteria in § 4.1-606  
3642 to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined  
3643 by the Board, a license to operate a marijuana establishment.

3644 **§ 4.1-1501. Virginia Cannabis Equity Business Loan Fund.**

3645 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia  
3646 Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be established  
3647 on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants,  
3648 bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund.  
3649 Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining  
3650 in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but  
3651 shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing grants,

3652 low-interest ~~and loans~~, zero-interest loans, *and other supports and services to social equity qualified cannabis*  
3653 *impact* licensees in order to foster business ownership and economic growth within communities that have  
3654 been the most disproportionately impacted by the former prohibition of cannabis. Expenditures and  
3655 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller  
3656 upon written request signed by the Chief Executive Officer of the Authority.

**3657 § 4.1-1502. Program requirements; guidelines for management of the Fund; selection of CDFI.**

3658 A. The Authority shall establish a Program to provide loans, *grants, and other supports and services to*  
3659 *qualified social equity cannabis impact* licensees for the purpose of promoting business ownership and  
3660 economic growth by communities that have been disproportionately impacted by the prohibition of cannabis.  
3661 *The For the purposes of issuing loans, the Authority shall* ~~may~~ select and work in collaboration with a CDFI  
3662 ~~to assist in administering the Program and carrying out the purposes of the Fund. The If the Authority utilizes~~  
3663 ~~a CDFI for issuing loans, the CDFI selected by the Authority shall have~~ (i) a statewide presence in Virginia,  
3664 (ii) experience in business lending, (iii) a proven track record of working with disadvantaged communities,  
3665 and (iv) the capability to dedicate sufficient staff to manage the Program. ~~Working with the selected CDFI,~~  
3666 ~~the~~ The Authority shall establish monitoring and accountability mechanisms for *businesses impact* licensees  
3667 receiving funding and shall report annually the number of businesses funded; the geographic distribution of  
3668 the businesses; the costs of the Program; and the outcomes, including the number and types of jobs created.  
3669

3670 B. The Program shall:

3671 1. Identify *social equity qualified cannabis impact* licensees who are in need of capital *or other supports*  
3672 *and services* for the start-up of a cannabis business properly licensed pursuant to the provisions of this  
3673 subtitle;

3674 2. Provide loans, *grants, and other supports and services* for the purposes described in subsection A *and*  
3675 § 4.1-1501;

3676 3. Provide technical assistance; and

3677 4. Bring together community partners to sustain the Program.

**3678 § 4.1-1600. Definitions.**

3679 As used in this chapter, unless the context requires a different meaning:

3680 "Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of  
3681 the same chemovar of cannabis plant.

3682 "Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to  
3683 § 4.1-1602; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis products  
3684 produced by a pharmaceutical processor to a patient, his registered agent, or, if such patient is a minor or a  
3685 vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

3686 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial  
3687 hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to  
3688 § 4.1-1602, or a dilution of the resin of the Cannabis plant that contains, except as otherwise provided in this  
3689 chapter, no more than 10 milligrams of tetrahydrocannabinol per dose. "Cannabis oil" does not include  
3690 industrial hemp, as defined in § 3.2-4112, that is grown, handled, or processed in compliance with state or  
3691 federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp  
3692 processor and acquired and formulated by a pharmaceutical processor.

3693 "Cannabis product" means a product that (i) is formulated with cannabis oil or botanical cannabis; (ii) is  
3694 produced by a pharmaceutical processor and sold by a pharmaceutical processor or cannabis dispensing  
3695 facility; (iii) is registered with the Board; (iv) contains, except as otherwise provided in this chapter, no more  
3696 than 10 milligrams of tetrahydrocannabinol per dose; and (v) is compliant with testing requirements.

3697 "Delivery agent" means an independent contractor that transports or delivers usable cannabis, botanical  
3698 cannabis, cannabis oil, or cannabis products on behalf of a pharmaceutical processor or cannabis  
3699 dispensing facility.

3700 "Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or  
3701 home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health  
3702 services, private provider licensed by the Department of Behavioral Health and Developmental Services  
3703 pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant  
3704 to § 63.2-1701, or adult day center licensed pursuant to § 63.2-1701.

3705 "Dispense" means the same as that term is defined in § 54.1-3300.

3706 "Edible cannabis product" means a cannabis product that is intended to be ingested and is (i) formulated  
3707 with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor and sold by a  
3708 pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and (iv) compliant  
3709 with testing requirements.

3710 "Inhalable cannabis product" means a cannabis product that is intended to be inhaled and is (i)  
3711 formulated with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor and sold by  
3712 a pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and (iv)  
3713 compliant with testing requirements.

3714 "Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to

3714 § 4.1-1602 and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, botanical  
 3715 cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a patient  
 3716 pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable adult as  
 3717 defined in § 18.2-369, such patient's parent or legal guardian.

3718 "Pharmacist" means the same as that term is defined in § 54.1-3300.

3719 "Pharmacy intern" means the same as that term is defined in § 54.1-3300.

3720 "Pharmacy technician" means the same as that term is defined in § 54.1-3300.

3721 "Pharmacy technician trainee" means the same as that term is defined in § 54.1-3300.

3722 "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a  
 3723 physician assistant licensed by the Board of Medicine, or an advanced practice registered nurse jointly  
 3724 licensed by the Boards of Nursing and Medicine.

3725 "Registered agent" means an individual designated by a patient who has been issued a written  
 3726 certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such  
 3727 patient's parent or legal guardian, and registered with the Board pursuant to subsection F of § 4.1-1601.

3728 "*Topical cannabis product*" means a cannabis product that is intended to be applied topically to the skin  
 3729 and is (i) formulated with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor  
 3730 and sold by a pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and  
 3731 (iv) compliant with testing requirements.

3732 "Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been  
 3733 extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from  
 3734 the stalks, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks;  
 3735 or (iii) oil or cake made from the seeds of the plant.

3736 **§ 4.1-1601. Certification for use of cannabis for treatment.**

3737 A. A practitioner in the course of his professional practice may issue a written certification for the use of  
 3738 cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease  
 3739 determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment  
 3740 to determine the manner and frequency of patient care and evaluation and may employ the use of  
 3741 telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time  
 3742 interactive audiovisual technology. No practitioner may issue a written certification while such practitioner is  
 3743 on the premises of a pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor  
 3744 shall not endorse or promote any practitioner who issues certifications to patients. If a practitioner determines  
 3745 it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification  
 3746 shall specifically authorize such dispensing. If not specifically included on the initial written certification,  
 3747 authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the  
 3748 time of dispensing. A practitioner who issues written certifications shall not directly or indirectly accept,  
 3749 solicit, or receive anything of value from a pharmaceutical processor, cannabis dispensing facility, or any  
 3750 person associated with a pharmaceutical processor, cannabis dispensing facility, or provider of paraphernalia,  
 3751 excluding information on products or educational materials on the benefits and risks of cannabis products.

3752 B. The written certification shall be on a form provided by the Authority. Such written certification shall  
 3753 contain the name, address, and telephone number of the practitioner, the name and address of the patient  
 3754 issued the written certification, the date on which the written certification was made, and the signature or  
 3755 authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection A  
 3756 shall expire one year after its issuance unless the practitioner provides in such written certification an earlier  
 3757 expiration. A written certification shall not be issued to a patient by more than one practitioner during any  
 3758 given time period.

3759 C. No practitioner shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248 or 18.2-248.1*  
 3760 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the  
 3761 symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to  
 3762 subsection A. Nothing in this section shall preclude a practitioner's professional licensing board from  
 3763 sanctioning the practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise  
 3764 violating the applicable standard of care for evaluating or treating medical conditions.

3765 D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall hold  
 3766 sufficient education and training to exercise appropriate professional judgment in the certification of patients;  
 3767 (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian, or  
 3768 registered agent that is contingent on or encourages the person's decision to use a particular pharmaceutical  
 3769 processor or cannabis product; (iii) shall not issue a certification to himself or his family members,  
 3770 employees, or coworkers; (iv) shall not provide product samples containing cannabis other than those  
 3771 approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a  
 3772 pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of patients to  
 3773 whom a practitioner may issue a written certification. The Board may report information to the applicable  
 3774 licensing board on unusual patterns of certifications issued by a practitioner.

3775 E. No patient shall be required to physically present the written certification after the initial dispensing by

3776 any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that  
3777 the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written  
3778 certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit on a  
3779 monthly basis all new written certifications received by the pharmaceutical processor or cannabis dispensing  
3780 facility to the Authority.

3781 F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's  
3782 parent or legal guardian, may designate an individual to act as his registered agent for the purposes of  
3783 receiving cannabis products pursuant to a valid written certification. Such designated individual shall register  
3784 with the Board unless the individual's name listed on the patient's written certification. An individual may, on  
3785 the basis of medical need and in the discretion of the patient's registered practitioner, be listed on the patient's  
3786 written certification upon the patient's request. The Board may set a limit on the number of patients for whom  
3787 any individual is authorized to act as a registered agent.

3788 G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a  
3789 designated caregiver facility, any employee or contractor of a designated caregiver facility who is licensed or  
3790 registered by a health regulatory board and who is authorized to possess, distribute, or administer medications  
3791 may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the  
3792 patient or resident and may assist in the administration of the cannabis product to the patient or resident as  
3793 necessary.

3794 H. Information obtained under the patient certification or agent registration process shall be confidential  
3795 and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700  
3796 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the  
3797 House and Senate Committees for Courts of Justice, (ii) state and federal agencies or local law enforcement  
3798 for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii)  
3799 licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug  
3800 therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or  
3801 cannabis dispensing facility involved in the treatment of a patient, or (v) a patient's registered agent, but only  
3802 with respect to information related to such patient.

**3803 § 4.1-1602. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

3804 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first  
3805 obtaining a permit from the Board. The application for such permit shall be made on a form provided by the  
3806 Authority and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's  
3807 dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general  
3808 requirements for such application.

3809 B. Each permit shall expire annually on a date determined by the Board in regulation. The number of  
3810 permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to  
3811 five cannabis dispensing facilities for each health service area established by the Board of Health. Permits  
3812 shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis  
3813 dispensing facility.

3814 C. The Board shall adopt regulations establishing health, safety, and security requirements for  
3815 pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for  
3816 (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment  
3817 and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) routine inspections no more frequently  
3818 than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis  
3819 products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in  
3820 § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis products that provide  
3821 that each dispensed dose of a cannabis product not exceed 10 milligrams of total tetrahydrocannabinol,  
3822 except as permitted under § 4.1-1603.2; (x) a process for the wholesale distribution of and the transfer of  
3823 usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors,  
3824 between a pharmaceutical processor and a cannabis dispensing facility, and between cannabis dispensing  
3825 facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and  
3826 hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the  
3827 laboratory testing standards set forth in subsection N; (xii) an allowance for the use and distribution of inert  
3828 product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical  
3829 processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a  
3830 written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into  
3831 cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical  
3832 processor's products and operations, which shall not limit the pharmaceutical processor from the provision of  
3833 educational material to practitioners who issue written certifications and patients. The Board shall also adopt  
3834 regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely  
3835 cultivating cannabis plants intended for producing cannabis products, (b) the disposal of agricultural waste,  
3836 and (c) a process for registering cannabis products.

3837 D. The Board shall require pharmaceutical processors, after processing and before dispensing any

3838 cannabis products, to make a sample available from each batch of cannabis product for testing by an  
 3839 independent laboratory that is located in the Commonwealth and meets Board requirements. A valid sample  
 3840 size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method,  
 3841 and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing  
 3842 or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis  
 3843 oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from  
 3844 each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for  
 3845 analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD), total  
 3846 tetrahydrocannabinol (THC), terpenes, pesticide chemical residue, heavy metals, mycotoxins, moisture, and  
 3847 microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis  
 3848 industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails  
 3849 any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or  
 3850 cannabis oil shall be subject to laboratory testing, which shall not be more stringent than initial testing prior  
 3851 to remediation. Remediated botanical cannabis or cannabis oil that passes such quality testing may be  
 3852 packaged and labeled. If a batch of botanical cannabis fails retesting after remediation, it shall be considered  
 3853 usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any  
 3854 cannabis product with an expiration date assigned by the pharmaceutical processor of 12 months or less from  
 3855 the date of the cannabis product registration approval. Stability testing required for assignment of an  
 3856 expiration date longer than 12 months shall be limited to microbial testing, on a pass/fail basis, and potency  
 3857 testing, on a 15 percent deviation basis, of total THC and total CBD. No cannabis product shall have an  
 3858 expiration date longer than 12 months from the date of the cannabis product registration approval unless  
 3859 supported by stability testing.

3860 E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances  
 3861 registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the  
 3862 Board of Pharmacy in regulation.

3863 F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the  
 3864 personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis  
 3865 dispensing facility unless all cannabis products are contained in a vault or other similar container to which  
 3866 only the pharmacist has access controls. The pharmaceutical processor shall ensure that security measures are  
 3867 adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have  
 3868 concurrent responsibility for preventing diversion from the dispensing area.

3869 Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and  
 3870 production areas of the pharmaceutical processor and shall provide such information to the Board. The Board  
 3871 shall direct all communications related to enforcement of requirements related to cultivation and production  
 3872 of cannabis and cannabis products by the pharmaceutical processor to such designated person.

3873 G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis  
 3874 dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be  
 3875 forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau  
 3876 of Investigation for the purpose of obtaining criminal history record information regarding the applicant's  
 3877 material owners. The cost of fingerprinting and the criminal history record search shall be paid by the  
 3878 applicant. The Central Criminal Records Exchange shall forward the results of the criminal history  
 3879 background check to the Board or its designee, which shall be a governmental entity.

3880 H. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees  
 3881 and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery  
 3882 agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

3883 I. In addition to other employees authorized by the Board, a pharmaceutical processor may employ  
 3884 individuals who may have less than one year of experience (i) to perform cultivation-related duties under the  
 3885 supervision of an individual who has received a degree in a field related to the cultivation of plants or a  
 3886 certification recognized by the Board or who has at least one year of experience cultivating plants, (ii) to  
 3887 perform extraction-related duties under the supervision of an individual who has a degree in chemistry or  
 3888 pharmacology or at least one year of experience extracting chemicals from plants, (iii) to perform duties at  
 3889 the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician,  
 3890 and (iv) to serve as pharmacy technician trainees.

3891 J. A pharmaceutical processor to whom a permit has been issued by the Board may (i) establish up to five  
 3892 cannabis dispensing facilities, subject to the permit requirement set forth in subsection B, for the dispensing  
 3893 of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor  
 3894 permitted by the Board and (ii) establish, if authorized by the Board, one additional location at which the  
 3895 pharmaceutical processor may cultivate cannabis plants. Each cannabis dispensing facility and the additional  
 3896 cultivation location shall be located within the same health service area as the pharmaceutical processor.

3897 K. No person who has been convicted of a felony under the laws of the Commonwealth or another  
 3898 jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or  
 3899 cannabis dispensing facility.

3900 L. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment  
3901 drug screening and regular, ongoing, random drug screening of employees.

3902 M. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility  
3903 shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees  
3904 who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than  
3905 six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's  
3906 dispensing area or cannabis dispensing facility.

3907 N. A pharmaceutical processor may acquire from a registered industrial hemp handler or processor  
3908 industrial hemp extracts that (i) are grown and processed in Virginia in compliance with state or federal law,  
3909 and (ii) notwithstanding the tetrahydrocannabinol limits set forth in the definition of "industrial hemp extract"  
3910 in § 3.2-5145.1, contain a total tetrahydrocannabinol concentration of no greater than 0.3 percent. A  
3911 pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis  
3912 product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the  
3913 same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by  
3914 a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products.  
3915 The industrial hemp handler or processor shall provide such third-party testing results to the pharmaceutical  
3916 processor before industrial hemp extracts may be acquired.

3917 O. Product labels for all cannabis products and botanical cannabis shall be complete, accurate, easily  
3918 ~~diseernable~~ discernible, and uniform among different products and brands. Pharmaceutical processors shall  
3919 affix to all cannabis products and botanical cannabis a label, which shall also be accessible on the  
3920 pharmaceutical processor's website, that includes:

3921 1. The product name;

3922 2. All active and inactive ingredients, including cannabinoids, terpenes, additives, preservatives,  
3923 flavorings, sweeteners, and carrier oils;

3924 3. The total ~~percenteage and~~ milligrams of tetrahydrocannabinol and cannabidiol included in the *edible*  
3925 *cannabis product or topical cannabis product and*, the number of milligrams of tetrahydrocannabinol and  
3926 cannabidiol in each serving *of the edible cannabis product or topical cannabis product, and the total*  
3927 *percentage of tetrahydrocannabinol and cannabidiol included in the inhalable cannabis product;*

3928 4. The amount of product that constitutes a single serving and the amount recommended for use by the  
3929 practitioner or dispensing pharmacist;

3930 5. Information regarding the product's purpose and detailed usage directions;

3931 6. Child and safety warnings in a conspicuous font; and

3932 7. Such other information required by the Board.

3933 P. A pharmaceutical processor or cannabis dispensing facility shall maintain an adequate supply of  
3934 cannabis products that (i) contain cannabidiol as their primary cannabinoid and (ii) have low levels of or no  
3935 tetrahydrocannabinol.

3936 Q. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000  
3937 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any  
3938 regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall  
3939 publish a notice of opportunity to comment in the Virginia Register of Regulations and post the ~~an~~ action on  
3940 the Virginia Regulatory Town Hall. Such notice of opportunity to comment that shall contain provide (i) a  
3941 60-day comment period; (ii) a summary of the proposed regulation; (iii) the text of the proposed  
3942 regulation; and (iv) the name, address, and telephone number of the agency contact person responsible  
3943 for receiving public comments; and (v) the statutory authority to promulgate the regulation. Such notice shall  
3944 be made at least 60 days in advance of the last date prescribed in such notice for submittals of public  
3945 comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the  
3946 promulgation or final adoption process for regulations pursuant to this section. The Board shall consider and  
3947 keep on file all public comments received for any regulation adopted pursuant to this section.

3948 **§ 4.1-1603. Dispensing cannabis products; report.**

3949 A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis products  
3950 only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia and has been issued  
3951 a valid written certification; (ii) such patient's registered agent; or (iii) if such patient is a minor or a  
3952 vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or  
3953 temporarily resides in Virginia. A *pharmaceutical processor or cannabis dispensing facility may dispense or*  
3954 *deliver cannabis products to such patient or such patient's registered agent, parent, or legal guardian at any*  
3955 *residence, including a temporary residence, or business. Notwithstanding the foregoing, a pharmaceutical*  
3956 *processor or cannabis dispensing facility shall not dispense or deliver cannabis products to (a) any military*  
3957 *base, child day center, school, or correctional facility; (b) the State Capitol; or (c) any public gathering*  
3958 *places, including sporting events, festivals, fairs, races, concerts, and terminals of public transportation*  
3959 *companies.* A companion may accompany a patient into a pharmaceutical processor's dispensing area or  
3960 cannabis dispensing facility. Prior to the initial dispensing of cannabis products pursuant to each written  
3961 certification, a pharmacist or pharmacy technician employed by the pharmaceutical processor or cannabis

3962 dispensing facility shall make and maintain, on site or remotely by electronic means, for two years a paper or  
 3963 electronic copy of the written certification that provides an exact image of the document that is clearly  
 3964 legible; shall view, in person or by audiovisual means, a current photo identification of the patient, registered  
 3965 agent, parent, or legal guardian; and shall verify current board registration of the corresponding registered  
 3966 agent if applicable. Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent,  
 3967 legal guardian, or designated caregiver facility. Prior to any subsequent dispensing of cannabis products  
 3968 pursuant to each written certification, an employee or delivery agent shall view a current photo identification  
 3969 of the patient, registered agent, parent, or legal guardian and the current board registration issued to the  
 3970 registered agent if applicable. No pharmaceutical processor or cannabis dispensing facility shall dispense  
 3971 more than a 90-day supply, as determined by the dispensing pharmacist or certifying practitioner, for any  
 3972 patient during any 90-day period. A pharmaceutical processor or cannabis dispensing facility may dispense  
 3973 less than a 90-day supply of a cannabis product for any patient during any 90-day period; however, a  
 3974 pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a  
 3975 patient at one time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period  
 3976 for which botanical cannabis is dispensed. In determining the appropriate amount of a cannabis product to be  
 3977 dispensed to a patient, a pharmaceutical processor or cannabis dispensing facility shall consider all cannabis  
 3978 products dispensed to the patient and adjust the amount dispensed accordingly.

3979 B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis products  
 3980 produced on the premises of a pharmaceutical processor permitted by the Board or cannabis products that  
 3981 have been formulated with extracts from industrial hemp acquired by a pharmaceutical processor from a  
 3982 registered industrial hemp handler or processor pursuant to § 4.1-1602. A pharmaceutical processor may  
 3983 begin cultivation upon being issued a permit by the Board.

3984 C. The Board shall report annually by December 1 to the Chairmen of the House Committee on General  
 3985 Laws and the Senate Committee on Rehabilitation and Social Services on the operation of pharmaceutical  
 3986 processors and cannabis dispensing facilities issued a permit by the Board.

3987 D. The concentration of total tetrahydrocannabinol in any cannabis product on site may be up to 15  
 3988 percent greater than or less than the level of total tetrahydrocannabinol listed in the approved cannabis  
 3989 product registration. A pharmaceutical processor and cannabis dispensing facility shall ensure that such  
 3990 concentration in any cannabis product on site is within such range. A pharmaceutical processor producing  
 3991 cannabis products shall establish a stability testing schedule of cannabis products that have an expiration date  
 3992 of longer than 12 months.

3993 E. *All transportation or delivery of usable cannabis, botanical cannabis, cannabis oil, or cannabis*  
 3994 *products, whether by an employee or delivery agent, shall comply with the provisions of this subtitle and*  
 3995 *Board regulations, including those related to background checks, proof of identification, vehicle security,*  
 3996 *GPS tracking, secure communications, and recordkeeping. The Board may suspend or revoke the privileges*  
 3997 *of any employee or delivery agent to transport or deliver usable cannabis, cannabis oil, or cannabis products*  
 3998 *for failure of such employee or delivery agent to comply with the provisions of this subtitle or Board*  
 3999 *regulations.*

4000 **§ 4.1-1604. Criminal liability; exceptions.**

4001 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted  
 4002 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  
 4003 marijuana or for possession, manufacture, or distribution of cannabis products, subject to any civil penalty,  
 4004 denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such  
 4005 agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis  
 4006 products in accordance with the provisions of this chapter and Board regulations or (ii) possessed,  
 4007 manufactured, or distributed such cannabis products that are consistent with generally accepted cannabis  
 4008 industry standards in accordance with the provisions of this chapter and Board regulations.

4009 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless  
 4010 operation.**

4011 Any person who shall ~~operate~~ *operates* any aircraft within the airspace over, above, or upon the lands or  
 4012 waters of ~~this~~ *the* Commonwealth, while under the influence of intoxicating liquor or of any narcotic or  
 4013 marijuana or any habit-forming drugs shall be *is* guilty of a felony and shall be confined in a state  
 4014 correctional facility not less than one nor more than five years, or, in the discretion of the court or jury trying  
 4015 the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or both such fine  
 4016 and imprisonment.

4017 Any person who shall ~~operate~~ *operates* any aircraft within the airspace over, above, or upon the lands or  
 4018 waters of ~~this~~ *the* Commonwealth carelessly or heedlessly in willful or wanton disregard of the rights or  
 4019 safety of others, or without due caution and circumspection and in a manner so as to endanger any person or  
 4020 property, shall be *is* guilty of a misdemeanor.

4021 **§ 6.2-108. Financial services for licensed marijuana establishments.**

4022 A. As used in this section, "licensed" and "marijuana establishment" have the same meanings as provided  
 4023 in § 4.1-600.

4024     *B. A bank or credit union that provides a financial service to a licensed marijuana establishment, and the*  
4025     *officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to any state*  
4026     *law or regulation solely for providing such a financial service or for further investing any income derived*  
4027     *from such a financial service.*

4028     *C. Nothing in this section shall require a bank or credit union to provide financial services to a licensed*  
4029     *marijuana establishment.*

4030     **§ 9.1-1101. Powers and duties of the Department.**

4031     A. It shall be the responsibility of the Department to provide forensic laboratory services upon request of  
4032     the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and  
4033     local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant  
4034     responsible for law enforcement in the jurisdiction served by him; any local fire department; the head of any  
4035     private police department that has been designated as a criminal justice agency by the Department of  
4036     Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal matter. The  
4037     Department shall provide such services to any federal investigatory agency within available resources.

4038     B. The Department shall:

4039        1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth  
4040        and provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as  
4041        needed;

4042        2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of  
4043        Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; **and**

4044        3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six  
4045        months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath; **and**

4046        4. *Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in*  
4047        *substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-3446.*  
4048        *The testing methodology shall use post-decarboxylation testing or other equivalent method and shall consider*  
4049        *the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the*  
4050        *total available THC derived from the sum of the THC and THC-A content.*

4051        C. The Department shall have the power and duty to:

4052        1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes  
4053        of this chapter;

4054        2. Make and enter into all contracts and agreements necessary or incidental to the performance of its  
4055        duties and execution of its powers under this chapter including, but not limited to, contracts with the United  
4056        States, units of general local government or combinations thereof in Virginia or other states, and with  
4057        agencies and departments of the Commonwealth; and

4058        3. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

4059        D. The Director may appoint and employ a deputy director and such other personnel as are needed to  
4060        carry out the duties and responsibilities conferred by this chapter.

4061     **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines;**  
4062     **prepayment of local ordinances.**

4063        A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed,  
4064        but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions  
4065        for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated  
4066        infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any parallel local  
4067        ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is  
4068        listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance  
4069        whether or not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2  
4070        shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in  
4071        § 46.2-878.3.

4072        Such infractions shall not include:

4073        1. Indictable offenses;

4074        2. [Repealed.]

4075        3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a narcotic  
4076        or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor,  
4077        *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his  
4078        custody or control;

4079        4. Reckless driving;

4080        5. Leaving the scene of an accident;

4081        6. Driving while under suspension or revocation of driving privileges;

4082        7. Driving without being licensed to drive.

4083        8. [Repealed.]

4084        B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a  
4085        magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and a

4086      plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. He shall,  
 4087      prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of  
 4088      guilty will have the same force and effect as a judgment of court, and that the record of conviction will be  
 4089      sent to the Commissioner of the Department of Motor Vehicles.

4090      C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a  
 4091      schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to be imposed,  
 4092      designating each infraction specifically. The schedule, which may from time to time be amended,  
 4093      supplemented or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule  
 4094      shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at  
 4095      the time fixed for trial. The rule of the Supreme Court establishing the schedule shall be prominently posted  
 4096      in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this  
 4097      Code or any rules or regulations promulgated thereunder.

4098      D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law and  
 4099      fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B if such  
 4100      ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of each circuit  
 4101      may establish a schedule of the fines, within the limits prescribed by local ordinances, to be imposed for  
 4102      prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be  
 4103      forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The  
 4104      schedule, which from time to time may be amended, supplemented or repealed, shall be uniform in its  
 4105      application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the  
 4106      discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be  
 4107      prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the  
 4108      provisions of this Code or any rules or regulations promulgated thereunder.

4109      **§ 16.1-260. Intake; petition; investigation.**

4110      A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a  
 4111      petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be  
 4112      as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of  
 4113      Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing  
 4114      of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the  
 4115      Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated  
 4116      nonattorney employees of the Department of Social Services may complete, sign, and file petitions and  
 4117      motions relating to the establishment, modification, or enforcement of support on forms approved by the  
 4118      Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of  
 4119      social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of  
 4120      Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish  
 4121      paternity, motions to establish or modify support, motions to amend or review an order, and motions for a  
 4122      rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except  
 4123      petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of  
 4124      supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the  
 4125      local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of  
 4126      Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake  
 4127      officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving  
 4128      child support services or public assistance. No individual who is receiving support services or public  
 4129      assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for  
 4130      support of a child. If the petitioner is seeking or receiving child support services or public assistance, the  
 4131      clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the  
 4132      court date, to the Division of Child Support Enforcement. If a petitioner is seeking to establish child support,  
 4133      the intake officer shall provide the petitioner information on the possible availability of medical assistance  
 4134      through the Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored  
 4135      coverage through the Department of Medical Assistance Services.

4136      B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake  
 4137      officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and  
 4138      audio communication is used, an intake officer may exercise all powers conferred by law. All  
 4139      communications and proceedings shall be conducted in the same manner as if the appearance were in person,  
 4140      and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed  
 4141      by the officer or person to whom sent, and returned in the same manner, and with the same force, effect,  
 4142      authority, and liability as an original document. All signatures thereon shall be treated as original signatures.  
 4143      Any two-way electronic video and audio communication system used for an appearance shall meet the  
 4144      standards as set forth in subsection B of § 19.2-3.1.

4145      When the court service unit of any court receives a complaint alleging facts which may be sufficient to  
 4146      invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed  
 4147      informally to make such adjustment as is practicable without the filing of a petition or may authorize a

4148 petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause  
4149 for the issuance of the petition.

4150 An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of  
4151 supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent juvenile felony or  
4152 (b) has not previously been proceeded against informally or adjudicated delinquent for an offense that would  
4153 be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony  
4154 shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a  
4155 felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded  
4156 against informally by intake or had been adjudicated delinquent for an offense that would be a felony if  
4157 committed by an adult.

4158 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the  
4159 attendance officer has provided documentation to the intake officer that the relevant school division has  
4160 complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The  
4161 intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided  
4162 that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of  
4163 supervision on more than two occasions for failure to comply with compulsory school attendance as provided  
4164 in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three  
4165 calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person  
4166 standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may  
4167 include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco  
4168 parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and  
4169 limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided  
4170 in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of  
4171 developing a truancy plan using an interagency interdisciplinary team approach. The team may include  
4172 qualified personnel who are reasonably available from the appropriate department of social services,  
4173 community services board, local school division, court service unit, and other appropriate and available  
4174 public and private agencies and may be the family assessment and planning team established pursuant to  
4175 § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or  
4176 the truancy program, then the intake officer shall file the petition.

4177 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in  
4178 need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the  
4179 juvenile, which may include restitution, the performance of community service, or on a complaint alleging  
4180 that a child has committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor  
4181 if committed by an adult and with the consent of the juvenile's parent or legal guardian, referral to a youth  
4182 justice diversion program established pursuant to § 16.1-309.11, based upon community resources and the  
4183 circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake  
4184 officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent,  
4185 guardian, or other person standing in loco parentis and the complainant that any subsequent complaint  
4186 alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to  
4187 invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case of a referral to a youth justice  
4188 diversion program established pursuant to § 16.1-309.11, that any subsequent report from the youth justice  
4189 diversion program alleging that the juvenile failed to comply with the youth justice diversion program's  
4190 sentence within 180 days of the sentencing date, may result in the filing of a petition with the court.

4191 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or  
4192 support of a child is the subject of controversy or requires determination, (ii) a person has deserted,  
4193 abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent,  
4194 guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or  
4195 other services which are required by law, (iv) family abuse has occurred and a protective order is being  
4196 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  
4197 occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either  
4198 the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake  
4199 officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of  
4200 supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the  
4201 authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be  
4202 effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.  
4203 The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4,  
4204 or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of  
4205 protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective  
4206 order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written  
4207 explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders  
4208 pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

4209 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be

4210 reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need  
 4211 of supervision have utilized or attempted to utilize treatment and services available in the community and  
 4212 have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer  
 4213 determines that the parties have not attempted to utilize available treatment or services or have not exhausted  
 4214 all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to  
 4215 be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or  
 4216 services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a  
 4217 reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

4218 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult  
 4219 would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely upon a  
 4220 finding that no probable cause exists, the complainant shall be notified in writing at that time of the  
 4221 complainant's right to apply to a magistrate for a warrant. The application for a warrant to the magistrate shall  
 4222 be filed within 10 days of the issuance of the written notification. The written notification shall indicate that  
 4223 the intake officer made a finding that no probable cause exists and shall provide notice that the complainant  
 4224 has 10 days to apply for a warrant to the magistrate. The complainant shall provide the magistrate with a copy  
 4225 of the written notification upon application to the magistrate. If a magistrate determines that probable cause  
 4226 exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant  
 4227 shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition  
 4228 founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or  
 4229 shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant  
 4230 issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a  
 4231 child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his  
 4232 decision is final. If the intake officer refuses to authorize a petition relating to an offense that if committed by  
 4233 an adult would be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a  
 4234 finding that (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final  
 4235 and the complainant shall not have a right to apply to a magistrate for a warrant.

4236 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake  
 4237 officer shall accept and file a petition founded upon the warrant.

4238 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which  
 4239 alleges facts of an offense which would be a felony if committed by an adult.

4240 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report  
 4241 with the division superintendent of the school division in which any student who is the subject of a petition  
 4242 alleging that such student who is a juvenile has committed an act, wherever committed, which would be a  
 4243 crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to  
 4244 be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the  
 4245 petition and the nature of the offense, if the violation involves:

- 4246 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et  
 4247 seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
- 4248 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 4249 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title  
 4250 18.2;
- 4251 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 4252 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to  
 4253 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 4254 6. Manufacture, sale or distribution of marijuana pursuant to Article 4 Chapter 11 (§ 18.2-247 4.1-1100 et  
 4255 seq.) of Chapter 7 of Title 18.2.4.1;
- 4256 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 4257 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 4258 9. Robbery pursuant to § 18.2-58;
- 4259 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 4260 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
- 4261 12. An act of violence by a mob pursuant to § 18.2-42.1;
- 4262 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
- 4263 14. A threat pursuant to § 18.2-60.

4264 The failure to provide information regarding the school in which the student who is the subject of the  
 4265 petition may be enrolled shall not be grounds for refusing to file a petition.

4266 The information provided to a division superintendent pursuant to this section may be disclosed only as  
 4267 provided in § 16.1-305.2.

4268 H. The filing of a petition shall not be necessary:

- 4269 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other  
 4270 pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any  
 4271 ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the

4272 court may proceed on a summons issued by the officer investigating the violation in the same manner as  
4273 provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene  
4274 of the accident or at any other location where a juvenile who is involved in such an accident may be located,  
4275 proceed on a summons in lieu of filing a petition.

4276 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of  
4277 § 16.1-241.

4278 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  
4279 other alcohol-related offense, provided that the juvenile is released to the custody of a parent or legal  
4280 guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal  
4281 guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal  
4282 guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner  
4283 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  
4284 § 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  
4285 samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or  
4286 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize  
4287 execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the  
4288 juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried.  
4289 When a violation of § 4.1-305 or 4.1-1105 is charged by summons, the juvenile shall be entitled to have the  
4290 charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided that  
4291 such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such  
4292 summons alleging a violation of § 4.1-305 or 4.1-1105 is served, the officer shall also serve upon the juvenile  
4293 written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and  
4294 make return of such service to the court. If the officer fails to make such service or return, the court shall  
4295 dismiss the summons without prejudice.

4296 4. In the case of offenses, *other than marijuana-related offenses*, which, if committed by an adult, would  
4297 be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer  
4298 proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same  
4299 manner as provided by law for adults provided that notice of the summons to appear is mailed by the  
4300 investigating officer within five days of the issuance of the summons to a parent or legal guardian of the  
4301 juvenile.

4302 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the  
4303 jurisdiction granted it in § 16.1-241.

**4304 § 16.1-273. Court may require investigation of social history and preparation of victim impact  
4305 statement.**

4306 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case  
4307 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of  
4308 the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew  
4309 violations, the court before final disposition thereof may require an investigation, which (i) shall include a  
4310 drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a  
4311 social history of the physical, mental, and social conditions, including an assessment of any affiliation with a  
4312 criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances  
4313 surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an  
4314 act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, *or* (b) a  
4315 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  
4316 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, *or* (c) a  
4317 violation of § 4.1-1105, the court shall order the juvenile to undergo a drug screening. If the drug screening  
4318 indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by  
4319 a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile  
4320 Justice or by a locally operated court services unit or by an individual employed by or currently under  
4321 contract to such agencies and who is specifically trained to conduct such assessments under the supervision  
4322 of such counselor.

4323 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim,  
4324 or may in its discretion, require the preparation of a victim impact statement in accordance with the  
4325 provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical,  
4326 psychological, or economic injury as a result of the violation of law.

**4327 § 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses;  
4328 truancy.**

4329 A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time  
4330 of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of  
4331 any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation  
4332 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  
4333 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*

4334 of § 4.1-1105; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or  
 4335 the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of  
 4336 § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town;  
 4337 (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or  
 4338 (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as  
 4339 provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty  
 4340 authorized by this section, if the offense involves a violation designated under clause (i) and the child was  
 4341 transporting a person 17 years of age or younger, the court shall impose the additional fine and order  
 4342 community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i),  
 4343 (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches  
 4344 the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile  
 4345 reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a  
 4346 violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six  
 4347 months unless the offense is committed by a child under the age of 16 years and three months, in which case  
 4348 the child's ability to apply for a driver's license shall be delayed for a period of six months following the date  
 4349 he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v)  
 4350 or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a  
 4351 judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the  
 4352 case pursuant to subsection F. If the offense involves a violation designated under clause (iii) or (iv), the  
 4353 court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions  
 4354 of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of  
 4355 driving privileges shall be for a period of not less than 30 days, except when the offense involves possession  
 4356 of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding  
 4357 stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in  
 4358 which case the denial of driving privileges shall be for a period of two years unless the offense is committed  
 4359 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  
 4360 license shall be delayed for a period of two years following the date he reaches the age of 16 and three  
 4361 months.

4362 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and  
 4363 meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving  
 4364 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16  
 4365 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not  
 4366 less than 30 days following the date he reaches the age of 16 and three months.

4367 If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a  
 4368 period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability  
 4369 to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three  
 4370 months, as may be appropriate.

4371 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of  
 4372 § 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  
 4373 the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or  
 4374 until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

4375 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  
 4376 provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the  
 4377 physical custody of the court during any period of license denial.

4378 C. The court shall report any order issued under this section to the Department of Motor Vehicles, which  
 4379 shall preserve a record thereof. The report and the record shall include a statement as to whether the child was  
 4380 represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2.  
 4381 Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2, this record  
 4382 shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other  
 4383 record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding  
 4384 results in an adjudication of guilt pursuant to subsection F.

4385 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's  
 4386 license until such time as is stipulated in the court order or until notification by the court of withdrawal of the  
 4387 order of denial under subsection E.

4388 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of  
 4389 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol  
 4390 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set  
 4391 forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii)  
 4392 of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such  
 4393 terms and conditions as the court may set forth.

4394 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted  
 4395 permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the

4396 time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection  
4397 E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to  
4398 and from home and school when school-provided transportation is available and no restricted license shall be  
4399 issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A,  
4400 or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding  
4401 by the court of failure to comply with school attendance and meeting requirements as provided in subsection  
4402 A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection  
4403 A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be  
4404 provided to the child, and shall specifically enumerate the restrictions imposed and contain such information  
4405 regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under  
4406 the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any  
4407 restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

4408 E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any  
4409 order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2.  
4410 For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one  
4411 year after its issuance.

4412 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A,  
4413 upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has  
4414 been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if  
4415 the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge  
4416 the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be  
4417 without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying  
4418 this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in  
4419 an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv)  
4420 of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of  
4421 pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second  
4422 violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this  
4423 subsection but shall be disposed of under § 16.1-278.8.

4424 **§ 18.2-46.1. Definitions.**

4425 As used in this article, unless the context requires a different meaning:

4426 "Act of violence" means those felony offenses described in subsection C of § 17.1-805 or subsection A of  
4427 § 19.2-297.1.

4428 "Criminal street gang" means any ongoing organization, association, or group of three or more persons,  
4429 whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one  
4430 or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose  
4431 members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to  
4432 commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence,  
4433 provided such acts were not part of a common act or transaction.

4434 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3, 18.2-56.1,  
4435 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,  
4436 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,  
4437 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  
4438 § 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  
4439 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  
4440 violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense  
4441 under the laws of another state or territory of the United States, the District of Columbia, or the United States.

4442 **§ 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI," "imitation  
4443 controlled substance," and "counterfeit controlled substance" in Title 18.2.**

4444 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used in Title  
4445 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et  
4446 seq.).

4447 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit controlled  
4448 substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ that is not a controlled  
4449 substance subject to abuse, and:

4450 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging or by  
4451 representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other  
4452 form whatsoever will be mistaken for a controlled substance unless such substance was introduced into  
4453 commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to  
4454 imitate; or

4455 2. Which by express or implied representations purports to act like a controlled substance as a stimulant or  
4456 depressant of the central nervous system and which is not commonly used or recognized for use in that  
4457 particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed,

4458 promoted, or sold as permitted by the U.S. Food and Drug Administration.

4459 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an  
 4460 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,  
 4461 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes  
 4462 rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the  
 4463 drug and its appearance in overall finished dosage form, promotional materials or representations, oral or  
 4464 written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the  
 4465 public.

4466 D. The term "marijuana" when used in this article means any part of a plant of the genus Cannabis,  
 4467 whether growing or not; its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or  
 4468 preparation of such plant; its seeds; its resin; or any extract containing one or more cannabinoids. "Marijuana"  
 4469 does not include (i) the mature stalks of such plant; fiber produced from such stalk; oil or cake made from the  
 4470 seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus  
 4471 Cannabis; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to  
 4472 subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-4112, that is possessed by a  
 4473 person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R.  
 4474 Part 990; (iv) a hemp product, as defined in § 3.2-4112; (v) an industrial hemp extract, as defined in  
 4475 § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt or salts of such  
 4476 isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the  
 4477 Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

4478 E. The term "counterfeit controlled substance" means a controlled substance that, without authorization,  
 4479 bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade  
 4480 name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor,  
 4481 packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so  
 4482 manufacture, process, pack or distribute such drug.

4483 F. The term "tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol,  
 4484 including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of  
 4485 isomers is possible within the specific chemical designation and any preparation, mixture, or substance  
 4486 containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this  
 4487 definition, "isomer" means the optical, position, and geometric isomers.

4488 G. The term "total tetrahydrocannabinol" means the sum, after the application of any necessary  
 4489 conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of  
 4490 tetrahydrocannabinolic acid.

4491 H. G. The Department of Forensic Science shall determine the proper methods for detecting the  
 4492 concentration of tetrahydrocannabinol in substances for the purposes of this title, Chapter 11 (§ 4.1-1100 et  
 4493 seq.) of Title 4.1, and § 54.1-3401. The testing methodology shall use post-decarboxylation testing or other  
 4494 equivalent method and shall consider the potential conversion of tetrahydrocannabinolic acid into  
 4495 tetrahydrocannabinol.

4496 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture,  
 4497 sell, give, or distribute a controlled substance or an imitation controlled substance prohibited;  
 4498 penalties.**

4499 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it shall be is unlawful for any  
 4500 person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a  
 4501 controlled substance or an imitation controlled substance.

4502 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation  
 4503 controlled substance, the court may consider, in addition to all other relevant evidence, whether any  
 4504 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever  
 4505 included an exchange of or a demand for money or other property as consideration, and, if so, whether the  
 4506 amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet  
 4507 or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule,  
 4508 tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter  
 4509 substances of like chemical composition sell.

4510 C. Except as provided in subsection C1, any person who violates this section with respect to a controlled  
 4511 substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more  
 4512 than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is  
 4513 alleged in the warrant, indictment, or information that the person has been before convicted of such an  
 4514 offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if  
 4515 committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in  
 4516 the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing  
 4517 the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of  
 4518 which shall be a mandatory minimum term of imprisonment to be served consecutively with any other  
 4519 sentence, and he shall be fined not more than \$500,000.

4520 When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the  
4521 warrant, indictment or information that he has been before convicted of two or more such offenses or of  
4522 substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the  
4523 Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,  
4524 indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10  
4525 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively  
4526 with any other sentence, and he shall be fined not more than \$500,000.

4527 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,  
4528 give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million and  
4529 imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment  
4530 to be served consecutively with any other sentence:

- 4531 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
- 4532 2. 500 grams or more of a mixture or substance containing a detectable amount of:
  - 4533 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
4534 derivatives of ecgonine or their salts have been removed;
  - 4535 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
  - 4536 c. Cocaine base;
  - 4537 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
  - 4538 e. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to  
4539 in subdivisions 2a through 2d; or
  - 4540 3. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of  
4541 a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its  
4542 isomers.

4543 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not  
4544 be applicable if the court finds that:

- 4545 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- 4546 b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous  
4547 weapon in connection with the offense or induce another participant in the offense to do so;
- 4548 c. The offense did not result in death or serious bodily injury to any person;
- 4549 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not  
4550 engaged in a continuing criminal enterprise as defined in subsection I; and
- 4551 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the  
4552 Commonwealth all information and evidence the person has concerning the offense or offenses that were part  
4553 of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or  
4554 useful other information to provide or that the Commonwealth already is aware of the information shall not  
4555 preclude a determination by the court that the defendant has complied with this requirement.

4556 C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts,  
4557 isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable  
4558 amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned  
4559 for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a second conviction of  
4560 such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be  
4561 sentenced to imprisonment for life or for any period not less than 10 years, and be fined not more than  
4562 \$500,000. When a person is convicted of a third or subsequent offense under this subsection and it is alleged  
4563 in the warrant, indictment, or information that he has been previously convicted of two or more such offenses  
4564 or of substantially similar offenses in any other jurisdiction, which offenses would be felonies if committed in  
4565 the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant,  
4566 indictment, or information, he shall be sentenced to imprisonment for life or for a period not less than 10  
4567 years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively  
4568 with any other sentence and he shall be fined not more than \$500,000.

4569 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be  
4570 ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner  
4571 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine  
4572 production. This restitution shall include the person's or his estate's estimated or actual expenses associated  
4573 with cleanup, removal, or repair of the affected property. If the property that is damaged, destroyed, or  
4574 otherwise rendered unusable as a result of such methamphetamine production is property owned in whole or  
4575 in part by the person convicted, the court shall order the person to pay to the Methamphetamine Cleanup  
4576 Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses associated with cleanup,  
4577 removal, or repair of the affected property or, if actual or estimated expenses cannot be determined, the sum  
4578 of \$10,000. The convicted person shall also pay the cost of certifying that any building that is cleaned up or  
4579 repaired pursuant to this section is safe for human occupancy according to the guidelines established pursuant  
4580 to § 32.1-11.7.

4581 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled

4582 substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate  
 4583 in a community correctional facility, local correctional facility or state correctional facility as defined in  
 4584 § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any  
 4585 consideration received or expected nor to induce the recipient or intended recipient of the controlled  
 4586 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ *is* guilty of a  
 4587 Class 5 felony.

4588 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription  
 4589 of a person authorized under this article to issue the same, which prescription has not been received in writing  
 4590 by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the  
 4591 pharmacist within one week of the time of filling the same, or if such violation consists of a request by such  
 4592 authorized person for the filling by a pharmacist of a prescription which has not been received in writing by  
 4593 the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the  
 4594 pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

4595 E1. Any person who violates this section with respect to a controlled substance classified in Schedule III  
 4596 except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, ~~shall be~~ *is* guilty of a  
 4597 Class 5 felony.

4598 E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV  
 4599 ~~shall be~~ *is* guilty of a Class 6 felony.

4600 E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a  
 4601 controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III,  
 4602 constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate  
 4603 in a community correctional facility, local correctional facility or state correctional facility as defined in  
 4604 § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any  
 4605 consideration received or expected nor to induce the recipient or intended recipient of the controlled  
 4606 substance to use or become addicted to or dependent upon such controlled substance, is guilty of a Class 1  
 4607 misdemeanor.

4608 F. Any person who violates this section with respect to a controlled substance classified in Schedule V or  
 4609 Schedule VI or an imitation controlled substance ~~which that~~ imitates a controlled substance classified in  
 4610 Schedule V or Schedule VI, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

4611 G. Any person who violates this section with respect to an imitation controlled substance ~~which that~~ imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ *is* guilty of a Class 6 felony. In  
 4612 any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the  
 4613 defendant believed the imitation controlled substance to actually be a controlled substance.

4614 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell,  
 4615 give or distribute the following:

4616 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;  
 4617 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:  
 4618 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
 4619 derivatives of ecgonine or their salts have been removed;  
 4620 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;  
 4621 c. Cocaine base;  
 4622 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or  
 4623 e. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances  
 4624 referred to in subdivisions a through d; *or*

4625 3. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or~~  
 4626 4. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more  
 4627 of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of  
 4628 its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment  
 4629 for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum  
 4630 sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an  
 4631 offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of  
 4632 violence or possess a firearm or other dangerous weapon in connection with the offense or induce another  
 4633 participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any  
 4634 person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense, and was  
 4635 not engaged in a continuing criminal enterprise as defined in subsection I ~~of this section~~; and (v) not later  
 4636 than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all  
 4637 information and evidence the person has concerning the offense or offenses that were part of the same course  
 4638 of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other  
 4639 information to provide or that the Commonwealth already is aware of the information shall not preclude a  
 4640 determination by the court that the defendant has complied with this requirement.

4641 H1. Any person who was the principal or one of several principal administrators, organizers or leaders of  
 4642 a continuing criminal enterprise ~~shall be~~ *is* guilty of a felony if (i) the enterprise received at least \$100,000

4644 but less than \$250,000 in gross receipts during any 12-month period of its existence from the manufacture,  
4645 importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts,  
4646 isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture,  
4647 sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any  
4648 12-month period of its existence:

4649 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable  
4650 amount of heroin;

4651 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable  
4652 amount of:

4653 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
4654 derivatives of ecgonine or their salts have been removed;

4655 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

4656 c. Cocaine base;

4657 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

4658 e. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the substances  
4659 referred to in subdivisions a through d; or

4660 3. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable  
4661 amount of marijuana; or~~

4662 4. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its  
4663 isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable  
4664 amount of methamphetamine, its salts, isomers, or salts of its isomers.

4665 A conviction under this section shall be punishable by a fine of not more than \$1 million and  
4666 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

4667 H2. Any person who was the principal or one of several principal administrators, organizers or leaders of  
4668 a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts during any  
4669 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or  
4670 ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or  
4671 (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to  
4672 manufacture, sell, give or distribute the following during any 12-month period of its existence:

4673 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

4674 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

4675 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
4676 derivatives of ecgonine or their salts have been removed;

4677 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

4678 c. Cocaine base;

4679 d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

4680 e. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the substances  
4681 referred to in subdivisions a through d; or

4682 3. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~

4683 4. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0  
4684 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,  
4685 or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1 million and  
4686 imprisonment for life, which shall be served with no suspension in whole or in part. Such punishment shall be  
4687 made to run consecutively with any other sentence. However, the court may impose a mandatory minimum  
4688 sentence of 40 years if the court finds that the defendant substantially cooperated with law-enforcement  
4689 authorities.

4690 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he violates any  
4691 provision of this section, the punishment for which is a felony and either (ii) such violation is a part of a  
4692 continuing series of violations of this section which are undertaken by such person in concert with five or  
4693 more other persons with respect to whom such person occupies a position of organizer, a supervisory  
4694 position, or any other position of management, and from which such person obtains substantial income or  
4695 resources or (iii) such violation is committed, with respect to methamphetamine or other controlled substance  
4696 classified in Schedule I or II, for the benefit of, at the direction of, or in association with any criminal street  
4697 gang as defined in § 18.2-46.1.

4698 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any two  
4699 or more different substances listed below with the intent to manufacture methamphetamine, methcathinone,  
4700 or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate, ether,  
4701 hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of iodine,  
4702 phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium, sodium metal,  
4703 sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium permanganate,  
4704 chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or 2-propanone.

4705 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product

4706 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts  
 4707 of optical isomers.

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

4709 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to  
 4710 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of cocaine,  
 4711 coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II of the Drug  
 4712 Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five or more pounds~~  
 4713 ~~of marijuana~~. A violation of this section shall constitute a separate and distinct felony. Upon conviction, the  
 4714 person shall be sentenced to not less than five years nor more than 40 years imprisonment, three years of  
 4715 which shall be a mandatory minimum term of imprisonment, and a fine not to exceed \$1,000,000 \$1 million.  
 4716 A second or subsequent conviction hereunder shall be punishable by a mandatory minimum term of  
 4717 imprisonment of 10 years, which shall be served consecutively with any other sentence.

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

4721 Whenever any person who has not previously been convicted of any criminal offense under this article or  
 4722 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,  
 4723 depressant, or hallucinogenic drugs, ~~with the exception of any misdemeanor conviction for possession of~~  
 4724 ~~marijuana~~, or has not previously had a proceeding against him for violation of such an offense dismissed as  
 4725 provided in this section, ~~except a dismissal of a misdemeanor offense for possession of marijuana~~, pleads  
 4726 guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250, the court,  
 4727 upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of  
 4728 guilt and with the consent of the accused, may defer further proceedings and place him on probation upon  
 4729 terms and conditions. If the court defers further proceedings, at that time the court shall determine whether  
 4730 the clerk of court has been provided with the fingerprint identification information or fingerprints of the  
 4731 person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints  
 4732 and photograph of the person be taken by a law-enforcement officer.

4733 As a term or condition, the court shall require the accused to undergo a substance abuse assessment  
 4734 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or  
 4735 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based  
 4736 upon consideration of the substance abuse assessment. The program or services may be located in the judicial  
 4737 district in which the charge is brought or in any other judicial district as the court may provide. The services  
 4738 shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental  
 4739 Services, by a similar program which is made available through the Department of Corrections, (ii) a local  
 4740 community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program  
 4741 certified by the Commission on VASAP.

4742 The court shall require the person entering such program under the provisions of this section to pay all or  
 4743 part of the costs of the program, including the costs of the screening, assessment, testing, and treatment,  
 4744 based upon the accused's ability to pay unless the person is determined by the court to be indigent.

4745 As a condition of probation, the court shall require the accused (a) to successfully complete treatment or  
 4746 education program or services, (b) to remain drug and alcohol free during the period of probation and submit  
 4747 to such tests during that period as may be necessary and appropriate to determine if the accused is drug and  
 4748 alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a  
 4749 plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a  
 4750 misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel  
 4751 of any program or agency approved by the supervising probation agency.

4752 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as  
 4753 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of  
 4754 court has been provided with the fingerprint identification information or fingerprints of such person, the  
 4755 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this  
 4756 section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section  
 4757 in subsequent proceedings.

4758 Notwithstanding any other provision of this section, whenever a court places an individual on probation  
 4759 upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of  
 4760 § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has  
 4761 had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

**§ 18.2-251.03. Arrest and prosecution when experiencing or reporting an overdose or act of sexual violence.**

4764 A. For purposes of this section:

4765 "Act of sexual violence" means an alleged violation of § 18.2-361, 18.2-370, or 18.2-370.1 or the laws  
 4766 pertaining to criminal sexual assault pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4.

4767 "Overdose" means a life-threatening condition resulting from the consumption or use of a controlled

4768 substance, alcohol, or any combination of such substances.

4769 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or  
4770 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana  
4771 pursuant to § 4.1-1105.~~4.1-1105~~ 4.1-1105, involuntary manslaughter pursuant to § 18.2-36.3, possession of a  
4772 controlled substance pursuant to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of  
4773 controlled paraphernalia pursuant to § 54.1-3466 if:

4774 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is  
4775 experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose;  
4776 (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical  
4777 attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in  
4778 § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as  
4779 defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith, renders emergency care or  
4780 assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid  
4781 antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or  
4782 obtains emergency medical attention in accordance with this subdivision;

4783 2. Such individual remains at the scene of the overdose or at any alternative location to which he or the  
4784 person requiring emergency medical attention has been transported until a law-enforcement officer responds  
4785 to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the  
4786 alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

4787 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the  
4788 overdose; and

4789 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of  
4790 the individual seeking or obtaining emergency medical attention or rendering emergency care or assistance.

4791 C. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or  
4792 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana  
4793 pursuant to § 4.1-1105.~~4.1-1105~~ 4.1-1105, possession of a controlled substance pursuant to § 18.2-250, intoxication  
4794 in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

4795 1. Such individual, in good faith, seeks or obtains assistance for himself or another individual from  
4796 emergency medical services personnel, as defined in § 32.1-111.1, a health care provider, as defined in  
4797 § 8.01-581.1, or a law-enforcement officer, as defined in § 9.1-101, and seeks to report an act of sexual  
4798 violence committed against himself or another individual;

4799 2. Such individual identifies himself to the law-enforcement officer who responds to the report of the act  
4800 of sexual violence; and

4801 3. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of  
4802 the individual seeking or obtaining medical attention, rendering care or assistance, or reporting to law  
4803 enforcement.

4804 This subsection shall not apply to an individual who is alleged to have committed the act of sexual  
4805 violence.

4806 D. The provisions of this section shall not apply to any person who seeks or obtains emergency medical  
4807 attention for himself or another individual, to a person experiencing an overdose or who has experienced an  
4808 act of sexual violence when another individual seeks or obtains emergency medical attention for him, or to a  
4809 person who renders emergency care or assistance to an individual experiencing an overdose or who has  
4810 experienced an act of sexual violence while another person seeks or obtains emergency medical attention  
4811 during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

4812 E. This section does not establish protection from arrest or prosecution for any individual or offense other  
4813 than those listed in subsection B or C. However, any individual immune to arrest or prosecution under this  
4814 section shall not have his bail, probation, furlough, supervised release, suspended sentence, or parole revoked  
4815 for the behavior immune from arrest or prosecution under the provisions of this section.

4816 F. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later  
4817 determined that the person arrested was immune from prosecution under this section.

4818 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

4819 No school nurse employed by a local school board, person employed by a local health department who is  
4820 assigned to the public school pursuant to an agreement between the local health department and the school  
4821 board, or other person employed by or contracted with a local school board to deliver health-related services  
4822 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  
4823 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or administering cannabis  
4824 oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid  
4825 written certification for the use of cannabis oil in accordance with § 4.1-1601.

4826 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing  
4827 facilities; hospice and hospice facilities; assisted living facilities.**

4828 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and  
4829 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted under

4830 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  
 4831 distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient  
 4832 or resident who has been issued a valid written certification for the use of cannabis oil in accordance with  
 4833 § 4.1-1601.

**4834 § 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;  
 4835 Department of Agriculture and Consumer Services, Department of Law employees.**

4836 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or  
 4837 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower, a  
 4838 federally licensed hemp producer, or a registered industrial hemp processor for the purpose of performing  
 4839 required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248,  
 4840 ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial hemp or for  
 4841 storing cannabis oil or industrial hemp for testing purposes in accordance with regulations promulgated by  
 4842 the Board of ~~Pharmacy~~ of Directors of the Virginia Cannabis Control Authority and the Board of Agriculture  
 4843 and Consumer Services.

4844 B. No employee of the Department of Agriculture and Consumer Services or of the Department of Law  
 4845 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,  
 4846 ~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp or any substance containing  
 4847 tetrahydrocannabinol when possession of industrial hemp or any substance containing tetrahydrocannabinol  
 4848 is necessary in the performance of his duties.

**4849 § 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing,  
 4850 and treatment or education.**

4851 The trial judge or court trying the case of any person found guilty of a criminal violation of any law  
 4852 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical  
 4853 substances and like substances shall condition any suspended sentence by first requiring such person to agree  
 4854 to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance  
 4855 abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by  
 4856 the supervising probation agency or by personnel of any program or agency approved by the supervising  
 4857 probation agency. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed  
 4858 as a part of the costs of such proceedings. The judge or court shall order the person, as a condition of any  
 4859 suspended sentence, to undergo such treatment or education for substance abuse, if available, as the judge or  
 4860 court deems appropriate based upon consideration of the substance abuse assessment. The treatment or  
 4861 education shall be provided by a program or agency licensed by the Department of Behavioral Health and  
 4862 Developmental Services, by a similar program or services available through the Department of Corrections if  
 4863 the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a  
 4864 similar program or services available through a local or regional jail, a local community-based probation  
 4865 services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on  
 4866 VASAP.

**4867 § 18.2-254. Commitment of convicted person for treatment for substance abuse.**

4868 A. Whenever any person who has not previously been convicted of any criminal offense under this article  
 4869 or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,  
 4870 depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of such  
 4871 an offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the use, in any  
 4872 manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances, and like  
 4873 substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to  
 4874 § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be  
 4875 directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and  
 4876 taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to  
 4877 undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate  
 4878 based upon consideration of the substance abuse assessment. The treatment or education shall be provided by  
 4879 a program or agency licensed by the Department of Behavioral Health and Developmental Services or by a  
 4880 similar program or services available through the Department of Corrections if the court imposes a sentence  
 4881 of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services  
 4882 available through a local or regional jail, a local community-based probation services agency established  
 4883 pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

4884 B. The court trying the case of any person alleged to have committed any criminal offense designated by  
 4885 this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the  
 4886 commission of the offense was motivated by or closely related to the use of drugs and determined by the  
 4887 court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs  
 4888 may commit, based upon a consideration of the substance abuse assessment, such person, upon his  
 4889 conviction, to any facility for the treatment of persons with substance abuse, licensed by the Department of  
 4890 Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not  
 4891 in excess of the maximum term of imprisonment specified as the penalty for conviction of such offense or, if

4892 sentence was determined by a jury, not in excess of the term of imprisonment as set by such jury.  
4893 Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and  
4894 the person so committed may be convicted of escape if he leaves the place of commitment without authority.  
4895 A charge of escape may be prosecuted in either the jurisdiction where the treatment facility is located or the  
4896 jurisdiction where the person was sentenced to commitment. The court may revoke such commitment at any  
4897 time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a  
4898 certified statement from the director of the treatment facility to the effect that the confined person has  
4899 successfully responded to treatment, the court may release such confined person prior to the termination of  
4900 the period of time for which such person was confined and may suspend the remainder of the term upon such  
4901 conditions as the court may prescribe.

4902 C. The court trying a case in which commission of the criminal offense was related to the defendant's  
4903 habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and  
4904 assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the  
4905 substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons  
4906 with substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space  
4907 is available in such facility, for a period of time not in excess of the maximum term of imprisonment  
4908 specified as the penalty for conviction. Confinement under such commitment shall be, in all regards, treated  
4909 as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the  
4910 place of commitment without authority. The court may revoke such commitment at any time and transfer the  
4911 person to an appropriate state or local correctional facility. Upon presentation of a certified statement from  
4912 the director of the treatment facility to the effect that the confined person has successfully responded to  
4913 treatment, the court may release such confined person prior to the termination of the period of time for which  
4914 such person was confined and may suspend the remainder of the term upon such conditions as the court may  
4915 prescribe.

4916 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

4917 A. Except as authorized in the Drug Control Act, ~~Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1~~, it shall be  
4918 is unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any drug  
4919 classified in Schedule I, II, III, or IV ~~or marijuana~~ to any person under 18 years of age who is at least three  
4920 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any drug  
4921 classified in Schedule I, II, III, or IV ~~or marijuana~~. Any person violating this provision shall upon conviction  
4922 be imprisoned in a state correctional facility for a period not less than 10 nor more than 50 years, and fined  
4923 not more than \$100,000. Five years of the sentence imposed for a conviction under this section involving a  
4924 Schedule I or II controlled substance ~~or one or more of marijuana~~ shall be a mandatory minimum  
4925 sentence. ~~Two years of the sentence imposed for a conviction under this section involving less than one~~  
4926 ~~or marijuana~~ shall be a mandatory minimum sentence.

4927 B. It shall be is unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three years his  
4928 junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation controlled  
4929 substance. Any person violating this provision shall be is guilty of a Class 6 felony.

4930 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in  
4931 administering controlled substances to minors; penalty.**

4932 It shall be is a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a  
4933 minor any book, pamphlet, periodical, or other printed matter ~~which that~~ he knows advertises for sale any  
4934 instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking, administering,  
4935 preparing, or growing ~~marijuana~~ or a controlled substance.

4936 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.**

4937 A. It shall be is unlawful for any person to manufacture, sell, or distribute or possess with intent to sell,  
4938 give, or distribute any controlled substance; or imitation controlled substance; ~~or marijuana~~ while:

4939 1. Upon the property, including buildings and grounds, of any public or private elementary or secondary  
4940 school, any institution of higher education, or any clearly marked licensed child day center as defined in  
4941 § 22.1-289.02;

4942 2. Upon public property or any property open to public use within 1,000 feet of the property described in  
4943 subdivision 1;

4944 3. On any school bus as defined in § 46.2-100;

4945 4. Upon a designated school bus stop, or upon either public property or any property open to public use  
4946 which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be  
4947 picked up and transported to or are being dropped off from school or a school-sponsored activity;

4948 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated  
4949 recreation or community center facility or any public library; or

4950 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property  
4951 open to public use within 1,000 feet of such ~~an institution~~ facility. It is a violation of the provisions of this  
4952 section if the person possessed the controlled substance; or imitation controlled substance; ~~or marijuana~~ on

4954 the property described in subdivisions 1 through 6, regardless of where the person intended to sell, give, or  
 4955 distribute the controlled substance; *or* imitation controlled substance; *or* marijuana. Nothing in this section  
 4956 shall prohibit the authorized distribution of controlled substances.

4957 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the  
 4958 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more  
 4959 than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an  
 4960 offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act  
 4961 (§ 54.1-3400 et seq.) *or more than one-half ounce of marijuana* shall be punished by a mandatory minimum  
 4962 term of imprisonment of one year to be served consecutively with any other sentence. However, if such  
 4963 person proves that he sold such controlled substance *or marijuana* only as an accommodation to another  
 4964 individual and not with intent to profit thereby from any consideration received or expected nor to induce the  
 4965 recipient or intended recipient of the controlled substance *or marijuana* to use or become addicted to or  
 4966 dependent upon such controlled substance *or marijuana*, he is guilty of a Class 1 misdemeanor.

4967 C. If a person commits an act violating the provisions of this section, and the same act also violates  
 4968 another provision of law that provides for penalties greater than those provided for by this section, then  
 4969 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or  
 4970 the imposition of any penalties provided for thereby.

4971 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

4972 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,  
 4973 dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge  
 4974 of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant thereof, is  
 4975 frequented by persons under the influence of illegally obtained controlled substances *or marijuana*, as defined  
 4976 in § 54.1-3401, or for the purpose of illegally obtaining possession of, manufacturing, or distributing  
 4977 controlled substances *or marijuana*, or is used for the illegal possession, manufacture, or distribution of  
 4978 controlled substances *or marijuana* shall be deemed a common nuisance. Any such owner, lessor, agent of  
 4979 any such lessor, manager, chief executive officer, operator, or tenant who knowingly permits, establishes,  
 4980 keeps or maintains such a common nuisance is guilty of a Class 1 misdemeanor and, for a second or  
 4981 subsequent offense, a Class 6 felony.

4982 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

4983 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,  
 4984 dwelling house, apartment or building or structure of any kind *which that* is (i) substantially altered from its  
 4985 original status by means of reinforcement with the intent to impede, deter or delay lawful entry by a  
 4986 law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing or distributing  
 4987 controlled substances *or marijuana*, and (iii) the object of a valid search warrant, shall be considered a  
 4988 fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5  
 4989 felony.

4990 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud,  
 4991 deceit or forgery.**

4992 A. It *shall be* is unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to  
 4993 procure the administration of any controlled substance *or marijuana*: (i) by fraud, deceit, misrepresentation,  
 4994 embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by  
 4995 the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

4996 B. It *shall be* is unlawful for any person to furnish false or fraudulent information in or omit any  
 4997 information from, or willfully make a false statement in, any prescription, order, report, record, or other  
 4998 document required by Chapter 34 the Drug Control Act (§ 54.1-3400 et seq.) *of* Title 54.1.

4999 C. It *shall be* is unlawful for any person to use in the course of the manufacture or distribution of a  
 5000 controlled substance *or marijuana* a license number *which that* is fictitious, revoked, suspended, or issued to  
 5001 another person.

5002 D. It *shall be* is unlawful for any person, for the purpose of obtaining any controlled substance *or*  
 5003 marijuana, to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist,  
 5004 physician, dentist, veterinarian, or other authorized person.

5005 E. It *shall be* is unlawful for any person to make or utter any false or forged prescription or false or forged  
 5006 written order.

5007 F. It *shall be* is unlawful for any person to affix any false or forged label to a package or receptacle  
 5008 containing any controlled substance.

5009 G. This section shall not apply to officers and employees of the United States, of this Commonwealth or  
 5010 of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such  
 5011 drugs for investigative, research or analytical purposes, or to the agents or duly authorized representatives of  
 5012 any pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and  
 5013 who are acting in the course of their employment; provided that such manufacturer is licensed under the  
 5014 provisions of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical  
 5015 manufacturer, its agents and duly authorized representatives file with the Board such information as the

5016 Board may deem appropriate.

5017 H. Except as otherwise provided in this subsection, any person who shall violate any provision herein  
5018 shall be is guilty of a Class 6 felony.

5019 Whenever any person who has not previously been convicted of any offense under this article or under  
5020 any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant, depressant,  
5021 or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense  
5022 dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for  
5023 violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court  
5024 may place him on probation upon terms and conditions.

5025 As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or  
5026 education program, if available, such as, in the opinion of the court, may be best suited to the needs of the  
5027 accused. This program may be located in the judicial circuit in which the charge is brought or in any other  
5028 judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by  
5029 the Department of Behavioral Health and Developmental Services. The court shall require the person entering  
5030 such program under the provisions of this section to pay all or part of the costs of the program, including the  
5031 costs of the screening, evaluation, testing and education, based upon the person's ability to pay unless the  
5032 person is determined by the court to be indigent.

5033 As a condition of supervised probation, the court shall require the accused to remain drug free during the  
5034 period of probation and submit to such tests during that period as may be necessary and appropriate to  
5035 determine if the accused is drug free. Such testing may be conducted by the personnel of any screening,  
5036 evaluation, and education program to which the person is referred or by the supervising agency.

5037 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the  
5038 original arresting law-enforcement agency to submit to fingerprinting.

5039 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and  
5040 proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find  
5041 the defendant guilty of a Class 1 misdemeanor.

5042 **§ 18.2-265.1. Definition.**

5043 As used in this article, "drug paraphernalia" means all equipment, products, and materials of any kind  
5044 which are either designed for use or which are intended by the person charged with violating § 18.2-265.3 for  
5045 use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting,  
5046 producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing,  
5047 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~marijuana~~ or a  
5048 controlled substance. "Drug paraphernalia" includes:

5049 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing, or harvesting  
5050 ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled substance can be  
5051 derived;

5052 2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing,  
5053 processing, or preparing ~~marijuana~~ or controlled substances;

5054 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~ or  
5055 any species of plant ~~which~~ that is a controlled substance;

5056 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength or  
5057 effectiveness of ~~marijuana~~ or controlled substances, other than drug checking products used to determine the  
5058 presence or concentration of a contaminant that can cause physical harm or death;

5059 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or  
5060 controlled substances;

5061 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or  
5062 designed for use in cutting controlled substances;

5063 7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in  
5064 otherwise cleaning or refining, ~~marijuana~~;

5065 8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in  
5066 compounding controlled substances;

5067 9. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging  
5068 small quantities of ~~marijuana~~ or controlled substances;

5069 10. Containers and other objects intended for use or designed for use in storing or concealing ~~marijuana~~  
5070 or controlled substances;

5071 11. Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body;

5073 12. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing  
5074 ~~marijuana~~, cocaine, hashish, or hashish oil into the human body, such as:

5075 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent  
5076 screens, hashish heads, or punctured metal bowls;

5077 b. Water pipes;

- 5078 c. Carburetion tubes and devices;
- 5079 d. Smoking and carburetion masks;
- 5080 e. Roach clips, meaning objects used to hold burning material, such as a ~~marijuana~~ cigarette, that has
- 5081 become too small or too short to be held in the hand;
- 5082 f. Miniature cocaine spoons, and cocaine vials;
- 5083 g. Chamber pipes;
- 5084 h. Carburetor pipes;
- 5085 i. Electric pipes;
- 5086 j. Air-driven pipes;
- 5087 k. Chillums;
- 5088 l. Bongs;
- 5089 m. Ice pipes or chillers.

**§ 18.2-265.2. Evidence to be considered in cases under this article.**

In determining whether an object is drug paraphernalia, the court may consider, in addition to all other relevant evidence, the following:

- 5093 1. Constitutionally admissible statements by the accused concerning the use of the object;
- 5094 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually known to
- 5095 the accused;

- 5096 3. Instructions, oral or written, provided with the object concerning its use;
- 5097 4. Descriptive materials accompanying the object which that explain or depict its use;
- 5098 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 5099 6. The manner in which the object is displayed for sale;
- 5100 7. Whether the accused is a legitimate supplier of like or related items to the community, such as a
- 5101 licensed distributor or dealer of tobacco products;
- 5102 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business
- 5103 enterprise;
- 5104 9. The existence and scope of legitimate uses for the object in the community;
- 5105 10. Expert testimony concerning its use or the purpose for which it was designed; and

5106 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should

5107 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in

5108 control of the object, as to a direct violation of this article shall not prevent a finding that the object is

5109 intended for use or designed for use as drug paraphernalia.

**§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

5110 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under

5111 circumstances where one reasonably should know, that it is either designed for use or intended by such

5112 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,

5113 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or

5114 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, shall be is guilty of a Class 1

5115 misdemeanor.

5116 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A hereof by selling drug

5117 paraphernalia to a minor who is at least three years junior to the accused in age shall be is guilty of a Class 6

5118 felony.

5119 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor shall be is

5120 guilty of a Class 1 misdemeanor.

**§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

5121 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony violation

5122 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

5123 body armor designed to diminish the effect of the impact of a bullet or projectile shall be is guilty of a Class 4

5124 felony.

**§ 18.2-308.012. Prohibited conduct.**

5125 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, ~~marijuana~~,

5126 or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction

5127 of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under

5128 the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of

5129 § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of

5130 § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall

5131 revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person

5132 convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a

5133 period of five years.

5134 B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in

5135 § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been

5136 granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic

5140 beverage while on the premises. A person who carries a concealed handgun onto the premises of such a  
5141 restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in  
5142 this subsection shall apply to a federal, state, or local law-enforcement officer.

5143 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

5144 A. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance classified in  
5145 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge  
5146 and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate  
5147 and distinct felony.

5148 B. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance classified in  
5149 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent  
5150 possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a  
5151 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum  
5152 term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to  
5153 run consecutively with, any punishment received for the commission of the primary felony.

5154 C. It ~~shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or  
5155 other firearm or display such weapon in a threatening manner while committing or attempting to commit the  
5156 illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a  
5157 controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) ~~or~~  
5158 ~~more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and constitutes a  
5159 separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum  
5160 term of imprisonment of five years. Such punishment shall be separate and apart from, and shall be made to  
5161 run consecutively with, any punishment received for the commission of the primary felony.

5162 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.**

5163 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the  
5164 Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to  
5165 § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such  
5166 obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth,  
5167 witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a  
5168 Class 1 misdemeanor.

5169 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to  
5170 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any  
5171 law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in  
5172 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1  
5173 misdemeanor.

5174 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge,  
5175 magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement officer, lawfully  
5176 engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court  
5177 relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3), (b) or (e) of § 18.2-248.1,~~  
5178 ~~or § 18.2-46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to violate any violent felony~~  
5179 offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

5180 D. Any person who knowingly and willfully makes any materially false statement or representation to a  
5181 law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the course of  
5182 conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

5183 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully  
5184 arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this subsection,  
5185 intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement  
5186 officer when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person  
5187 that he is under arrest and (a) the officer has the legal authority and the immediate physical ability to place  
5188 the person under arrest, and (b) a reasonable person who receives such communication knows or should know  
5189 that he is not free to leave.

5190 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

5191 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,  
5192 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the  
5193 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the  
5194 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ that is a controlled  
5195 substance regulated by the Drug Control Act ~~in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or marijuana~~ is  
5196 guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver or  
5197 conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or  
5198 explosives of any nature is guilty of a Class 3 felony.

5199 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

5200 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**  
5201 **authorizing interception of communications.**

5202        A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in  
 5203 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in  
 5204 his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of  
 5205 competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by  
 5206 the Department of State Police, when such interception may reasonably be expected to provide evidence of  
 5207 the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of  
 5208 § 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  
 5209 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.),  
 5210 Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are not Class 6 felonies in  
 5211 Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing  
 5212 offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the  
 5213 observation or monitoring of the interception by a police department of a county or city, by a sheriff's office,  
 5214 or by law-enforcement officers of the United States. Such application shall be made, and such order may be  
 5215 granted, in conformity with the provisions of § 19.2-68.

5216        B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

5217        1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall  
 5218 have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that  
 5219 an offense was committed, is being committed, or will be committed or the person or persons whose  
 5220 communications are to be intercepted live, work, subscribe to a wire or electronic communication system,  
 5221 maintain an address or a post office box, or are making the communication within the territorial jurisdiction  
 5222 of the court.

5223        2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the  
 5224 authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an  
 5225 offense was committed, is being committed, or will be committed or the physical location of the oral  
 5226 communication to be intercepted is within the territorial jurisdiction of the court.

5227        C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire  
 5228 or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where  
 5229 the order is entered, regardless of the physical location or the method by which the communication is  
 5230 captured or routed to the monitoring location.

**§ 19.2-81. Arrest without warrant authorized in certain cases.**

5231        A. The following officers shall have the powers of arrest as provided in this section:

5232        1. Members of the State Police force of the Commonwealth;

5233        2. Sheriffs of the various counties and cities, and their deputies;

5234        3. Members of any county police force or any duly constituted police force of any city or town of the  
 5235 Commonwealth;

5236        4. The Commissioner, members and employees of the Marine Resources Commission granted the power  
 5237 of arrest pursuant to § 28.2-900;

5238        5. Regular conservation police officers appointed pursuant to § 29.1-200;

5239        6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty  
 5240 officers authorized under § 29.1-205 to make arrests;

5241        7. Conservation officers appointed pursuant to § 10.1-115;

5242        8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed  
 5243 pursuant to § 46.2-217;

5244        9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control  
 5245 Authority*;

5246        10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

5247        11. Members of the Division of Capitol Police.

5248        B. Such officers may arrest without a warrant any person who commits any crime in the presence of the  
 5249 officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a  
 5250 felony not in his presence.

5251        Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of  
 5252 operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a  
 5253 substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an  
 5254 order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another  
 5255 officer, who may obtain a warrant based upon statements made to him by the arresting officer.

5256        C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in  
 5257 § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such  
 5258 accident has been transported, or in the apprehension of any person charged with the theft of any motor  
 5259 vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based  
 5260 upon personal investigation, including information obtained from eyewitnesses, that a crime has been  
 5261 committed by any person then and there present, apprehend such person without a warrant of arrest. For  
 5262 purposes of this section, "the scene of any accident" shall include a reasonable location where a vehicle or  
 5263

5264 person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the  
5265 clearing of the highway or to ensure the safety of the motoring public.

5266 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location  
5267 any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft  
5268 or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of  
5269 § 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether  
5270 or not the offense was committed in such officer's presence. Such officers may, within three hours of the  
5271 alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to  
5272 suspect of operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4,  
5273 whether or not the offense was committed in such officer's presence.

5274 E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in another  
5275 jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout, facsimile  
5276 printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer  
5277 printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably  
5278 accurate description of such person wanted and the crime alleged.

5279 F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not committed in  
5280 his presence when the officer receives a radio message from his department or other law-enforcement agency  
5281 within the Commonwealth that a warrant or capias for such offense is on file.

5282 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their  
5283 presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii)  
5284 carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a  
5285 firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such  
5286 property is located on premises used for business or commercial purposes, or a similar local ordinance, when  
5287 any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged  
5288 offense. The arresting officer may issue a summons to any person arrested under this section for a  
5289 misdemeanor violation involving shoplifting.

#### **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

5290 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in § 19.2-81,  
5291 persons for crimes involving:

- 5293 (a) 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;
- 5294 (b) 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
- 5295 (c) 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or § 18.2-474.1; and
- 5296 (d) 4. Any other criminal offense which that may contribute to the disruption of the safety, welfare, or  
5297 security of the population of a correctional institution.

#### **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

5298 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer  
5299 or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or  
5300 discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or any other  
5301 employee in any local school division in the Commonwealth for a felony or a Class 1 misdemeanor or an  
5302 equivalent offense in another state, shall file a report of such arrest with the division safety official designated  
5303 pursuant to subsection F of § 22.1-279.8 in the school division in which such person is employed as soon as  
5304 practicable but no later than 48 hours after such arrest. The contents of the report required pursuant to this  
5305 subsection shall be utilized by the local school division solely to implement the provisions of subsection B of  
5306 § 22.1-296.2 and § 22.1-315.

5307 B. The report required pursuant to subsection A shall be transmitted to the division safety official (i) via  
5308 certified mail, return receipt requested, to the mailing address identified by the division superintendent  
5309 pursuant to subsection F of § 22.1-279.8 or (ii) via email to the email address identified by the division  
5310 superintendent pursuant to subsection F of § 22.1-279.8. Any certified mail return receipt shall be retained in  
5311 the case file.

5312 C. (Expires July 1, 2027) In the event that the law-enforcement agency has existing access to Virginia  
5313 Employment Commission records, each arresting official shall request in writing that the Virginia  
5314 Employment Commission provide the name of the current employer of each person arrested for an offense set  
5315 forth in § 9.1-902 for purposes of determining whether a report is required pursuant to subsection A.

5316 D. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer  
5317 or conservator of the peace having the power to arrest for a felony shall file a report, as soon as practicable,  
5318 with the division superintendent of the school division in which the student is enrolled upon arresting a  
5319 person who is known or discovered by the arresting official to be a student age 18 or older in any local school  
5320 division in the Commonwealth for:

- 5321 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et  
5322 seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
- 5323 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 5324 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title

5326 18.2;

5327 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5328 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to  
5329 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

5330 6. Manufacture, sale or distribution of marijuana pursuant to Article + Chapter 11 (§ 18.2-247 4.1-1100 et  
5331 seq.) of Chapter 7 of Title 18.2 4.1;

5332 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

5333 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

5334 9. Robbery pursuant to § 18.2-58;

5335 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

5336 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

5337 12. An act of violence by a mob pursuant to § 18.2-42.1; or

5338 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

**§ 19.2-188.1. Testimony regarding identification of controlled substances.**

5340 A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1  
5341 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement officer  
5342 shall be permitted to testify as to the results of field tests that have been approved by the Department of  
5343 Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act  
5344 (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is  
5345 a controlled substance; or imitation controlled substance, *as defined in § 18.2-247*, or marijuana, as defined in  
5346 § 18.2-247 4.1-600.

5347 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  
5348 permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the  
5349 Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative  
5350 Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue,  
5351 is marijuana provided the defendant has been given written notice of his right to request a full chemical  
5352 analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the  
5353 defendant prior to trial.

5354 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  
5355 attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by  
5356 motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon  
5357 such motion, the court shall order that the analysis be performed by the Department of Forensic Science in  
5358 accordance with the provisions of § 18.2-247 9.1-1101 and shall prescribe in its order the method of custody,  
5359 transfer, and return of evidence submitted for chemical analysis.

**§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

5360 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the  
5361 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the  
5362 final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an  
5363 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  
5364 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,  
5365 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  
5366 similar offense in any other jurisdiction, which offense would be a felony if committed in the  
5367 Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations as a  
5368 principal in the second degree or accessory before the fact of any of the offenses listed in clause (i). In  
5369 determining whether the defendant has provided substantial assistance pursuant to the provisions of this  
5370 section, the court shall consider (a) the court's evaluation of the significance and usefulness of the defendant's  
5371 assistance, taking into consideration the Commonwealth's evaluation of the assistance rendered; (b) the  
5372 truthfulness, completeness, and reliability of any information or testimony provided by the defendant; (c) the  
5373 nature and extent of the defendant's assistance; (d) any injury suffered or any danger or risk of injury to the  
5374 defendant or his family resulting from his assistance; and (e) the timeliness of the defendant's assistance. If  
5375 the motion is made more than one year after entry of the final judgment order, the court may reduce a  
5376 sentence only if the defendant's substantial assistance involved (1) information not known to the defendant  
5377 until more than one year after entry of the final judgment order, (2) information provided by the defendant  
5378 within one year of entry of the final judgment order but that did not become useful to the Commonwealth  
5379 until more than one year after entry of the final judgment order, or (3) information the usefulness of which  
5380 could not reasonably have been anticipated by the defendant until more than one year after entry of the final  
5381 judgment order and which was promptly provided to the Commonwealth by the defendant after its usefulness  
5382 was reasonably apparent.

**§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.**

5383 A. The following property shall be subject to lawful seizure by any officer charged with enforcing the  
5384 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  
5385 Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all

5388 other personal and real property of any kind or character, used in substantial connection with (a) the illegal  
5389 manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute  
5390 controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or possession with~~  
5391 ~~intent to distribute marijuana~~ in violation of subdivisions (a)(2), (a)(3) and (e) of § 18.2-248.1 § 4.1-1103, or  
5392 (c) a drug-related offense in violation of § 4.1-1117 or 18.2-474.1; (ii) everything of value furnished, or  
5393 intended to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in  
5394 violation of § 18.2-248.1 § 4.1-1103 or for a controlled substance or marijuana in violation of § 4.1-1117 or  
5395 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to such an exchange, together  
5396 with any interest or profits derived from the investment of such money or other property. Under the  
5397 provisions of clause (i), real property shall not be subject to lawful seizure unless the minimum prescribed  
5398 punishment for the violation is a term of not less than five years.

5399 B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter  
5400 22.1 (§ 19.2-386.1 et seq.).

5401 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

5402 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful  
5403 possession of which is not established or the title to which cannot be ascertained, which have come into the  
5404 custody of a peace officer or have been seized in connection with violations of *Chapter 11* (§ 4.1-1100 et  
5405 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:

5406 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State Police,  
5407 or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of any such  
5408 substance or paraphernalia to the Department of Forensic Science, the Department of State Police, or to such  
5409 police department or sheriff's office for research and training purposes and for destruction pursuant to  
5410 regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of  
5411 Pharmacy once these purposes have been fulfilled.

5412 2. In the event no application is made under subdivision 1, the court shall order the destruction of all such  
5413 substances or paraphernalia, which order shall state the existence and nature of the substance or  
5414 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance  
5415 or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the  
5416 court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be destroyed and that it be  
5417 given to a person or entity that makes a showing to the court of sufficient need for the property and an ability  
5418 to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and  
5419 manner of destruction shall be made to the court by the officer to whom the order is directed. A copy of the  
5420 order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or  
5421 paraphernalia was used as evidence and shall, thereafter, be *prima facie* evidence of its contents. In the event  
5422 a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such  
5423 substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement  
5424 officer of the agency or his designee may, with the written consent of the appropriate attorney for the  
5425 Commonwealth, order destruction of same; provided that a statement under oath, reporting a description of  
5426 the substances and paraphernalia destroyed and the time, place and manner of destruction, is made to the  
5427 chief law-enforcement officer by the officer to whom the order is directed.

5428 B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11*  
5429 (§ 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  
5430 provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-386.24.

5431 C. The amount of any specific controlled substance, or imitation controlled substance, retained by any  
5432 law-enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or  
5433 25 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation  
5434 controlled substances, or marijuana, shall certify that the amount requested shall not result in the requesting  
5435 agency's exceeding the limits allowed by this subsection.

5436 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or  
5437 marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of  
5438 such substance on a monthly basis, which shall include a description and weight of the substance, and (ii)  
5439 destroy such substance pursuant to subdivision A 1 when no longer needed for research and training  
5440 purposes. A written report outlining the details of the inventory shall be made to the chief law-enforcement  
5441 officer of the agency within 10 days of the completion of the inventory, and the agency shall detail the  
5442 substances that were used for research and training pursuant to a court order in the immediately preceding  
5443 fiscal year. Destruction of such substance shall be certified to the court along with a statement prepared under  
5444 oath, reporting a description of the substance destroyed, and the time, place, and manner of destruction.

5445 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

5446 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection with  
5447 any prosecution or investigation under *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or *Chapter 7* (§ 18.2-247 et  
5448 seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly  
5449 selected from the seized substance for representative purposes as evidence and destroy the remainder of the

5450 seized substance.

5451 Before any destruction is carried out under this section, the law-enforcement agency shall cause the  
 5452 material seized to be photographed with identification case numbers or other means of identification and shall  
 5453 prepare a report identifying the seized material. It shall also notify the accused, or other interested party, if  
 5454 known, or his attorney, at least five days in advance that the photography will take place and that they may be  
 5455 present. Prior to any destruction under this section, the law-enforcement agency shall also notify the accused  
 5456 or other interested party, if known, and his attorney at least seven days prior to the destruction of the time and  
 5457 place the destruction will occur. Any notice required under the provisions of this section shall be by first-  
 5458 class mail to the last known address of the person required to be notified. In addition to the substance retained  
 5459 for representative purposes as evidence, all photographs and records made under this section and properly  
 5460 identified shall be admissible in any court proceeding for any purposes for which the seized substance itself  
 5461 would have been admissible.

5462 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled  
 5463 substances, etc.**

5464 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take  
 5465 into its custody or to maintain custody of substantial quantities of any controlled substances, imitation  
 5466 controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution  
 5467 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  
 5468 its order may make provision for ensuring integrity of these items until further order of the court.

5469 **§ 19.2-389. (Effective until July 1, 2026) Dissemination of criminal history record information.**

5470 A. Criminal history record information shall be disseminated, whether directly or through an intermediary,  
 5471 only to:

5472 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of  
 5473 the administration of criminal justice and the screening of an employment application or review of  
 5474 employment by a criminal justice agency with respect to its own employees or applicants, and dissemination  
 5475 to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible  
 5476 inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of  
 5477 § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this  
 5478 subdivision, criminal history record information includes information sent to the Central Criminal Records  
 5479 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee  
 5480 of the State Police, a police department or sheriff's office that is a part of or administered by the  
 5481 Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection  
 5482 of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of  
 5483 the administration of criminal justice;

5484 2. Such other individuals and agencies that require criminal history record information to implement a  
 5485 state or federal statute or executive order of the President of the United States or Governor that expressly  
 5486 refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except  
 5487 that information concerning the arrest of an individual may not be disseminated to a noncriminal justice  
 5488 agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the  
 5489 charge has been recorded and no active prosecution of the charge is pending;

5490 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide  
 5491 services required for the administration of criminal justice pursuant to that agreement which shall specifically  
 5492 authorize access to data, limit the use of data to purposes for which given, and ensure the security and  
 5493 confidentiality of the data;

5494 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant  
 5495 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of  
 5496 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5497 5. Agencies of state or federal government that are authorized by state or federal statute or executive order  
 5498 of the President of the United States or Governor to conduct investigations determining employment  
 5499 suitability or eligibility for security clearances allowing access to classified information;

5500 6. Individuals and agencies where authorized by court order or court rule;

5501 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,  
 5502 operated or controlled by any political subdivision, and any public service corporation that operates a public  
 5503 transit system owned by a local government for the conduct of investigations of applicants for employment,  
 5504 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a  
 5505 duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible  
 5506 with the nature of the employment, permit, or license under consideration;

5507 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title  
 5508 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position  
 5509 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation  
 5510 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction  
 5511 record would be compatible with the nature of the employment under consideration;

5512 8. Public or private agencies when authorized or required by federal or state law or interstate compact to  
5513 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of  
5514 that individual's household, with whom the agency is considering placing a child or from whom the agency is  
5515 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis  
5516 pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further  
5517 disseminated to any party other than a federal or state authority or court as may be required to comply with an  
5518 express requirement of law;

5519 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for  
5520 the conduct of investigations of applicants for employment when such employment involves personal contact  
5521 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the  
5522 employment under consideration;

5523 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,  
5524 including, but not limited to, issuing visas and passports;

5525 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at  
5526 his cost, except that criminal history record information shall be supplied at no charge to a person who has  
5527 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer  
5528 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,  
5529 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been  
5530 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in  
5531 § 15.2-1713.1;

5532 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare  
5533 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative  
5534 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such  
5535 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to  
5536 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further  
5537 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social  
5538 Services' representative or a federal or state authority or court as may be required to comply with an express  
5539 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to  
5540 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the  
5541 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of  
5542 § 22.1-289.035 or § 22.1-289.039;

5543 13. The Department of Social Services for the purpose of screening individuals as a condition of licensure,  
5544 employment, volunteering, or providing services on a regular basis in a licensed child welfare agency  
5545 pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency  
5546 pursuant to § 63.2-901.1;

5547 14. The school boards of the Commonwealth for the purpose of screening individuals who are offered or  
5548 who accept public school employment and those current school board employees for whom a report of arrest  
5549 has been made pursuant to § 19.2-83.1;

5550 15. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
5551 (§ 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  
5552 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article  
5553 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

5554 16. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of  
5555 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital  
5556 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the  
5557 limitations set out in subsection E;

5558 17. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of  
5559 applicants for compensated employment in licensed assisted living facilities and licensed adult day centers  
5560 pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

5561 18. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in  
5562 § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in  
5563 § 4.1-622;

5564 19. The State Board of Elections and authorized officers and employees thereof and general registrars  
5565 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter  
5566 registration, limited to any record of felony convictions;

5567 20. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his  
5568 designees for individuals who are committed to the custody of or being evaluated by the Commissioner  
5569 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,  
5570 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,  
5571 evaluation, treatment, or discharge planning;

5572 21. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action  
5573 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under

5574 § 18.2-51.4, 18.2-266, or 18.2-266.1;

5575 22. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
5576 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
5577 purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

5578 23. The Department of Behavioral Health and Developmental Services and facilities operated by the  
5579 Department for the purpose of determining an individual's fitness for employment pursuant to departmental  
5580 instructions;

5581 24. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary  
5582 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records  
5583 information on behalf of such governing boards or administrators pursuant to a written agreement with the  
5584 Department of State Police;

5585 25. Public institutions of higher education and nonprofit private institutions of higher education for the  
5586 purpose of screening individuals who are offered or accept employment;

5587 26. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a  
5588 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher  
5589 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat  
5590 to safety; however, no member of a threat assessment team shall redisclose any criminal history record  
5591 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose  
5592 that such disclosure was made to the threat assessment team;

5593 27. Executive directors of community services boards or the personnel director serving the community  
5594 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored  
5595 residential service provider, permission to enter into a shared living arrangement with a person receiving  
5596 medical assistance services pursuant to a waiver, or permission for any person under contract with the  
5597 community services board to serve in a direct care position on behalf of the community services board  
5598 pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

5599 28. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of  
5600 determining an individual's fitness for employment, approval as a sponsored residential service provider,  
5601 permission to enter into a shared living arrangement with a person receiving medical assistance services  
5602 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to  
5603 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,  
5604 37.2-506.1, and 37.2-607;

5605 29. The Commissioner of Social Services for the purpose of locating persons who owe child support or  
5606 who are alleged in a pending paternity proceeding to be a putative father, provided that only the name,  
5607 address, demographics and social security number of the data subject shall be released;

5608 30. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
5609 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose  
5610 of determining if any applicant who accepts employment in any direct care position or requests approval as a  
5611 sponsored residential service provider, permission to enter into a shared living arrangement with a person  
5612 receiving medical assistance services pursuant to a waiver, or permission for any person under contract with  
5613 the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have  
5614 responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or  
5615 substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

5616 31. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for  
5617 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et  
5618 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

5619 32. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee  
5620 for Courts of Justice for the purpose of determining if any person being considered for election to any  
5621 judgeship has been convicted of a crime;

5622 33. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
5623 determining an individual's fitness for employment in positions designated as sensitive under Department of  
5624 Human Resource Management policies developed pursuant to § 2.2-1201.1;

5625 34. The Office of the Attorney General, for all criminal justice activities otherwise permitted under  
5626 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent  
5627 Predators Act (§ 37.2-900 et seq.);

5628 35. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,  
5629 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for  
5630 the conduct of investigations of applications for employment or for access to facilities, by contractors, leased  
5631 laborers, and other visitors;

5632 36. Any employer of individuals whose employment requires that they enter the homes of others, for the  
5633 purpose of screening individuals who apply for, are offered, or have accepted such employment;

5634 37. Public agencies when and as required by federal or state law to investigate (i) applicants as providers  
5635 of adult foster care and home-based services or (ii) any individual with whom the agency is considering

5636 placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the  
5637 restriction that the data shall not be further disseminated by the agency to any party other than a federal or  
5638 state authority or court as may be required to comply with an express requirement of law for such further  
5639 dissemination, subject to limitations set out in subsection G;

5640 38. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
5641 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or  
5642 have accepted a position related to the provision of transportation services to enrollees in the Medicaid  
5643 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program  
5644 administered by the Department of Medical Assistance Services;

5645 39. The State Corporation Commission for the purpose of investigating individuals who are current or  
5646 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter  
5647 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.  
5648 Notwithstanding any other provision of law, if an application is denied based in whole or in part on  
5649 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title  
5650 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant  
5651 or its designee;

5652 40. The Department of Professional and Occupational Regulation for the purpose of investigating  
5653 individuals for initial licensure pursuant to § 54.1-2106.1;

5654 41. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision  
5655 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the  
5656 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et  
5657 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

5658 42. Bail bondsmen, in accordance with the provisions of § 19.2-120;

5659 43. The State Treasurer for the purpose of determining whether a person receiving compensation for  
5660 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

5661 44. The Department of Education or its agents or designees for the purpose of screening individuals  
5662 seeking to enter into a contract with the Department of Education or its agents or designees for the provision  
5663 of child care services for which child care subsidy payments may be provided;

5664 45. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a  
5665 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or  
5666 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

5667 46. The State Corporation Commission, for the purpose of screening applicants for insurance licensure  
5668 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

5669 47. Administrators and board presidents of and applicants for licensure or registration as a child day  
5670 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the  
5671 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of  
5672 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034  
5673 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility  
5674 or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or  
5675 a federal or state authority or court as may be required to comply with an express requirement of law for such  
5676 further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent  
5677 of Public Instruction's representative from issuing written certifications regarding the results of prior  
5678 background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

5679 48. The National Center for Missing and Exploited Children for the purpose of screening individuals who  
5680 are offered or accept employment or will be providing volunteer or contractual services with the National  
5681 Center for Missing and Exploited Children;

5682 49. The Executive Director or investigators of the Board of Accountancy for the purpose of the  
5683 enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

5684 50. Other entities as otherwise provided by law.

5685 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested  
5686 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange  
5687 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on  
5688 whom a report has been made under the provisions of this chapter.

5689 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
5690 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
5691 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy  
5692 of conviction data covering the person named in the request to the person making the request; however, such  
5693 person on whom the data is being obtained shall consent in writing, under oath, to the making of such  
5694 request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as  
5695 he deems appropriate. In the event no conviction data is maintained on the data subject, the person making  
5696 the request shall be furnished at his cost a certification to that effect.

5697 B. Use of criminal history record information disseminated to noncriminal justice agencies under this

5698 section shall be limited to the purposes for which it was given and may not be disseminated further, except as  
 5699 otherwise provided in subdivision A 47.

5700 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history  
 5701 record information for employment or licensing inquiries except as provided by law.

5702 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange  
 5703 prior to dissemination of any criminal history record information on offenses required to be reported to the  
 5704 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used.  
 5705 Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the  
 5706 essence and the normal response time of the Exchange would exceed the necessary time period. A criminal  
 5707 justice agency to whom a request has been made for the dissemination of criminal history record information  
 5708 that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the  
 5709 Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses  
 5710 not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the  
 5711 record as required by § 15.2-1722.

5712 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
 5713 organizations pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for  
 5714 any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

5715 F. Criminal history information provided to licensed assisted living facilities and licensed adult day  
 5716 centers pursuant to subdivision A 17 shall be limited to the convictions on file with the Exchange for any  
 5717 offense specified in § 63.2-1720.

5718 G. Criminal history information provided to public agencies pursuant to subdivision A 37 shall be limited  
 5719 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier  
 5720 crime in § 19.2-392.02.

5721 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal  
 5722 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the  
 5723 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the  
 5724 request to the employer or prospective employer making the request, provided that the person on whom the  
 5725 data is being obtained has consented in writing to the making of such request and has presented a photo-  
 5726 identification to the employer or prospective employer. In the event no conviction data is maintained on the  
 5727 person named in the request, the requesting employer or prospective employer shall be furnished at his cost a  
 5728 certification to that effect. The criminal history record search shall be conducted on forms provided by the  
 5729 Exchange.

5730 I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal  
 5731 history record information, including criminal history record information maintained in the National Crime  
 5732 Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his  
 5733 possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal  
 5734 history record information provided under this subsection shall be disseminated further.

**§ 19.2-389. (Effective July 1, 2026) Dissemination of criminal history record information.**

5735 A. Criminal history record information shall be disseminated, whether directly or through an intermediary,  
 5736 only to:

5737 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of  
 5738 the administration of criminal justice and the screening of an employment application or review of  
 5739 employment by a criminal justice agency with respect to its own employees or applicants, and dissemination  
 5740 to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible  
 5741 inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of  
 5742 § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this  
 5743 subdivision, criminal history record information includes information sent to the Central Criminal Records  
 5744 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee  
 5745 of the State Police, a police department or sheriff's office that is a part of or administered by the  
 5746 Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection  
 5747 of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of  
 5748 the administration of criminal justice;

5749 2. Such other individuals and agencies that require criminal history record information to implement a  
 5750 state or federal statute or executive order of the President of the United States or Governor that expressly  
 5751 refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except  
 5752 that information concerning the arrest of an individual may not be disseminated to a noncriminal justice  
 5753 agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the  
 5754 charge has been recorded and no active prosecution of the charge is pending;

5755 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide  
 5756 services required for the administration of criminal justice pursuant to that agreement which shall specifically  
 5757 authorize access to data, limit the use of data to purposes for which given, and ensure the security and  
 5758 confidentiality of the data;

5760 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant  
5761 to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of  
5762 data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5763 5. Agencies of state or federal government that are authorized by state or federal statute or executive order  
5764 of the President of the United States or Governor to conduct investigations determining employment  
5765 suitability or eligibility for security clearances allowing access to classified information;

5766 6. Individuals and agencies where authorized by court order or court rule;

5767 7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned,  
5768 operated or controlled by any political subdivision, and any public service corporation that operates a public  
5769 transit system owned by a local government for the conduct of investigations of applicants for employment,  
5770 permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a  
5771 duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible  
5772 with the nature of the employment, permit, or license under consideration;

5773 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title  
5774 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position  
5775 of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation  
5776 District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction  
5777 record would be compatible with the nature of the employment under consideration;

5778 8. Public or private agencies when authorized or required by federal or state law or interstate compact to  
5779 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of  
5780 that individual's household, with whom the agency is considering placing a child or from whom the agency is  
5781 considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis  
5782 pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further  
5783 disseminated to any party other than a federal or state authority or court as may be required to comply with an  
5784 express requirement of law;

5785 9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for  
5786 the conduct of investigations of applicants for employment when such employment involves personal contact  
5787 with the public or when past criminal conduct of an applicant would be incompatible with the nature of the  
5788 employment under consideration;

5789 10. The appropriate authority for purposes of granting citizenship and for purposes of international travel,  
5790 including, but not limited to, issuing visas and passports;

5791 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at  
5792 his cost, except that criminal history record information shall be supplied at no charge to a person who has  
5793 applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer  
5794 fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse,  
5795 Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been  
5796 offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in  
5797 § 15.2-1713.1;

5798 12. Administrators and board presidents of and applicants for licensure or registration as a child welfare  
5799 agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative  
5800 pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such  
5801 facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to  
5802 §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further  
5803 disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social  
5804 Services' representative or a federal or state authority or court as may be required to comply with an express  
5805 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to  
5806 prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the  
5807 results of a background check that was conducted before July 1, 2021, in accordance with subsection J of  
5808 § 22.1-289.035 or § 22.1-289.039;

5809 13. Administrators and board presidents of and applicants for licensure as a prescribed pediatric extended  
5810 care center for dissemination to the State Health Commissioner's representative pursuant to  
5811 §§ 32.1-162.15:1.5 and 32.1-162.15:1.10 for the conduct of investigations with respect to employees of and  
5812 volunteers at such centers, pursuant to § 32.1-162.15:1.17, subject to the restriction that the data shall not be  
5813 further disseminated by the center to any party other than the data subject, the State Health Commissioner's  
5814 representative, or a federal or state authority or court as may be required to comply with an express  
5815 requirement of law;

5816 14. The Department of Social Services for the purpose of screening individuals as a condition of licensure,  
5817 employment, volunteering, or providing services on a regular basis in a licensed child welfare agency  
5818 pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency  
5819 pursuant to § 63.2-901.1;

5820 15. The school boards of the Commonwealth for the purpose of screening individuals who are offered or  
5821 who accept public school employment and those current school board employees for whom a report of arrest

5822 has been made pursuant to § 19.2-83.1;

5823 16. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
 5824 (§ 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  
 5825 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article  
 5826 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

5827 17. Licensed prescribed pediatric extended care centers for the conduct of investigations of applicants for  
 5828 compensated employment and volunteers in licensed prescribed pediatric extended care centers pursuant to  
 5829 § 32.1-162.15:1.17;

5830 18. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of  
 5831 applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital  
 5832 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the  
 5833 limitations set out in subsection E;

5834 19. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of  
 5835 applicants for compensated employment in licensed assisted living facilities and licensed adult day centers  
 5836 pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

5837 20. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in  
 5838 § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in  
 5839 § 4.1-622;

5840 21. The State Board of Elections and authorized officers and employees thereof and general registrars  
 5841 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter  
 5842 registration, limited to any record of felony convictions;

5843 22. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his  
 5844 designees for individuals who are committed to the custody of or being evaluated by the Commissioner  
 5845 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,  
 5846 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,  
 5847 evaluation, treatment, or discharge planning;

5848 23. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action  
 5849 Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under  
 5850 § 18.2-51.4, 18.2-266, or 18.2-266.1;

5851 24. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
 5852 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
 5853 purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

5854 25. The Department of Behavioral Health and Developmental Services and facilities operated by the  
 5855 Department for the purpose of determining an individual's fitness for employment pursuant to departmental  
 5856 instructions;

5857 26. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary  
 5858 schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records  
 5859 information on behalf of such governing boards or administrators pursuant to a written agreement with the  
 5860 Department of State Police;

5861 27. Public institutions of higher education and nonprofit private institutions of higher education for the  
 5862 purpose of screening individuals who are offered or accept employment;

5863 28. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a  
 5864 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher  
 5865 education, for the purpose of assessing or intervening with an individual whose behavior may present a threat  
 5866 to safety; however, no member of a threat assessment team shall redisclose any criminal history record  
 5867 information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose  
 5868 that such disclosure was made to the threat assessment team;

5869 29. Executive directors of community services boards or the personnel director serving the community  
 5870 services board for the purpose of determining an individual's fitness for employment, approval as a sponsored  
 5871 residential service provider, permission to enter into a shared living arrangement with a person receiving  
 5872 medical assistance services pursuant to a waiver, or permission for any person under contract with the  
 5873 community services board to serve in a direct care position on behalf of the community services board  
 5874 pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

5875 30. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of  
 5876 determining an individual's fitness for employment, approval as a sponsored residential service provider,  
 5877 permission to enter into a shared living arrangement with a person receiving medical assistance services  
 5878 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to  
 5879 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,  
 5880 37.2-506.1, and 37.2-607;

5881 31. The Commissioner of Social Services for the purpose of locating persons who owe child support or  
 5882 who are alleged in a pending paternity proceeding to be a putative father, provided that only the name,  
 5883 address, demographics and social security number of the data subject shall be released;

5884 32. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
5885 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose  
5886 of determining if any applicant who accepts employment in any direct care position or requests approval as a  
5887 sponsored residential service provider, permission to enter into a shared living arrangement with a person  
5888 receiving medical assistance services pursuant to a waiver, or permission for any person under contract with  
5889 the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have  
5890 responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or  
5891 substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

5892 33. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for  
5893 and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et  
5894 seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

5895 34. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee  
5896 for Courts of Justice for the purpose of determining if any person being considered for election to any  
5897 judgeship has been convicted of a crime;

5898 35. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
5899 determining an individual's fitness for employment in positions designated as sensitive under Department of  
5900 Human Resource Management policies developed pursuant to § 2.2-1201.1;

5901 36. The Office of the Attorney General, for all criminal justice activities otherwise permitted under  
5902 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent  
5903 Predators Act (§ 37.2-900 et seq.);

5904 37. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction,  
5905 overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for  
5906 the conduct of investigations of applications for employment or for access to facilities, by contractors, leased  
5907 laborers, and other visitors;

5908 38. Any employer of individuals whose employment requires that they enter the homes of others, for the  
5909 purpose of screening individuals who apply for, are offered, or have accepted such employment;

5910 39. Public agencies when and as required by federal or state law to investigate (i) applicants as providers  
5911 of adult foster care and home-based services or (ii) any individual with whom the agency is considering  
5912 placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the  
5913 restriction that the data shall not be further disseminated by the agency to any party other than a federal or  
5914 state authority or court as may be required to comply with an express requirement of law for such further  
5915 dissemination, subject to limitations set out in subsection G;

5916 40. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
5917 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or  
5918 have accepted a position related to the provision of transportation services to enrollees in the Medicaid  
5919 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program  
5920 administered by the Department of Medical Assistance Services;

5921 41. The State Corporation Commission for the purpose of investigating individuals who are current or  
5922 proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter  
5923 16 (§ 6.2-1600 et seq.), Chapter 19.1 (§ 6.2-1922 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2.  
5924 Notwithstanding any other provision of law, if an application is denied based in whole or in part on  
5925 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title  
5926 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant  
5927 or its designee;

5928 42. The Department of Professional and Occupational Regulation for the purpose of investigating  
5929 individuals for initial licensure pursuant to § 54.1-2106.1;

5930 43. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision  
5931 Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the  
5932 purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et  
5933 seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

5934 44. Bail bondsmen, in accordance with the provisions of § 19.2-120;

5935 45. The State Treasurer for the purpose of determining whether a person receiving compensation for  
5936 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

5937 46. The Department of Education or its agents or designees for the purpose of screening individuals  
5938 seeking to enter into a contract with the Department of Education or its agents or designees for the provision  
5939 of child care services for which child care subsidy payments may be provided;

5940 47. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a  
5941 juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or  
5942 a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

5943 48. The State Corporation Commission, for the purpose of screening applicants for insurance licensure  
5944 under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

5945 49. Administrators and board presidents of and applicants for licensure or registration as a child day

5946 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the  
 5947 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of  
 5948 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034  
 5949 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility  
 5950 or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or  
 5951 a federal or state authority or court as may be required to comply with an express requirement of law for such  
 5952 further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent  
 5953 of Public Instruction's representative from issuing written certifications regarding the results of prior  
 5954 background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

5955 50. The National Center for Missing and Exploited Children for the purpose of screening individuals who  
 5956 are offered or accept employment or will be providing volunteer or contractual services with the National  
 5957 Center for Missing and Exploited Children;

5958 51. The Executive Director or investigators of the Board of Accountancy for the purpose of the  
 5959 enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

5960 52. Other entities as otherwise provided by law.

5961 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested  
 5962 may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange  
 5963 to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on  
 5964 whom a report has been made under the provisions of this chapter.

5965 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
 5966 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
 5967 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy  
 5968 of conviction data covering the person named in the request to the person making the request; however, such  
 5969 person on whom the data is being obtained shall consent in writing, under oath, to the making of such  
 5970 request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as  
 5971 he deems appropriate. In the event no conviction data is maintained on the data subject, the person making  
 5972 the request shall be furnished at his cost a certification to that effect.

5973 B. Use of criminal history record information disseminated to noncriminal justice agencies under this  
 5974 section shall be limited to the purposes for which it was given and may not be disseminated further, except as  
 5975 otherwise provided in subdivision A 49.

5976 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history  
 5977 record information for employment or licensing inquiries except as provided by law.

5978 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange  
 5979 prior to dissemination of any criminal history record information on offenses required to be reported to the  
 5980 Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used.  
 5981 Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the  
 5982 essence and the normal response time of the Exchange would exceed the necessary time period. A criminal  
 5983 justice agency to whom a request has been made for the dissemination of criminal history record information  
 5984 that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the  
 5985 Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses  
 5986 not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the  
 5987 record as required by § 15.2-1722.

5988 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
 5989 organizations pursuant to subdivision A 18 shall be limited to the convictions on file with the Exchange for  
 5990 any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

5991 F. Criminal history information provided to licensed assisted living facilities and licensed adult day  
 5992 centers pursuant to subdivision A 19 shall be limited to the convictions on file with the Exchange for any  
 5993 offense specified in § 63.2-1720.

5994 G. Criminal history information provided to public agencies pursuant to subdivision A 39 shall be limited  
 5995 to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier  
 5996 crime in § 19.2-392.02.

5997 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal  
 5998 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the  
 5999 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the  
 6000 request to the employer or prospective employer making the request, provided that the person on whom the  
 6001 data is being obtained has consented in writing to the making of such request and has presented a photo-  
 6002 identification to the employer or prospective employer. In the event no conviction data is maintained on the  
 6003 person named in the request, the requesting employer or prospective employer shall be furnished at his cost a  
 6004 certification to that effect. The criminal history record search shall be conducted on forms provided by the  
 6005 Exchange.

6006 I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal  
 6007 history record information, including criminal history record information maintained in the National Crime

6008 Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his  
6009 possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal  
6010 history record information provided under this subsection shall be disseminated further.

6011 **§ 19.2-389.3. (Repealed effective July 1, 2026) Marijuana possession; limits on dissemination of  
6012 criminal history record information; prohibited practices by employers, educational institutions, and  
6013 state and local governments; penalty.**

6014 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor violation of  
6015 *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under §§ *former* §  
6016 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the  
6017 Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided  
6018 that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of  
6019 eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report  
6020 prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter  
6021 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-299 or in the preparation of the  
6022 discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local  
6023 community-based probation services agencies established pursuant to the Comprehensive Community  
6024 Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult  
6025 local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for  
6026 fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System  
6027 computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to  
6028 attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines  
6029 worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State  
6030 Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any  
6031 political subdivision thereof, and who is responsible for the prevention and detection of crime and the  
6032 enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration  
6033 of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research  
6034 purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's  
6035 office that is a part of or administered by the Commonwealth or any political subdivision thereof for the  
6036 purpose of screening any person for full-time or part-time employment with the State Police or a police  
6037 department or sheriff's office that is a part of or administered by the Commonwealth or any political  
6038 subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any  
6039 person who applies to be a volunteer with or an employee of an emergency medical services agency as  
6040 provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science  
6041 for the purpose of screening any person for full-time or part-time employment with the Department of  
6042 Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an  
6043 individual employed as a public safety official of the locality, that has adopted an ordinance in accordance  
6044 with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with  
6045 or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any  
6046 full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in  
6047 § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the  
6048 regulations of the Federal Motor Carrier Safety Administration.

6049 B. An employer or educational institution shall not, in any application, interview, or otherwise, require an  
6050 applicant for employment or admission to disclose information concerning any arrest, criminal charge, or  
6051 conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for  
6052 public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any  
6053 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal  
6054 charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for  
6055 public inspection pursuant to subsection A.

6056 C. Agencies, officials, and employees of the state and local governments shall not, in any application,  
6057 interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to  
6058 disclose information concerning any arrest, criminal charge, or conviction against him when the record  
6059 relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection  
6060 A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction,  
6061 include a reference to or information concerning any arrest, criminal charge, or conviction when the record  
6062 relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection  
6063 A. Such an application may not be denied solely because of the applicant's refusal to disclose information  
6064 concerning any such arrest, criminal charge, or conviction.

6065 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each  
6066 violation.

6067 **§ 19.2-392.02. National criminal background checks by businesses and organizations regarding  
6068 employees or volunteers providing care to children or the elderly or disabled.**

6069 A. For purposes of this section:

**6070**        "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 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 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 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; 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, 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, 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 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, 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, 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 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 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 § 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 violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 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, 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 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, 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, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (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 offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-1114, 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, 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 similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

**6103**        "Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

**6109**        "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

**6111**        "Department" means the Department of State Police.

**6112**        "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

**6114**        "Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

**6119**        "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

**6123**        "Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 22.1-289.030.

**6126**        B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

- 6129**        1. Been fingerprinted; and
- 6130**        2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has

6132 ever been convicted of or is the subject of pending charges for a criminal offense within or outside the  
6133 Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the  
6134 particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv)  
6135 a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the  
6136 accuracy and completeness of any information contained in any such report, and to obtain a prompt  
6137 determination as to the validity of such challenge before a final determination is made by the Department;  
6138 and (v) a notice to the provider that prior to the completion of the background check the qualified entity may  
6139 choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified  
6140 entity provides care.

6141 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii)  
6142 the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the  
6143 Department shall make a determination whether the provider has been convicted of or is the subject of  
6144 charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information,  
6145 the Department shall access the national criminal history background check system, which is maintained by  
6146 the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall  
6147 access the Central Criminal Records Exchange maintained by the Department. If the Department receives a  
6148 background report lacking disposition data, the Department shall conduct research in whatever state and local  
6149 recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable  
6150 efforts to respond to a qualified entity's inquiry within 15 business days.

6151 D. Any background check conducted pursuant to this section for a provider employed by a private entity  
6152 shall be screened by the Department of State Police. If the provider has been convicted of or is under  
6153 indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work  
6154 or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

6155 E. Any background check conducted pursuant to this section for a provider employed by a governmental  
6156 entity shall be provided to that entity.

6157 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national  
6158 criminal background check, the Department and the Federal Bureau of Investigation may each charge the  
6159 provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the  
6160 fingerprints.

6161 G. The failure to request a criminal background check pursuant to subsection B shall not be considered  
6162 negligence per se in any civil action.

**6163 § 19.2-392.6. (Effective July 1, 2026) Automatic sealing of offenses resulting in conviction.**

6164 A. If a person was convicted of a violation of any of the following sections with an offense date on or  
6165 after January 1, 1986, such conviction, including any records relating to such conviction, shall be ordered to  
6166 be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections B and  
6167 C: a misdemeanor violation of § 18.2-96 or 18.2-103; § 18.2-119, 18.2-120, or 18.2-134; a misdemeanor  
6168 violation of *former* § 18.2-248.1; or § 18.2-415.

6169 B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be ordered to  
6170 be automatically sealed if seven years have passed since the date of the conviction and the person convicted  
6171 of such offense has not been convicted of violating any law of the Commonwealth that requires a report to the  
6172 Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of  
6173 Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during  
6174 that time period.

6175 C. No conviction listed under subsection A shall be automatically sealed if, on the date of the conviction,  
6176 the person was convicted of another offense that is not eligible for automatic sealing under subsection A.

6177 This section shall not be construed as prohibiting a person from seeking sealing in the circuit court  
6178 pursuant to the provisions of § 19.2-392.12 or 19.2-392.12:1.

**6179 § 19.2-392.12:1. (Effective July 1, 2026) Sealing of charges and convictions related to automatic  
6180 sealing; petition.**

6181 A. A person who has been convicted of or had a charge deferred and dismissed for a violation of  
6182 § 4.1-305; a misdemeanor violation of § 18.2-96 or 18.2-103; a violation of § 18.2-119, 18.2-120, or  
6183 18.2-134; a misdemeanor violation of *former* § 18.2-248.1; a violation of subsection A of § 18.2-265.3; or a  
6184 violation of § 18.2-415, where the offense date for any such offense was on or after January 1, 1986, may file  
6185 a petition setting forth the relevant facts and requesting the sealing of the criminal history record information  
6186 and court records relating to the charge or conviction. In addition to requesting the sealing of a charge or  
6187 conviction, such petition may also request the sealing of any specifically identified ancillary matter related to  
6188 such charge or conviction.

6189 B. A person who had a conviction or offense automatically sealed pursuant to § 19.2-392.7 or 19.2-392.11  
6190 where the offense date for such conviction or offense was on or after January 1, 1986, or who had an offense  
6191 sealed pursuant to § 19.2-392.6:1 regardless of the date of the offense, may file a petition setting forth the  
6192 relevant facts and requesting sealing of the criminal history record information and court records of any  
6193 specifically identified ancillary matter related to that charge or conviction.

6194 C. A person shall not be required to pay any court fees or costs for filing a petition pursuant to this  
 6195 section.

6196 D. The petition under subsection A or B, with a copy of the warrant, summons, or indictment, if  
 6197 reasonably available, shall be filed in the circuit court of the county or city in which the case was disposed of  
 6198 and shall contain, except when not reasonably available, (i) the date of arrest; (ii) the name of the arresting  
 6199 agency; (iii) the date of conviction, deferred dismissal, or final disposition of any ancillary matter; and (iv)  
 6200 the case number associated with each court record that is the subject of the petition. When this information is  
 6201 not reasonably available, the petition shall state the reason for such unavailability. The petition shall further  
 6202 state (a) the charge, conviction, or ancillary matter to be sealed; (b) the date of final disposition of the charge,  
 6203 conviction, or ancillary matter as set forth in the petition; (c) the petitioner's date of birth, sex, race, and social  
 6204 security number, if available; and (d) the full name used by the petitioner at the time of arrest or summons. A  
 6205 petition may request the sealing of the criminal history record information and court records for multiple  
 6206 charges, convictions, or ancillary matters as set forth in subsections A and B, provided that all such charges,  
 6207 convictions, and ancillary matters are eligible for sealing under this section. A petition may not request the  
 6208 sealing of the criminal history record information and court records where the charge, conviction, or ancillary  
 6209 matter was finalized on the same date as a conviction or deferred dismissal that is not eligible for sealing  
 6210 under this section.

6211 E. A petitioner is not limited in the number of petitions that may be granted pursuant to this section within  
 6212 his lifetime. Any petition granted pursuant to this section shall not be counted toward the lifetime maximum  
 6213 of two petitions set forth in § 19.2-392.12.

6214 F. The Commonwealth shall be made party to the proceeding. The petitioner shall provide a copy of the  
 6215 petition under subsection A or B by delivery or by first-class mail, postage prepaid, to the attorney for the  
 6216 Commonwealth of the county or city in which the petition is filed. The attorney for the Commonwealth may  
 6217 file an objection or answer to the petition or may give written notice to the court that he does not object to the  
 6218 petition within 30 days after it is delivered to him or received in the mail.

6219 G. In addition to the filing of the petition under subsection D, the petitioner shall request that the Central  
 6220 Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia and national  
 6221 criminal history record to the circuit court in which the petition was filed. Upon receiving such request, the  
 6222 CCRE shall electronically forward such record to the circuit court; however, if the circuit court is unable to  
 6223 receive an electronic transmission, the CCRE shall forward a copy of such record to the circuit court which  
 6224 shall be maintained under seal by the clerk unless otherwise ordered by the court. Upon completion of the  
 6225 hearing, the court shall cause the criminal history record to be destroyed unless, within 30 days of the date of  
 6226 the entry of the final order in the matter, the petitioner or the attorney for the Commonwealth notes an appeal  
 6227 as provided by law in civil cases.

6228 H. After receiving the criminal history record of the petitioner, the court may conduct a hearing on the  
 6229 petition.

6230 I. For a petition filed pursuant to subsection A, the court shall enter an order requiring the sealing of the  
 6231 records related to the charge, conviction, or ancillary matter if the court finds that seven years have passed  
 6232 since the date of conviction or of dismissal of the deferred charge listed in subsection A and the petitioner has  
 6233 not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal  
 6234 Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the  
 6235 United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

6236 J. For a petition filed pursuant to subsection B, the court shall enter an order to seal the ancillary matter if  
 6237 the charge or conviction identified in the petition has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, or  
 6238 19.2-392.11.

6239 K. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives  
 6240 written notice to the court pursuant to subsection F that he does not object to the petition and (ii) stipulates in  
 6241 such written notice that the petitioner is eligible to have such charge, conviction, or ancillary matter sealed,  
 6242 the court may enter an order of sealing without conducting a hearing.

6243 L. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

6244 M. Upon the entry of an order of sealing, the clerk of the court shall maintain a copy of such order under  
 6245 seal and shall cause an electronic notification of such order to be forwarded to the Department of State Police.  
 6246 Such electronic notification shall contain (i) the petitioner's full name, date of birth, sex, race, and social  
 6247 security number, if available; (ii) the full name used by the petitioner at the time of arrest or summons; (iii)  
 6248 the petitioner's state identification number from the criminal history record; (iv) the court case number of the  
 6249 charge, conviction, or ancillary matter to be sealed, if available; and (v) the document control number, if  
 6250 available. The Department of State Police shall validate the accuracy of any criminal history record ordered  
 6251 to be sealed pursuant to this section but shall not validate whether such record is eligible for sealing. Upon  
 6252 receipt of such electronic notification, the Department of State Police shall seal such records in accordance  
 6253 with § 19.2-392.13. The Department of State Police shall also electronically notify the Office of the  
 6254 Executive Secretary of the Supreme Court and any other agencies and individuals known to maintain or to  
 6255 have obtained such a record that such record has been ordered to be sealed and may only be disseminated in

6256 accordance with § 19.2-392.13.

6257 N. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth  
6258 in this section or (ii) the court entered an order for the sealing of records contrary to law shall be voidable  
6259 upon motion and notice made within two years of the entry of such order.

6260 O. A petition filed under this section and any responsive pleadings filed by the attorney for the  
6261 Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order  
6262 to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth  
6263 in § 19.2-392.13.

6264 P. Nothing in this chapter shall prohibit the circuit court from entering an order to seal a charge,  
6265 conviction, or ancillary matter under this section when such charge, conviction, or ancillary matter is eligible  
6266 for sealing under some other section of this chapter.

6267 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, retail tobacco products, hemp  
6268 products intended for smoking, and gambling.**

6269 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by  
6270 the Board of Education.

6271 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking,  
6272 *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia Alcoholic  
6273 Beverage Control Authority and the Virginia Cannabis Control Authority shall provide educational materials  
6274 to the Department of Education. The Department of Education shall review and shall distribute such materials  
6275 as are approved to the public schools.

6276 The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall  
6277 distribute to each local school division educational materials concerning the health and safety risks of using  
6278 retail tobacco products and hemp products intended for smoking, as such terms are defined in § 18.2-371.2.  
6279 Instruction concerning the health and safety risks of using *retail* tobacco products and hemp products  
6280 intended for smoking, as such terms are defined in § 18.2-371.2, shall be provided in each public elementary  
6281 and secondary school in the Commonwealth, consistent with such educational materials.

6282 C. Instruction concerning gambling and the addictive potential thereof shall be provided by the public  
6283 schools as prescribed by the Board.

6284 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

6285 A. School boards shall expel from school attendance any student whom such school board has  
6286 determined, in accordance with the procedures set forth in this article, to have brought a controlled substance,  
6287 or imitation controlled substance, or *marijuana* as those terms are defined in § 18.2-247 onto school property  
6288 or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board  
6289 may, however, determine, based on the facts of a particular situation, that special circumstances exist and no  
6290 disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board  
6291 may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of  
6292 such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations  
6293 shall ensure that, if a determination is made that another disciplinary action is appropriate, any such  
6294 subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.  
6295 Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the  
6296 particular situation.

6297 B. Each school board shall revise its standards of student conduct to incorporate the requirements of this  
6298 section no later than three months after the date on which this act becomes effective.

6299 **§ 23.1-1301. Governing boards; powers.**

6300 A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

- 6301 1. Make regulations and policies concerning the institution;
- 6302 2. Manage the funds of the institution and approve an annual budget;
- 6303 3. Appoint the chief executive officer of the institution;
- 6304 4. Appoint professors and fix their salaries; and

6305 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

6306 B. The governing board of each public institution of higher education or its designee may:

6307 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative  
6308 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has  
6309 acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and  
6310 conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the  
6311 same manner as all other gifts and bequests;

6312 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes  
6313 on any property owned by the institution;

6314 3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained,  
6315 or controlled by the institution;

6316 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,  
6317 instructors, and other employees;

6318 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the  
 6319 regulations or institution policies required pursuant to § 23.1-1303;

6320 6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission  
 6321 or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such  
 6322 regulations or policies;

6323 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote  
 6324 (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness  
 6325 and prevention of sexual crimes committed upon students;

6326 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in  
 6327 accordance with the prohibition against hazing as defined in § 18.2-56;

6328 9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an  
 6329 interest, provided such assignment is in accordance with the terms of the institution's intellectual property  
 6330 policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of  
 6331 such property (i) developed wholly or predominantly through the use of state general funds, exclusive of  
 6332 capital assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned  
 6333 duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship  
 6334 Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit  
 6335 organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective  
 6336 institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the  
 6337 Governor does not approve such transfer, the materials shall remain the property of the respective institutions  
 6338 and may be used and developed in any manner permitted by law;

6339 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through  
 6340 electronic communication means pursuant to § 2.2-3708.3; and

6341 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to  
 6342 enforce state statutes and local ordinances with respect to offenses occurring on the property of the  
 6343 institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and  
 6344 local ordinances with respect to offenses occurring on the property of the institution.

**§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

6346 A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card,  
 6347 vehicle registration, certificate of title, or other document issued by the Department if such person has not  
 6348 satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled  
 6349 thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or  
 6350 altered documents.

6351 B. It shall be unlawful to aid any person to obtain any driver's license, special identification card, vehicle  
 6352 registration, certificate of title, or other document in violation of the provisions of subsection A.

6353 C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special  
 6354 identification card, vehicle registration, certificate of title, or other document obtained in violation of the  
 6355 provisions of subsection A.

6356 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is  
 6357 charged and convicted of a violation of this section that involved the unlawful obtaining or possession of any  
 6358 document issued by the Department for the purpose of engaging in any age-limited activity, including but not  
 6359 limited to obtaining, possessing, or consuming alcoholic beverages *or marijuana*. However, if a person is  
 6360 charged and convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

6361 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special  
 6362 identification card, vehicle registration, certificate of title, or other document issued by the Department has  
 6363 been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of  
 6364 the cancellation to the address of record maintained by the Department.

6365 F. A violation of this section may be prosecuted in the jurisdiction (i) from which any person obtained any  
 6366 document issued by the Department, (ii) where any person received or created any counterfeit, forged, or  
 6367 altered document used to obtain any document issued by the Department, or (iii) where any counterfeit,  
 6368 forged, or altered document has been filed with the Department.

**§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card  
 6370 to obtain alcoholic beverages or marijuana; penalties.**

6371 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive  
 6372 or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the  
 6373 District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States  
 6374 Armed Forces identification card; United States passport or foreign government visa; Virginia Department of  
 6375 Motor Vehicles special identification card; official identification issued by any other federal, state or foreign  
 6376 government agency; or official student identification card of an institution of higher education to obtain  
 6377 alcoholic beverages *shall be or marijuana is* guilty of a Class 3 misdemeanor, and upon conviction of a  
 6378 violation of this section, the court shall revoke such convicted person's driver's license or privilege to drive a  
 6379 motor vehicle for a period of not less than 30 days nor more than one year.

**6380      § 48.17.1. Temporary injunctions against alcoholic beverage sales or marijuana sales.**

6381      A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to  
6382 temporarily enjoin the sale of alcohol *or marijuana* at any establishment licensed by the Virginia Alcoholic  
6383 Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such petition shall be  
6384 the operator of the establishment has allowed it to become a meeting place for persons committing serious  
6385 criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be  
6386 deemed a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement  
6387 officer of the locality, supported by records of such criminal acts. The court shall, upon the presentation of  
6388 evidence at a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol  
6389 *or marijuana* at the establishment, if it appears to the satisfaction of the court that the threat to public safety  
6390 complained of exists and is likely to continue if such injunction is not granted. The court hearing on the  
6391 petition shall be held within 10 days of service upon the respondent. The respondent shall be served with  
6392 notice of the time and place of the hearing and copies of all documentary evidence to be relied upon by the  
6393 complainant at such hearing. Any injunction issued by the court shall be dissolved in the event the court later  
6394 finds that the threat to public safety that is the basis of the injunction has been abated by reason of a change  
6395 of ownership, management, or business operations at the establishment, or other change in circumstance.

6396      B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall  
6397 be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic  
6398 Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate an investigation into the  
6399 activities at the establishment complained of and conduct an administrative hearing. After the Virginia  
6400 Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* hearing and when a final  
6401 determination has been issued by the Virginia Alcoholic Beverage Control Authority *or the Virginia*  
6402 *Cannabis Control Authority*, regardless of disposition, any injunction issued hereunder shall be null, without  
6403 further action by the complainant, respondent, or the court.

**6404      § 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

6405      This section shall apply to any person who is not a qualified voter because of a felony conviction, who  
6406 seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the  
6407 conditions and requirements set out in this section.

6408      Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in  
6409 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-1101,  
6410 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  
6411 felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted  
6412 of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil  
6413 right to be eligible to register to vote through the process set out in this section. On such petition, the court  
6414 may approve the petition for restoration to the person of his right if the court is satisfied from the evidence  
6415 presented that the petitioner has completed, five or more years previously, service of any sentence and any  
6416 modification of sentence including probation, parole, and suspension of sentence; that the petitioner has  
6417 demonstrated civic responsibility through community or comparable service; and that the petitioner has been  
6418 free from criminal convictions, excluding traffic infractions, for the same period.

6419      If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner,  
6420 and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to  
6421 be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to  
6422 the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall  
6423 transmit the order to the Governor who may grant or deny the petition for restoration of the right to be  
6424 eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send,  
6425 within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate  
6426 of restoration of that right or notice that the Governor has denied the restoration of that right. The Governor's  
6427 denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no  
6428 right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the  
6429 restoration of the right or denial of restoration by the Governor.

6430      On receipt of the certificate of restoration of the right to register to vote from the Secretary of the  
6431 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

**6432      § 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

6433      A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as  
6434 defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public  
6435 in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor,"  
6436 "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation  
6437 intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or  
6438 relieve those suffering from any injury, deformity or disease.

6439      Signing a birth or death certificate, or signing any statement certifying that the person so signing has  
6440 rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other  
6441 remedial agents, shall be *prima facie* evidence that the person signing or issuing such writing is practicing the

6442 healing arts within the meaning of this chapter except where persons other than physicians are required to  
 6443 sign birth certificates.

6444 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing  
 6445 or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation  
 6446 or designation, or other language that identifies the type of practice for which he is licensed. No person  
 6447 regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in §  
 6448 18.2-247 54.1-3401, unless such advertisement is for the treatment of addiction or substance abuse. However,  
 6449 nothing in this subsection shall prevent a person from including in any advertisement that such person is  
 6450 registered with the Board of Directors of the Virginia Cannabis Control Authority to issue written  
 6451 certifications for the use of cannabis products, as defined in § 4.1-1600.

6452 **§ 54.1-3443. Board to administer article.**

6453 A. The Board shall administer this article and may add substances to or deschedule or reschedule all  
 6454 substances enumerated in the schedules in this article pursuant to the procedures of the Administrative  
 6455 Process Act (§ 2.2-4000 et seq.). In making a determination regarding a substance, the Board shall consider  
 6456 the following:

- 6457 1. The actual or relative potential for abuse;
- 6458 2. The scientific evidence of its pharmacological effect, if known;
- 6459 3. The state of current scientific knowledge regarding the substance;
- 6460 4. The history and current pattern of abuse;
- 6461 5. The scope, duration, and significance of abuse;
- 6462 6. The risk to the public health;
- 6463 7. The potential of the substance to produce psychic or physical dependence; and
- 6464 8. Whether the substance is an immediate precursor of a substance already controlled under this article.

6465 B. After considering the factors enumerated in subsection A, the Board shall make findings and issue a  
 6466 regulation controlling the substance if it finds the substance has a potential for abuse.

6467 C. If the Board designates a substance as an immediate precursor, substances which are precursors of the  
 6468 controlled precursor shall not be subject to control solely because they are precursors of the controlled  
 6469 precursor.

6470 D. If the Board, in consultation with the Department of Forensic Science, determines the substance shall  
 6471 be placed into Schedule I or II pursuant to § 54.1-3445 or 54.1-3447, the Board may amend its regulations  
 6472 pursuant to Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such  
 6473 amendments, the Board shall conduct a public hearing. At least 30 days prior to conducting such hearing, it  
 6474 shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to  
 6475 any persons requesting to be notified of a regulatory action. In the notice, the Board shall include a list of all  
 6476 substances it intends to schedule by regulation. The Board shall notify the House and Senate Committees for  
 6477 Courts of Justice of any new substance added to Schedule I or II pursuant to this subsection. Any substance  
 6478 added to Schedule I or II pursuant to this subsection shall remain on Schedule I or II for a period of 18  
 6479 months. Upon expiration of such 18-month period, such substance shall be descheduled unless a general law  
 6480 is enacted adding such substance to Schedule I or II. Nothing in this subsection shall preclude the Board from  
 6481 adding substances to or descheduling or rescheduling all substances enumerated in the schedules pursuant to  
 6482 the provisions of subsections A, B, and E.

6483 E. If any substance is designated, rescheduled, or descheduled as a controlled substance under federal law  
 6484 and notice of such action is given to the Board, the Board may similarly control the substance under this  
 6485 chapter after the expiration of 30 days from publication in the Federal Register of a final or interim final order  
 6486 or rule designating a substance as a controlled substance or rescheduling or descheduling a substance by  
 6487 amending its regulations in accordance with the requirements of Article 2 (§ 2.2-4006 et seq.) of the  
 6488 Administrative Process Act. Prior to making such amendments, the Board shall post notice of the hearing on  
 6489 the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be  
 6490 notified of a regulatory action. The Board shall include a list of all substances it intends to schedule by  
 6491 regulation in such notice.

6492 F. Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or  
 6493 tobacco as those terms are defined or used in Title 4.1.

6494 G. The Board shall exempt any nonnarcotic substance from a schedule if such substance may, under the  
 6495 provisions of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) or state law, be lawfully  
 6496 sold over the counter without a prescription.

6497 H. Any tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether scheduled  
 6498 pursuant to this section shall not be included in the definition of marijuana set forth in § 4.1-600; 18.2-247, or  
 6499 54.1-3401.

6500 **§ 54.1-4426. Accounting services for licensed marijuana establishments.**

6501 A. As used in this section, "licensed" and "marijuana establishment" have the same meanings as provided  
 6502 in § 4.1-600.

6503 B. A CPA, CPA firm, or officer, director, or employee of a CPA or CPA firm that provides accounting

6504 *services to a licensed marijuana establishment shall not be held liable pursuant to any state law or regulation*  
6505 *solely for providing such accounting services.*

6506 *C. Nothing in this section shall require a CPA or CPA firm to provide accounting services to a licensed*  
6507 *marijuana establishment.*

6508 **§ 58.1-301. Conformity to Internal Revenue Code.**

6509 A. Any term used in this chapter shall have the same meaning as when used in a comparable context in  
6510 the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

6511 B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall  
6512 mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of  
6513 the laws of the United States relating to federal income taxes, except for:

6514 1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m),  
6515 1400L, and 1400N of the Internal Revenue Code;

6516 2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal  
6517 Revenue Code;

6518 3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the  
6519 Internal Revenue Code;

6520 4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax  
6521 purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable  
6522 debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall  
6523 be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to  
6524 include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period  
6525 beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-  
6526 year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before  
6527 April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code  
6528 shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of  
6529 indebtedness in connection with the reacquisition of an "applicable debt instrument";

6530 5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on  
6531 itemized deductions under § 68(f) of the Internal Revenue Code;

6532 6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable  
6533 years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set  
6534 forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed  
6535 for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the  
6536 threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for  
6537 medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross  
6538 income;

6539 7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic  
6540 Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

6541 8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.  
6542 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

6543 9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.  
6544 116-136 (2020), related to the limitation on business interest;

6545 10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2), 276(b)(3),  
6546 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  
6547 Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2), and 9673(3) of the  
6548 federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes, and basis increases  
6549 for certain loan forgiveness and other business financial assistance; **and**

6550 11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would  
6551 increase or decrease general fund revenues by greater than \$15 million in the fiscal year in which the  
6552 amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall  
6553 not apply to any amendment to federal income tax law that is either subsequently adopted by the General  
6554 Assembly or a federal tax extender as defined in subdivision b.

6555 (2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine die of  
6556 the previous regular session of the General Assembly and the first day of the subsequent regular session of  
6557 the General Assembly if the cumulative projected impact of such amendments would increase or decrease  
6558 general fund revenues by greater than \$75 million in the fiscal year in which the amendments were enacted or  
6559 any of the succeeding four fiscal years. The provisions of this subdivision shall not apply to any amendment  
6560 to federal income tax law that is (i) subsequently adopted by the General Assembly, (ii) a federal tax extender  
6561 as defined in subdivision b, or (iii) enacted before the date on which the cumulative projected impact is met.  
6562 However, any amendment conformed to pursuant to clause (iii) shall be included in the calculation of the \$75  
6563 million threshold for purposes of determining whether such threshold has been met.

6564 (3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually based  
6565 on the preceding change in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as

6566 published by the Bureau of Labor Statistics for the U.S. Department of Labor or any successor index for the  
 6567 previous year.

6568 b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income tax law  
 6569 or a group of such amendments enacted in the same act of Congress that collectively surpass the threshold  
 6570 impact, and "federal tax extender" means an amendment to federal tax law that extends the expiration date of  
 6571 a federal tax provision to which Virginia conforms or has previously conformed.

6572 c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on Finance and  
 6573 Appropriations and the House Committees on Appropriations and Finance, shall be responsible for  
 6574 determining whether the criteria of subdivision a are met.

6575 d. The Secretary of Finance shall annually provide a report on or before November 15 of each year on the  
 6576 fiscal impact of amendments to federal income tax law occurring since the adjournment sine die of the  
 6577 preceding regular session of the General Assembly to the Chairmen of the Senate Committee on Finance and  
 6578 Appropriations and the House Committees on Appropriations and Finance. The Secretary of Finance shall  
 6579 also provide updates to the same Chairmen on any further amendments to federal income tax law occurring  
 6580 between submission of the required report and the first day of the subsequent regular session of the General  
 6581 Assembly; and

6582 12. *For taxable years beginning on and after January 1, 2026, the prohibition on utilizing tax deductions  
 6583 for ordinary and necessary expenditures made in connection with carrying on a trade or business licensed in  
 6584 Virginia pursuant to the Cannabis Control Act (§ 4.1-600 et seq.) under § 280E of the Internal Revenue  
 6585 Code.*

6586 C. The Department of Taxation is hereby authorized to develop procedures or guidelines for  
 6587 implementation of the provisions of this section, which procedures or guidelines shall be exempt from the  
 6588 provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

6589 **§ 59.1-200. Prohibited practices.**

6590 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer  
 6591 transaction are hereby declared unlawful:

- 6592 1. Misrepresenting goods or services as those of another;
- 6593 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 6594 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,  
 6595 with another;
- 6596 4. Misrepresenting geographic origin in connection with goods or services;
- 6597 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or  
 6598 benefits;
- 6599 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
- 6600 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,  
 6601 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly  
 6602 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,  
 6603 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or  
 6604 "not first class";

6605 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the  
 6606 price or upon the terms advertised.

6607 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant  
 6608 thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or  
 6609 offered, shall be *prima facie* evidence of a violation of this subdivision. This paragraph shall not apply when  
 6610 it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are  
 6611 advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or  
 6612 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or  
 6613 reasonably expected to have at least such quantity or amount for sale;

6614 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of  
 6615 price reductions;

6616 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts  
 6617 installed;

6618 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill  
 6619 for merchandise or services previously ordered;

6620 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"  
 6621 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's  
 6622 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the  
 6623 goods or services advertised or offered for sale;

6624 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or  
 6625 attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that  
 6626 are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal  
 6627 statutes or regulations;

6628 13a. Failing to provide to a consumer, or failing to use or include in any written document or material  
6629 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,  
6630 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so  
6631 provide, use, or include the statement, disclosure, notice, or other information in connection with the  
6632 consumer transaction;

6633 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection  
6634 with a consumer transaction;

6635 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,  
6636 or 3.2-6519 is a violation of this chapter;

6637 16. Failing to disclose all conditions, charges, or fees relating to:  
6638 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign  
6639 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be  
6640 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not  
6641 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this  
6642 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than  
6643 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of  
6644 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of  
6645 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be  
6646 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to  
6647 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor  
6648 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order  
6649 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's  
6650 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor  
6651 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

6652 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of  
6653 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the  
6654 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure  
6655 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

6656 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5  
6657 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such  
6658 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving  
6659 overpayments. If the credit balance information is incorporated into statements of account furnished  
6660 consumers by suppliers within such 60-day period, no separate or additional notice is required;

6661 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in  
6662 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

6663 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

6664 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

6665 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

6666 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17  
6667 et seq.);

6668 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

6669 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et  
6670 seq.);

6671 24. Violating any provision of § 54.1-1505;

6672 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6  
6673 (§ 59.1-207.34 et seq.);

6674 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

6675 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

6676 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

6677 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

6678 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et  
6679 seq.);

6680 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

6681 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

6682 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

6683 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

6684 35. Using the consumer's social security number as the consumer's account number with the supplier, if  
6685 the consumer has requested in writing that the supplier use an alternate number not associated with the  
6686 consumer's social security number;

6687 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

6688 37. Violating any provision of § 8.01-40.2;

6689 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

6690 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);  
 6691 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;  
 6692 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525  
 6693 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in  
 6694 § 59.1-526;  
 6695 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);  
 6696 43. Violating any provision of § 59.1-443.2;  
 6697 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);  
 6698 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;  
 6699 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;  
 6700 47. Violating any provision of § 18.2-239;  
 6701 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);  
 6702 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has  
 6703 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable  
 6704 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has  
 6705 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the  
 6706 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's  
 6707 products that are used, secondhand or "seconds";  
 6708 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);  
 6709 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;  
 6710 52. Violating any provision of § 8.2-317.1;  
 6711 53. Violating subsection A of § 9.1-149.1;  
 6712 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling  
 6713 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This  
 6714 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective  
 6715 drywall has been permanently installed or affixed;  
 6716 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a  
 6717 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to  
 6718 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of  
 6719 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et  
 6720 seq.) of Title 54.1;  
 6721 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);  
 6722 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;  
 6723 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,  
 6724 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer  
 6725 by a supplier to a small business, as those terms are defined in § 59.1-207.45;  
 6726 59. Violating any provision of subsection E of § 32.1-126;  
 6727 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under  
 6728 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;  
 6729 61. Violating any provision of § 2.2-2001.5;  
 6730 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;  
 6731 63. Violating any provision of § 6.2-312;  
 6732 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;  
 6733 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;  
 6734 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);  
 6735 67. Knowingly violating any provision of § 8.01-27.5;  
 6736 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel  
 6737 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a  
 6738 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an  
 6739 obligation to pay for the goods or services;  
 6740 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,  
 6741 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic  
 6742 derivative" means a chemical compound produced by man through a chemical transformation to turn a  
 6743 compound into a different compound by adding or subtracting molecules to or from the original compound.  
 6744 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug  
 6745 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit  
 6746 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 the Cannabis Control Act (§ 4.1-600  
 6747 et seq.);  
 6748 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human  
 6749 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply  
 6750 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the  
 6751 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter

6752 16 (~~§ 4.1-1600 et seq.~~) of Title 4.1 the Cannabis Control Act (~~§ 4.1-600 et seq.~~);

6753 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,  
6754 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as  
6755 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  
6756 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21  
6757 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a  
6758 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance  
6759 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)  
6760 accompanied by a certificate of analysis, produced by ~~an independent laboratory that is accredited pursuant to~~  
6761 ~~standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting~~  
6762 ~~body a licensed marijuana testing facility,~~ that states the tetrahydrocannabinol concentration of the substance  
6763 or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision  
6764 shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and  
6765 scheduled in the Drug Control Act (~~§ 54.1-3400 et seq.~~) or (ii) be construed to prohibit any conduct permitted  
6766 under ~~Chapter 16 (~~§ 4.1-1600 et seq.~~) of Title 4.1 the Cannabis Control Act (~~§ 4.1-600 et seq.~~)~~;

6767 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in  
6768 § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol  
6769 that depicts or is in the shape of a human, animal, vehicle, or fruit;

6770 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,  
6771 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper  
6772 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §  
6773 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,  
6774 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,  
6775 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

6776 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a  
6777 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to  
6778 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the  
6779 Drug Control Act (~~§ 54.1-3400 et seq.~~), (ii) be construed to prohibit any conduct permitted under Chapter 16  
6780 (~~§ 4.1-1600 et seq.~~) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July  
6781 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

6782 75. Violating any provision of § 59.1-466.8;

6783 76. Violating subsection F of § 36-96.3:1;

6784 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any  
6785 kratom product that does not include a label listing all ingredients and with the following guidance: "This  
6786 product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose,  
6787 treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the  
6788 plant *Mitragyna speciosa* or any extract thereof;

6789 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved  
6790 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted  
6791 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,  
6792 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not  
6793 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the  
6794 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning  
6795 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not  
6796 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the  
6797 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved  
6798 location;

6799 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a  
6800 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any  
6801 such good or provision of any such continuous service;

6802 80. Violating any provision of the Unfair Real Estate Service Agreement Act (~~§ 55.1-3200 et seq.~~);

6803 81. Selling or offering for sale services as a professional mold remediation to be performed upon any  
6804 residential dwelling without holding a mold remediation certification from a nationally or internationally  
6805 recognized certifying body for mold remediation, and failing to comply with (i) the U.S. Environmental  
6806 Protection Agency's publication on Mold Remediation in Schools and Commercial Buildings, as revised; (ii)  
6807 the ANSI/IICRC S520 Standard for Professional Mold Remediation, as revised; or (iii) any other equivalent  
6808 ANSI-accredited mold remediation standard, when conducting or offering to conduct mold remediation in the  
6809 Commonwealth;

6810 82. Willfully violating any provision of § 59.1-444.4;

6811 83. Violating any provision of Chapter 23.2 (~~§ 59.1-293.10 et seq.~~);

6812 84. Selling any food that is required by the FDA to have a nutrition label that does not meet the  
6813 requirements of 21 C.F.R. Part 101;

85. Obtaining, disclosing, selling, or disseminating any personally identifiable reproductive or sexual  
 6814 health information without the consent of the consumer;

86. Violating any provision of Chapter 58 (§ 59.1-607 et seq.); and

87. (Effective July 1, 2026) Violating any provision of the Medical Debt Protection Act (§ 59.1-611 et  
 6815 seq.).

88. B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease  
 6816 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth  
 6817 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation  
 6818 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

89. 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.

90. 3. That the following provisions shall become effective on November 1, 2026: (i) §§ 2.2-2499.8, 3.2-4113,  
 6824 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,  
 6825 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,  
 6826 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,  
 6827 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,  
 6828 19.2-392.02, 19.2-392.6, 19.2-392.12:1, 22.1-277.08, 46.2-105.2, 46.2-347, 53.1-231.2, 54.1-2903,  
 6829 54.1-3443, and 59.1-200 of the Code of Virginia, as amended by this act; (ii) §§ 4.1-1102 through  
 6830 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, 4.1-1119, 4.1-1300, 4.1-1301, and  
 6831 4.1-1303 through 4.1-1309 of the Code of Virginia, as created by this act; and (iii) §§ 4.1-1101.1,  
 6832 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, as repealed by this act.

6833 4. That by October 1, 2026, the Virginia Cannabis Control Authority (the Authority) shall issue up to  
 6834 100 microbusiness licenses pursuant to § 4.1-803 of the Code of Virginia, as created by this act, to  
 6835 applicants that (i) (a) are industrial hemp processors or growers that (1) are registered with the  
 6836 Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of  
 6837 Title 3.2 of the Code of Virginia, completed such registration prior to January 1, 2021, and are in good  
 6838 standing as of July 1, 2026 or (2) were previously registered with the Commissioner of Agriculture and  
 6839 Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia,  
 6840 completed such registration prior to January 1, 2021, were in good standing prior to forfeiting such  
 6841 registration or allowing such registration to expire, and have established the reason for the previous  
 6842 forfeiture or lapse of such registration and disclosed any violations, enforcement actions, or compliance  
 6843 issues related to the previous registration; (b) qualify as an impact license applicant pursuant to  
 6844 subdivision B 13 of § 4.1-606 of the Code of Virginia, as amended by this act; or (c) qualify as a farmer  
 6845 under the U.S. Department of Agriculture qualifications and (ii) meet any applicable licensing  
 6846 requirements and financial, security, and operational readiness criteria as established by the  
 6847 Authority. The Authority shall begin accepting applications for such microbusiness licenses no later  
 6848 than July 1, 2026.

6849 5. That a pharmaceutical processor or cannabis dispensing facility issued a permit by the Board of  
 6850 Directors (the Board) of the Virginia Cannabis Control Authority (the Authority) pursuant to Chapter  
 6851 16 (§ 4.1-1600 et seq.) of the Code of Virginia shall apply for a dual-use marijuana facility license in a  
 6852 manner prescribed by the Board between July 1, 2026, and November 1, 2026. No later than July 1,  
 6853 2026, the Authority shall create a streamlined application process for pharmaceutical processors and  
 6854 cannabis dispensing facilities to apply for such dual-use marijuana facility licenses which shall include  
 6855 a requirement that a pharmaceutical processor submit to and obtain approval from the Authority for a  
 6856 detailed medical cannabis program preservation plan describing how such processor will prioritize  
 6857 sales and access to medical cannabis products for qualifying patients, including a plan for managing  
 6858 customer traffic flow, preventing supply shortages, and ensuring appropriate staffing. Provided the  
 6859 applicable licensing requirements are met, by November 1, 2026, the Board shall issue the applicable  
 6860 dual-use marijuana facility licenses pursuant to § 4.1-807 of the Code of Virginia, as created by this  
 6861 act, for any location for which a permit has been issued upon the payment of a one-time \$10 million  
 6862 conversion fee to the Authority. On and after November 1, 2026, a pharmaceutical processor or  
 6863 cannabis dispensing facility issued a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of the Code of  
 6864 Virginia who has not applied for a dual-use marijuana facility license and paid the conversion fee shall  
 6865 not operate under a dual-use marijuana facility license or renew such license. Any such pharmaceutical  
 6866 processor or cannabis dispensing facility may continue to hold the dual-use marijuana facility license  
 6867 for resale to another person; however, the purchaser of such license shall be responsible for paying the  
 6868 one-time \$10 million conversion fee.

6869 6. That no later than July 1, 2026, the Virginia Cannabis Control Authority (the Authority) shall create  
 6870 a streamlined application process for industrial hemp processors or growers to apply for a marijuana  
 6871 cultivation facility license or marijuana processing facility license if such industrial processors or  
 6872 growers (i) are registered with the Commissioner of Agriculture and Consumer Services pursuant to  
 6873 Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia and completed such registration  
 6874 prior to January 1, 2021, or (ii) (a) were previously registered with the Commissioner of Agriculture

6876 and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of  
6877 Virginia; (b) completed such registration prior to January 1, 2021; (c) were in good standing prior to  
6878 forfeiting such registration or allowing such registration to expire; and (d) have established the reason  
6879 for the previous forfeiture or lapse of such registration and disclosed any violations, enforcement  
6880 actions, or compliance issues related to the previous registration. Provided the applicable licensing  
6881 requirements are met, by November 1, 2026, the Authority shall issue no more than five cultivation  
6882 facility licenses and no more than five marijuana processing facility licenses to such industrial hemp  
6883 growers or processors upon payment of a one-time \$500,000 conversion fee to the Authority.

6884 7. That the Virginia Cannabis Control Authority (the Authority) may, on and after, July 1, 2026, begin  
6885 accepting license applications from all applicants and issuing licenses pursuant to the provisions of  
6886 § 4.1-1000 of the Code of Virginia, as created by this act.

6887 8. That in addition to the 100 microbusiness licenses required to be issued by October 1, 2026, pursuant  
6888 to the fourth enactment of this act, by November 1, 2026, the Virginia Cannabis Control Authority (the  
6889 Authority) shall have (i) issued dual-use marijuana facility licenses to pharmaceutical processors and  
6890 cannabis dispensing facilities as required by the fifth enactment of this act; (ii) issued no more than five  
6891 marijuana cultivation facility licenses and no more than five marijuana processing facility licenses to  
6892 industrial hemp growers or processors as required by the sixth enactment of this act; and (iii) issued at  
6893 least 55 additional licenses in total distributed among impact licensees, tier I marijuana cultivation  
6894 facilities, and tier II marijuana cultivation facilities.

6895 9. Notwithstanding the third enactment of this act, any applicant issued a license by the Authority may  
6896 operate in accordance with the provisions of this act prior to November 1, 2026; however, prior to  
6897 November 1, 2026, no licensee may engage in the retail sale of marijuana, marijuana products,  
6898 immature marijuana plants, or marijuana seeds, unless such licensee is a pharmaceutical processor or  
6899 cannabis dispensing facility and is acting in accordance with the provisions of Chapter 16 (§ 4.1-1600 et  
6900 seq.) of the Code of Virginia. Notwithstanding any other provision of law, on or after July 1, 2026, and  
6901 prior to November 1, 2026, no marijuana cultivation facility licensee, marijuana processing facility  
6902 licensee, marijuana transporter licensee, marijuana delivery operator, retail marijuana store licensee,  
6903 microbusiness licensee, marijuana testing facility licensee, dual-use marijuana facility licensee, or agent  
6904 or employee thereof shall be subject to arrest or prosecution for a violation of Chapter 11 (§ 4.1-1100 et  
6905 seq.) of Title 4.1 of the Code of Virginia or § 18.2-248, 18.2-248.01, 18.2-255, 18.2-255.1, 18.2-255.2,  
6906 18.2-258, 18.2-258.02, 18.2-265.3, or 18.2-308.4 of the Code of Virginia, as amended by this act, or  
6907 § 18.2-248.1 of the Code of Virginia, as repealed by this act, involving marijuana if such violation is  
6908 related to acts committed within the scope of the permit, licensure, or employment and in accordance  
6909 with the provisions of the Cannabis Control Act (§ 4.1-600 et seq. of the Code of Virginia) and this  
6910 enactment. The Board shall not permit any marijuana cultivation facility licensee to engage in the  
6911 outdoor growth of marijuana plants until the Board has promulgated regulations governing outdoor  
6912 growth pursuant to § 4.1-606 of the Code of Virginia, as amended by this act.

6913 10. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a seed-to-  
6914 sale tracking system pursuant to § 4.1-611 of the Code of Virginia by September 1, 2026.

6915 11. That the Virginia Cannabis Control Authority (the Authority) shall (i) analyze whether any limits  
6916 should be placed on the number of licenses issued to operate a marijuana establishment, (ii) analyze  
6917 and identify any necessary adjustments regarding canopy limits for marijuana cultivation facility  
6918 licensees, and (iii) report its finding to the General Assembly by November 1, 2026. The Authority shall  
6919 continue such analysis and submit updated findings to the General Assembly for two years after such  
6920 initial report and shall submit such updated findings by November 1 during the two subsequent years.

6921 12. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall  
6922 promulgate regulations to implement the provisions of this act by September 1, 2026. With the  
6923 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process  
6924 Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant  
6925 thereto shall apply to the Board's initial adoption of such regulations.

6926 13. That, from July 1, 2026, to July 1, 2027, the Virginia Cannabis Control Authority (the Authority)  
6927 shall deposit 75 percent of all funds collected through marijuana establishment annual license fees into  
6928 the Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501 of the Code of Virginia, as  
6929 amended by this act. Such deposits shall occur within 60 days of the Authority's receipt of such license  
6930 fees.

6931 14. That the provisions of the first enactment of this act amending subsection B of § 4.1-614 of the Code  
6932 of Virginia, as amended by this act, shall become effective July 1, 2028.

6933 15. That the Joint Commission to Oversee the Transition of the Commonwealth into a Cannabis Retail  
6934 Market (the Joint Commission) shall consider and make recommendations on (i) the establishment and  
6935 implementation of (a) on-site consumption licenses allowing adults to use cannabis on the premises of a  
6936 licensed marijuana establishment and (b) microbusiness cannabis event permits allowing  
6937 microbusiness licensees to hold temporary age-restricted sales events at approved venues such as

6938 farmers markets or pop-up locations where such licensees may sell marijuana or marijuana products  
6939 directly to consumers outside of their licensed premises and (ii) the benefits, limitations, and feasibility  
6940 of the Virginia Alcoholic Beverage Control Authority's involvement in the enforcement of laws and  
6941 regulations related to the cannabis retail market in the Commonwealth. The Joint Commission shall  
6942 report its findings and recommendations to the Chairs of the House Committee on General Laws and  
6943 the Senate Committee on Rehabilitation and Social Services by November 1, 2026.  
6944 16. That the provisions of this act may result in a net increase in periods of imprisonment or  
6945 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary  
6946 appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;  
6947 therefore, Chapter 725 of the Acts of Assembly of 2025 requires the Virginia Criminal Sentencing  
6948 Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of  
6949 Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of  
6950 commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

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