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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:

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 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 are amended and reenacted and that the Code of Virginia is amended 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 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

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remain in the Fund. Moneys in the Fund shall be used solely for the purposes of:

1. Supporting persons, families, and communities historically and disproportionately targeted and affected by drug enforcement;

2. Providing scholarship opportunities and educational and vocational resources for historically marginalized persons, including persons in foster care, who have been adversely impacted by substance use individually, in their families, or in their communities;

3. Awarding grants to support workforce development, mentoring programs, job training and placement services, apprenticeships, and reentry services that serve persons and communities historically and disproportionately targeted by drug enforcement.

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

5. Contributing *50 percent of the Fund* to the Virginia Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501.

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

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

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

Such contribution shall be financed through appropriations provided by law.

B. The plan shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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

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

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

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

- a. The National Cancer Institute;
- b. An NCI cooperative group or an NCI center;
- c. The FDA in the form of an investigational new drug application;
- d. The federal Department of Veterans Affairs; or
- e. An institutional review board of an institution in the Commonwealth that has a multiple project assurance contract approved by the Office of Protection from Research Risks of the NCI.

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

Coverage under this subdivision shall apply only if:

- (1) There is no clearly superior, noninvestigational treatment alternative;
- (2) The available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as effective as the noninvestigational alternative; and
- (3) The patient and the physician or health care provider who provides services to the patient under the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to procedures established by the plan.

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

17. Include coverage for biologically based mental illness.

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

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

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

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

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

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

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

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

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

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

D. For the purposes of this section:

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

"Standard reference compendia" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Ombudsman shall:

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

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

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

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

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

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

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

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

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

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

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

N. Beginning July 1, 2006, any plan established pursuant to this section shall provide for an identification 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

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

16. Employees of the Virginia Lottery;

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

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

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

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

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

22. Officers and employees of the Virginia Port Authority;

23. Employees of the Commonwealth Savers Plan;

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

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

26. Employees of the Virginia Indigent Defense Commission;

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

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

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

30. Officers and employees of the Fort Monroe Authority.

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

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

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

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 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

expanding its facilities in the community.

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

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

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

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

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

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

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

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

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

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

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

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

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

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings 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

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

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

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

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

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

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

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

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

§ 2.2-3802. Systems to which chapter inapplicable.

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

1. Maintained by any court of the Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913;

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

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

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

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

a. The Department of State Police;
b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;
c. Police departments of cities, counties, and towns;
d. Sheriff's departments of counties and cities;
e. Campus police departments of public institutions of higher education as established by Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
f. The Division of Capitol Police.

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

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

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

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

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

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

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

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

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

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

§ 2.2-4024. Hearing officers.

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

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

1. Active membership in good standing in the Virginia State Bar;

2. Active practice of law for at least five years; and

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

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

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

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

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

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

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

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

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

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

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

G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to hearing officers conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife Resources, the Virginia Housing Development Authority, the Milk Commission, and the Virginia Resources Authority 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 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*
 1384 *violations of this subtitle and all controversies in any judicial proceedings touching the mixture analyzed by*
 1385 *him of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the*
 1386 *requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the*
 1387 *admission of the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On*
 1388 *motion of the accused or any party in interest, the court may require the forensic scientist making the analysis*
 1389 *to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable*
 1390 *time prior to the day on which the case is set for trial.*

1391 **§ 4.1-600. Definitions.**

1392 As used in this subtitle, unless the context requires a different meaning:

1393 "Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction that is
 1394 calculated to induce sales of ~~retail~~ marijuana, ~~retail~~ marijuana products, marijuana plants, or marijuana seeds,
 1395 including any written, printed, graphic, digital, electronic, or other material, billboard, sign, or other outdoor
 1396 display, publication, or radio or television broadcast.

1397 "Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

1398 "Board" means the Board of Directors of the Virginia Cannabis Control Authority.

1399 "Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

1400 "*Canopy*" means the space used by a licensee to produce flowering marijuana plants, including areas
 1401 between plants, pathways, walkways, and empty space between rows that allow for airflow, light, growth,
 1402 access for watering, trimming, and other activities associated with marijuana cultivation. "*Canopy*" does not
 1403 include space used for mother plants, clones, immature or nonflowering plants, processing, drying, curing,
 1404 trimming, storage, offices, hallways, work areas, or other administrative and nonproduction uses. If
 1405 flowering marijuana plants are cultivated using a shelving or other layered system, the surface area of each
 1406 level shall be included for purposes of calculating canopy.

1407 "Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to
 1408 be significantly difficult for a typical child ~~under~~ younger than five years of age to open and not to be
 1409 significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than a
 1410 single use or that contains multiple servings, resealable.

1411 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading,
 1412 trimming, packaging, or other similar ~~processing manufacturing~~ of marijuana for use or sale. "Cultivation" or
 1413 "cultivate" does not include ~~manufacturing processing~~ or testing.

1414 "*Dual-use marijuana facility*" means a facility licensed under § 4.1-807.

1415 "*Edible hemp product*" means the same as that term is defined in § 3.2-4112.

1416 "Edible marijuana product" means a marijuana product intended to be consumed orally, including
 1417 marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

1418 "*Hemp product*" means the same as that term is defined in § 3.2-4112.

1419 "*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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. *To submit* an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The ~~chairman~~ *chair* shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Advisory Council no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

spouse of a person who has been convicted of or adjudicated delinquent for any misdemeanor or felony 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 any substantially similar offense under the laws of another jurisdiction; (iii) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the past five years (a) between the years 2011 and 2025 in a jurisdiction that is determined by the Board, after utilizing census tract data made available by the United States Census Bureau, is determined to have been disproportionately policed for marijuana crimes or (b) for at least three of the past five years in a historically economically disadvantaged community; (iv) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the last five years in a jurisdiction determined by the Board after utilizing census tract data made available by the United States Census Bureau to be economically distressed; or (v) an applicant with at least 66 percent ownership by a person or persons who graduated from a historically black college or university located in the Commonwealth at which at least 30 percent of the students, on average, are eligible for a Federal Pell Grant; (vi) are veterans of the Armed Forces of the United States; or (vii) have qualified for financial assistance or relief from the U.S. Department of Agriculture as a distressed farmer in the last five years;

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

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

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

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

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

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

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

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

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

23. 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 e. ~~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 license 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 ~~4,500~~ 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 ~~license 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
 1983 of those voting in each house of the General Assembly *and two members appointed by the Joint Rules*
 1984 *Committee and confirmed by the affirmative vote of a majority of those voting in each house of the General*
 1985 *Assembly.* Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three
 1986 years next preceding his appointment, and his continued residency shall be a condition of his tenure in office;
 1987 (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a
 1988 minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or
 1989 control of a business or legal affairs. *Members shall be appointed in a manner that ensures expertise among*
 1990 *the Board members in health, law, agriculture, finance, and law enforcement.* Appointees shall reflect the
 1991 racial, ethnic, gender, and geographic diversity of the Commonwealth. Appointees shall be subject to a
 1992 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

subsection A, net profits shall be appropriated in the general appropriation act as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 7.

ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

§ 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.

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

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

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

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

E. Each license shall be posted in a location conspicuous to the public at the place where the licensee 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.

The Board may grant licenses for one year or for multiple years, not to exceed three years, based on the fees set by the Board pursuant to § 4.1-1002. Qualification for a multiyear license shall be determined on the basis of criteria established by the Board. Fees for multiyear licenses shall not be refundable except as provided in § 4.1-1003. The Board may provide a discount for two-year or three-year licenses, not to exceed 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*

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

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.

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.

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.

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.

§ 4.1-801. Marijuana processing facility license.

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.

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.

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.

§ 4.1-802. Retail marijuana store license.

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.

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

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

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.

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

§ 4.1-805. Marijuana delivery operator license.

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

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

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

§ 4.1-806. Marijuana testing facility license.

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

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

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

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

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

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

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

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

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

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

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

D. Unless otherwise provided by law or the Board, a dual-use marijuana facility licensee shall be subject to the same statutory requirements and regulations as marijuana cultivation facilities, marijuana processing facilities, and retail marijuana stores, including requirements for (i) tracking all marijuana, marijuana products, immature marijuana plants, or marijuana seeds in accordance with § 4.1-611 and (ii) ensuring all 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.

2555 CHAPTER 9.

2556 ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

2557 § 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

immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety;

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

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

2. The place occupied by the licensee:

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

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

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

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

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

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

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

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

8. Any other cause authorized by this subtitle.

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

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

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

C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a formal investigation. The formal investigation shall be completed within 10 days of its commencement and the findings reported immediately to the Secretary of the Board. If, following the formal investigation, the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held within 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 evidential 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)

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

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

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

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

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

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

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

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

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

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

2. Destroyed by the Board or its designee.

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

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

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

CHAPTER 10.

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

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

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

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

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

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

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city, or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, 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*

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

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

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

§ 4.1-1002. Fees for state licenses.

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

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

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

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

§ 4.1-1003. Refund of state license fee.

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

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

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

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

§ 4.1-1004. Marijuana taxes; exceptions.

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

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

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

2. Nothing in this subsection shall be construed to (i) prohibit a locality from imposing any tax authorized by law on a person or property regulated under this subtitle or (ii) limit the authority of any locality to impose a license or privilege tax or fee on a business engaged in whole or in part in sales taxable under 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*

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

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

A. The taxes imposed under § 4.1-1004 shall be assessed within three years from the date on which such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the collection of such taxes may be begun without assessment, at any time within six years from such date. The Authority shall not examine any person's records beyond the three-year period of limitations unless it has reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a return and failed to do so.

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

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

2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to appeal under § 4.1-1009.

3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each of the doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or satisfactory arrangements for payment have not been made, the Authority may cause a writ of fieri facias to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the Authority. In the event that the person against whom the distraint has been applied subsequently appeals under § 4.1-1009, the person shall have the right to post bond equaling the amount of liability in lieu of payment until the appeal is resolved.

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

§ 4.1-1009. Appeals.

Any tax imposed under § 4.1-1004, any interest imposed under § 4.1-1008, any action of the Authority under § 4.1-1204, and any penalty imposed under § 4.1-1205 or 4.1-1206 shall be subject to review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire evidential record of the proceedings provided by the Authority in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or 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 (c) of § 18.2-248.1, a~~ 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*

distribute any marijuana or marijuana products except as permitted by this chapter or provided in subsection C, he is guilty of a Class 2 misdemeanor.

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

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

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

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

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

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

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

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

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

C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best 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 16.1-278.9, the court shall treat the juvenile as delinquent.

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

E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including a birth certificate or student identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase, or attempt to consume or purchase marijuana or marijuana products. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

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*

the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the defendant were solely guilty of such violation.

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

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

CHAPTER 12.

PROHIBITED PRACTICES BY LICENSEES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Except as otherwise provided in § 4.1-808, no retail marijuana store licensee shall purchase for resale or sell any marijuana, marijuana products, immature marijuana plants, or marijuana seeds purchased from anyone other than a marijuana cultivation facility or marijuana processing facility.

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

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

A. No licensed marijuana establishment shall transfer any marijuana or marijuana products from one licensed place of business to another licensed place of business unless (i) such licensed marijuana establishment is authorized to transfer marijuana or marijuana products from one licensed place of business to another licensed place of business and the transfer is completed by the licensee or an employee of the licensee or (ii) such transfer is completed by a marijuana transporter licensee.

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

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

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

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

§ 4.1-1205. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or to 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

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

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

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

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

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

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

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

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

§ 4.1-1304. Contraband marijuana or marijuana products.

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

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

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

B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is convicted of a violation of any provision of this subtitle may require such defendant to execute bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with the condition that the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged by the court, provided that he shall not be confined for a period longer than six months. If any such bond 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. H.~~ All lawfully erected outdoor signs regarding marijuana, marijuana products, or any substance*

containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor directional sign regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol that is located or to be located on highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

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

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

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

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

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

1. Residual solvents;
2. Heavy metals;
3. Microbiological contaminants;
4. Mycotoxins;
5. Pesticide chemical residue; and
6. Active ingredient analysis.

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

C. A licensee shall maintain a record of all mandatory testing that includes a description of the marijuana or marijuana product provided to the marijuana testing facility, the identity of the marijuana testing facility, and the results of the mandatory test.

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

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

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

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

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

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

1. The marijuana or marijuana product has previously undergone testing in accordance with this subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and the testing 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

product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance or (ii) otherwise be packaged or labeled in violation of a federal trademark law or regulation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Sanitary standards for marijuana establishments, including sanitary standards for the processing and manufacture of marijuana and marijuana products; and

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

§ 4.1-1500. Definitions.

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

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

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

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

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

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

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

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Cannabis Equity Business Loan 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 remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing grants,

low-interest ~~and loans~~, zero-interest loans, ~~and other supports and services~~ to ~~social equity qualified cannabis~~ impact licensees in order to foster business ownership and economic growth within communities that have been the most disproportionately impacted by the former prohibition of cannabis. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chief Executive Officer of the Authority.

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

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

B. The Program shall:

1. Identify ~~social equity qualified cannabis impact~~ licensees who are in need of capital ~~or other supports and services~~ for the start-up of a cannabis business properly licensed pursuant to the provisions of this subtitle;
2. Provide loans, grants, ~~and other supports and services~~ for the purposes described in subsection A ~~and § 4.1-1501~~;
3. Provide technical assistance; and
4. Bring together community partners to sustain the Program.

§ 4.1-1600. Definitions.

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

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to § 4.1-1602; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis products produced by a pharmaceutical processor to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 4.1-1602, or a dilution of the resin of the Cannabis plant that contains, except as otherwise provided in this chapter, no more than 10 milligrams of tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, handled, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.

"Cannabis product" means a product that (i) is formulated with cannabis oil or botanical cannabis; (ii) is produced by a pharmaceutical processor and sold by a pharmaceutical processor or cannabis dispensing facility; (iii) is registered with the Board; (iv) contains, except as otherwise provided in this chapter, no more than 10 milligrams of tetrahydrocannabinol per dose; and (v) is compliant with testing requirements.

"Delivery agent" means an independent contractor that transports or delivers usable cannabis, botanical cannabis, cannabis oil, or cannabis products on behalf of a pharmaceutical processor or cannabis dispensing facility.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day center licensed pursuant to § 63.2-1701.

"Dispense" means the same as that term is defined in § 54.1-3300.

"Edible cannabis product" means a cannabis product that is intended to be ingested and is (i) formulated with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor and sold by a pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and (iv) compliant with testing requirements.

"Inhalable cannabis product" means a cannabis product that is intended to be inhaled and is (i) formulated with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor and sold by a pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and (iv) compliant with testing requirements.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to

§ 4.1-1602 and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a patient pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Pharmacist" means the same as that term is defined in § 54.1-3300.

"Pharmacy intern" means the same as that term is defined in § 54.1-3300.

"Pharmacy technician" means the same as that term is defined in § 54.1-3300.

"Pharmacy technician trainee" means the same as that term is defined in § 54.1-3300.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or an advanced practice registered nurse jointly licensed by the Boards of Nursing and Medicine.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection F of § 4.1-1601.

"Topical cannabis product" means a cannabis product that is intended to be applied topically to the skin and is (i) formulated with cannabis oil or botanical cannabis, (ii) produced by a pharmaceutical processor and sold by a pharmaceutical processor or cannabis dispensing facility, (iii) registered with the Board, and (iv) compliant with testing requirements.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

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

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

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

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

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

E. No patient shall be required to physically present the written certification after the initial dispensing by

any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit on a monthly basis all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Authority.

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

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

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

§ 4.1-1602. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Authority and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis products that provide that each dispensed dose of a cannabis product not exceed 10 milligrams of total tetrahydrocannabinol, except as permitted under § 4.1-1603.2; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processor and a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection N; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating cannabis plants intended for producing cannabis products, (b) the disposal of agricultural waste, and (c) a process for registering cannabis products.

D. The Board shall require pharmaceutical processors, after processing and before dispensing any

cannabis products, to make a sample available from each batch of cannabis product for testing by an independent laboratory that is located in *the* Commonwealth and meets Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD), total tetrahydrocannabinol (THC), terpenes, pesticide chemical residue, heavy metals, mycotoxins, moisture, and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails any quality testing standard except pesticides. Following remediation, all remediated botanical cannabis or cannabis oil shall be subject to laboratory testing, which shall not be more stringent than initial testing prior to remediation. Remediated botanical cannabis or cannabis oil that passes such quality testing may be packaged and labeled. If a batch of botanical cannabis fails retesting after remediation, it shall be considered usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any cannabis product with an expiration date assigned by the pharmaceutical processor of 12 months or less from the date of the cannabis product registration approval. Stability testing required for assignment of an expiration date longer than 12 months shall be limited to microbial testing, on a pass/fail basis, and potency testing, on a 15 percent deviation basis, of total THC and total CBD. No cannabis product shall have an expiration date longer than 12 months from the date of the cannabis product registration approval unless supported by stability testing.

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board of Pharmacy in regulation.

F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility unless all cannabis products are contained in a vault or other similar container to which only the pharmacist has access controls. The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have concurrent responsibility for preventing diversion from the dispensing area.

Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and production areas of the pharmaceutical processor and shall provide such information to the Board. The Board shall direct all communications related to enforcement of requirements related to cultivation and production of cannabis and cannabis products by the pharmaceutical processor to such designated person.

G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant's material owners. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

H. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

I. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than one year of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a certification recognized by the Board or who has at least one year of experience cultivating plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least one year of experience extracting chemicals from plants, (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician, and (iv) to serve as pharmacy technician trainees.

J. A pharmaceutical processor to whom a permit has been issued by the Board may (i) establish up to five cannabis dispensing facilities, subject to the permit requirement set forth in subsection B, for the dispensing of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board and (ii) establish, if authorized by the Board, one additional location at which the pharmaceutical processor may cultivate cannabis plants. Each cannabis dispensing facility and the additional cultivation location shall be located within the same health service area as the pharmaceutical processor.

K. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or 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 discernable, 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 percentage 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)~~ (iii) the text of the proposed
3942 regulation; and ~~(iii)~~ (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

dispensing facility shall make and maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view, in person or by audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of the corresponding registered agent if applicable. Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each written certification, an employee or delivery agent shall view a current photo identification of the patient, registered agent, parent, or legal guardian and the current board registration issued to the registered agent if applicable. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period. A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply of a cannabis product for any patient during any 90-day period; however, a pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. In determining the appropriate amount of a cannabis product to be dispensed to a patient, a pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the patient and adjust the amount dispensed accordingly.

B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis products produced on the premises of a pharmaceutical processor permitted by the Board or cannabis products that have been formulated with extracts from industrial hemp acquired by a pharmaceutical processor from a registered industrial hemp handler or processor pursuant to § 4.1-1602. A pharmaceutical processor may begin cultivation upon being issued a permit by the Board.

C. The Board shall report annually by December 1 to the Chairmen of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services on the operation of pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board.

D. The concentration of total tetrahydrocannabinol in any cannabis product on site may be up to 15 percent greater than or less than the level of total tetrahydrocannabinol listed in the approved cannabis product registration. A pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any cannabis product on site is within such range. A pharmaceutical processor producing cannabis products shall establish a stability testing schedule of cannabis products that have an expiration date of longer than 12 months.

E. All transportation or delivery of usable cannabis, botanical cannabis, cannabis oil, or cannabis products, whether by an employee or delivery agent, shall comply with the provisions of this subtitle and Board regulations, including those related to background checks, proof of identification, vehicle security, GPS tracking, secure communications, and recordkeeping. The Board may suspend or revoke the privileges of any employee or delivery agent to transport or deliver usable cannabis, cannabis oil, or cannabis products for failure of such employee or delivery agent to comply with the provisions of this subtitle or Board regulations.

§ 4.1-1604. Criminal liability; exceptions.

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted 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 marijuana or for possession, manufacture, or distribution of cannabis products, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis products in accordance with the provisions of this chapter and Board regulations or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with generally accepted cannabis industry standards in accordance with the provisions of this chapter and Board regulations.

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

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

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

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

A. As used in this section, "licensed" and "marijuana establishment" have the same meanings as provided 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

plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record of conviction will be sent to the Commissioner of the Department of Motor Vehicles.

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

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

§ 16.1-260. Intake; petition; investigation.

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

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

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a

petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

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

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

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

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective order is being 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 occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be

reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

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

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

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

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

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4~~ *Chapter 11* (§ ~~18.2-247 4.1-1100~~ et seq.) of ~~Chapter 7~~ of Title 18.2 4.1;
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
12. An act of violence by a mob pursuant to § 18.2-42.1;
13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
14. A threat pursuant to § 18.2-60.

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

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

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

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any 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*

of § 4.1-1105; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves a violation designated under clause (i) and the child was transporting a person 17 years of age or younger, the court shall impose the additional fine and order community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's license shall be delayed for a period of six months following the date he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense involves possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two years unless the offense is committed 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 license shall be delayed for a period of two years following the date he reaches the age of 16 and three months.

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

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

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

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 provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the physical custody of the court during any period of license denial.

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

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

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

The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the

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

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

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

§ 18.2-46.1. Definitions.

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

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

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

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3, 18.2-56.1, 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, 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, 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 § 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~~ ~~18.2-248.1~~; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

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

A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et seq.).

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

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

2. Which by express or implied representations purports to act like a controlled substance as a stimulant or depressant of the central nervous system and which is not commonly used or recognized for use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed,

promoted, or sold as permitted by the U.S. Food and Drug Administration.

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

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

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

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

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

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

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

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

B. In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled substance, the court may consider, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances of like chemical composition sell.

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

substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ is guilty of a Class 5 felony.

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

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

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

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

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

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 any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the defendant believed the imitation controlled substance to actually be a controlled substance.

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

1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 - a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - c. Cocaine base;
 - d. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - e. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances referred to in subdivisions a through d; or

3. 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or

4. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I of this section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

H1. Any person who was the principal or one of several principal administrators, organizers or leaders of a continuing criminal enterprise ~~shall be~~ is guilty of a felony if (i) the enterprise received at least \$100,000

but less than \$250,000 in gross receipts during any 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any 12-month period of its existence:

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

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

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

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

c. Cocaine base;

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

e. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances referred to in subdivisions a through d; *or*

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

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

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

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

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

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

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

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

c. Cocaine base;

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

e. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances referred to in subdivisions a through d; *or*

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

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

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

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

K. The term "methamphetamine precursor drug," when used in this article, means a drug or product

containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts of optical isomers.

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

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

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

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

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

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

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

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has 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.

A. For purposes of this section:

"Act of sexual violence" means an alleged violation of § 18.2-361, 18.2-370, or 18.2-370.1 or the laws pertaining to criminal sexual assault pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4.

"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 § ~~4.1-1105.1~~ 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 § ~~4.1-1105.1~~ 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

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 distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a patient or resident who has been issued a valid written certification for the use of cannabis oil in accordance with § 4.1-1601.

§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories; Department of Agriculture and Consumer Services, Department of Law employees.

A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower, a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of performing required testing 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 18.2-255 for the possession or distribution of cannabis oil or industrial hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with regulations promulgated by the Board of Pharmacy of Directors of the Virginia Cannabis Control Authority and the Board of Agriculture and Consumer Services.

B. No employee of the Department of Agriculture and Consumer Services or of the Department of Law 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, ~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp or any substance containing tetrahydrocannabinol when possession of industrial hemp or any substance containing tetrahydrocannabinol is necessary in the performance of his duties.

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

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

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

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

B. The court trying the case of any person alleged to have committed any criminal offense designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the commission of the offense was motivated by or closely related to the use of drugs and determined by the court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not 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 ounce 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 ~~ounce of 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)
 4928 distribute any imitation controlled substance to a person under 18 years of age who is at least three years his
 4929 junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation controlled
 4930 substance. Any person violating this provision ~~shall be~~ is guilty of a Class 6 felony.

4931 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in**
 4932 **administering controlled substances to minors; penalty.**

4933 It ~~shall be~~ is a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a
 4934 minor any book, pamphlet, periodical, or other printed matter ~~which~~ that he knows advertises for sale any
 4935 instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking, administering,
 4936 preparing, or growing ~~marijuana~~ or a controlled substance.

4937 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.**

4938 A. It ~~shall be~~ is unlawful for any person to manufacture, sell, or distribute or possess with intent to sell,
 4939 give, or distribute any controlled substance; ~~or~~ imitation controlled substance; ~~or marijuana~~ while:

4940 1. Upon the property, including buildings and grounds, of any public or private elementary or secondary
 4941 school, any institution of higher education, or any clearly marked licensed child day center as defined in
 4942 § 22.1-289.02;

4943 2. Upon public property or any property open to public use within 1,000 feet of the property described in
 4944 subdivision 1;

4945 3. On any school bus as defined in § 46.2-100;

4946 4. Upon a designated school bus stop, or upon either public property or any property open to public use
 4947 which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be
 4948 picked up and transported to or are being dropped off from school or a school-sponsored activity;

4949 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
 4950 recreation or community center facility or any public library; or

4951 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property
 4952 open to public use within 1,000 feet of such ~~an institution~~ facility. It is a violation of the provisions of this
 4953 section if the person possessed the controlled substance; ~~or~~ imitation controlled substance; ~~or marijuana~~ on

the property described in subdivisions 1 through 6, regardless of where the person intended to sell, give, or distribute the controlled substance; *or* imitation controlled substance; ~~or marijuana~~. Nothing in this section shall prohibit the authorized distribution of controlled substances.

B. Violation of this section shall constitute a separate and distinct felony. Any person violating the provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§ 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum term of imprisonment of one year to be served consecutively with any other sentence. However, if such person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to or dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

C. If a person commits an act violating the provisions of this section, and the same act also violates another provision of law that provides for penalties greater than those provided for by this section, then nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or the imposition of any penalties provided for thereby.

§ 18.2-258. Certain premises deemed common nuisance; penalty.

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of, manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession, manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance. Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

§ 18.2-258.02. Maintaining a fortified drug house; penalty.

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

§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit or forgery.

A. It ~~shall be~~ *is* unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit, misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

B. It ~~shall be~~ *is* unlawful for any person to furnish false or fraudulent information in or omit any information from, or willfully make a false statement in, any prescription, order, report, record, or other document required by ~~Chapter 34~~ *the Drug Control Act* (§ 54.1-3400 et seq.) ~~of Title 54.1~~.

C. It ~~shall be~~ *is* unlawful for any person to use in the course of the manufacture or distribution of a controlled substance ~~or marijuana~~ a license number ~~which~~ *that* is fictitious, revoked, suspended, or issued to another person.

D. It ~~shall be~~ *is* unlawful for any person, for the purpose of obtaining any controlled substance ~~or marijuana~~, to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person.

E. It ~~shall be~~ *is* unlawful for any person to make or utter any false or forged prescription or false or forged written order.

F. It ~~shall be~~ *is* unlawful for any person to affix any false or forged label to a package or receptacle containing any controlled substance.

G. This section shall not apply to officers and employees of the United States, of this Commonwealth or of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and who are acting in the course of their employment; provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical 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. 8. 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. 9. Containers and other objects intended for use or designed for use in storing or concealing ~~marijuana~~
 5070 or controlled substances;

5071 11. 10. Hypodermic syringes, needles, and other objects intended for use or designed for use in
 5072 parenterally injecting controlled substances into the human body;

5073 12. 11. 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;

- c. Carburetion tubes and devices;
- d. Smoking and carburetion masks;
- e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette~~, that has become too small or too short to be held in the hand;
- f. Miniature cocaine spoons, and cocaine vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs;
- 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:

1. Constitutionally admissible statements by the accused concerning the use of the object;
2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually known to the accused;
3. Instructions, oral or written, provided with the object concerning its use;
4. Descriptive materials accompanying the object ~~which~~ *that* explain or depict its use;
5. National and local advertising within the actual knowledge of the accused concerning its use;
6. The manner in which the object is displayed for sale;
7. Whether the accused is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business enterprise;
9. The existence and scope of legitimate uses for the object in the community;
10. Expert testimony concerning its use or the purpose for which it was designed; *and*
11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.

A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it is either designed for use or intended by such person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ *is* guilty of a Class 6 felony.

C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.

Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony violation 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 body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~ *is* guilty of a Class 4 felony.

§ 18.2-308.012. Prohibited conduct.

A. Any person permitted to carry a concealed handgun who is under the influence of alcohol, *marijuana*, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been 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 (c) 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.**

A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by the Department of State Police, when such interception may reasonably be expected to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of § 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 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.), Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the observation or monitoring of the interception by a police department of a county or city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be made, and such order may be granted, in conformity with the provisions of § 19.2-68.

B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the person or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic communication system, maintain an address or a post office box, or are making the communication within the territorial jurisdiction of the court.

2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the physical location of the oral communication to be intercepted is within the territorial jurisdiction of the court.

C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where the order is entered, regardless of the physical location or the method by which the communication is captured or routed to the monitoring location.

§ 19.2-81. Arrest without warrant authorized in certain cases.

A. The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth;
2. Sheriffs of the various counties and cities, and their deputies;
3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;
4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.2-900;
5. Regular conservation police officers appointed pursuant to § 29.1-200;
6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § 29.1-205 to make arrests;
7. Conservation officers appointed pursuant to § 10.1-115;
8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217;
9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;
10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
11. Members of the Division of Capitol Police.

B. Such officers may arrest without a warrant any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location where a vehicle or

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.

5290 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

5291 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in § 19.2-81,
5292 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.

5298 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

5299 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer
5300 or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or
5301 discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or any other
5302 employee in any local school division in the Commonwealth for a felony or a Class 1 misdemeanor or an
5303 equivalent offense in another state, shall file a report of such arrest with the division safety official designated
5304 pursuant to subsection F of § 22.1-279.8 in the school division in which such person is employed as soon as
5305 practicable but no later than 48 hours after such arrest. The contents of the report required pursuant to this
5306 subsection shall be utilized by the local school division solely to implement the provisions of subsection B of
5307 § 22.1-296.2 and § 22.1-315.

5308 B. The report required pursuant to subsection A shall be transmitted to the division safety official (i) via
5309 certified mail, return receipt requested, to the mailing address identified by the division superintendent
5310 pursuant to subsection F of § 22.1-279.8 or (ii) via email to the email address identified by the division
5311 superintendent pursuant to subsection F of § 22.1-279.8. Any certified mail return receipt shall be retained in
5312 the case file.

5313 C. (Expires July 1, 2027) In the event that the law-enforcement agency has existing access to Virginia
5314 Employment Commission records, each arresting official shall request in writing that the Virginia
5315 Employment Commission provide the name of the current employer of each person arrested for an offense set
5316 forth in § 9.1-902 for purposes of determining whether a report is required pursuant to subsection A.

5317 D. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer
5318 or conservator of the peace having the power to arrest for a felony shall file a report, as soon as practicable,
5319 with the division superintendent of the school division in which the student is enrolled upon arresting a
5320 person who is known or discovered by the arresting official to be a student age 18 or older in any local school
5321 division in the Commonwealth for:

- 5322 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et
5323 seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
5324 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
5325 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title

18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ (§ ~~18.2-247 4.1-1100~~ et seq.) of ~~Chapter 7~~ of Title ~~18.2 4.1~~;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9. Robbery pursuant to § 18.2-58;

10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

12. An act of violence by a mob pursuant to § 18.2-42.1; or

13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

§ 19.2-188.1. Testimony regarding identification of controlled substances.

A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement officer shall be permitted to testify as to the results of field tests that have been approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance; *or* imitation controlled substance, *as defined in § 18.2-247*, or marijuana, as defined in § ~~18.2-247 4.1-600~~.

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 permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

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 attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science in accordance with the provisions of § ~~18.2-247 9.1-1101~~ and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis.

§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.

Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an 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 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, 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 in any other jurisdiction, which offense would be a felony if committed in the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i). In determining whether the defendant has provided substantial assistance pursuant to the provisions of this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the defendant's assistance. If the motion is made more than one year after entry of the final judgment order, the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not known to the defendant until more than one year after entry of the final judgment order, (2) information provided by the defendant within one year of entry of the final judgment order but that did not become useful to the Commonwealth until more than one year after entry of the final judgment order, or (3) information the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after entry of the final judgment order and which was promptly provided to the Commonwealth by the defendant after its usefulness was reasonably apparent.

§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.

A. The following property shall be subject to lawful seizure by any officer charged with enforcing the 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 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 (c) 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

seized substance.

Before any destruction is carried out under this section, the law-enforcement agency shall cause the material seized to be photographed with identification case numbers or other means of identification and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested party, if known, or his attorney, at least five days in advance that the photography will take place and that they may be present. Prior to any destruction under this section, the law-enforcement agency shall also notify the accused or other interested party, if known, and his attorney at least seven days prior to the destruction of the time and place the destruction will occur. Any notice required under the provisions of this section shall be by first-class mail to the last known address of the person required to be notified. In addition to the substance retained for representative purposes as evidence, all photographs and records made under this section and properly identified shall be admissible in any court proceeding for any purposes for which the seized substance itself would have been admissible.

§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled substances, etc.

Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take into its custody or to maintain custody of substantial quantities of any controlled substances, imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution 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 its order may make provision for ensuring integrity of these items until further order of the court.

§ 19.2-389. (Effective until July 1, 2026) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction 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

§ 18.2-51.4, 18.2-266, or 18.2-266.1;

22. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

23. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

24. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

25. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

26. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

27. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

28. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

29. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

30. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

31. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

32. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee for Courts of Justice for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

33. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

34. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

35. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

36. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

37. Public agencies when and as required by federal or state law to investigate (i) applicants as providers 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

section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 47.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day centers pursuant to subdivision A 17 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 37 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal history record information, including criminal history record information maintained in the National Crime Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal history record information provided under this subsection shall be disseminated further.

§ 19.2-389. (Effective July 1, 2026) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and 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

has been made pursuant to § 19.2-83.1;

16. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 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 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

17. Licensed prescribed pediatric extended care centers for the conduct of investigations of applicants for compensated employment and volunteers in licensed prescribed pediatric extended care centers pursuant to § 32.1-162.15:1.17;

18. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

19. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

20. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in § 4.1-622*;

21. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

22. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his designees for individuals who are committed to the custody of or being evaluated by the Commissioner 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, 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation, treatment, or discharge planning;

23. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

24. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

25. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

26. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

27. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

28. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall disclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

29. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

30. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

31. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, 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

program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

50. The National Center for Missing and Exploited Children for the purpose of screening individuals who are offered or accept employment or will be providing volunteer or contractual services with the National Center for Missing and Exploited Children;

51. The Executive Director or investigators of the Board of Accountancy for the purpose of the enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

52. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 49.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 18 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day centers pursuant to subdivision A 19 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 39 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal history record information, including criminal history record information maintained in the National Crime

Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal history record information provided under this subsection shall be disseminated further.

§ 19.2-389.3. (Repealed effective July 1, 2026) Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.

A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor violation of *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under §§ *former* § 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration.

B. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each violation.

§ 19.2-392.02. National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.

A. For purposes of this section:

"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.

"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.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"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.

"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.

"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.

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:

1. Been fingerprinted; and

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.

C. A person shall not be required to pay any court fees or costs for filing a petition pursuant to this section.

D. The petition under subsection A or B, with a copy of the warrant, summons, or indictment, if reasonably available, shall be filed in the circuit court of the county or city in which the case was disposed of and shall contain, except when not reasonably available, (i) the date of arrest; (ii) the name of the arresting agency; (iii) the date of conviction, deferred dismissal, or final disposition of any ancillary matter; and (iv) the case number associated with each court record that is the subject of the petition. When this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state (a) the charge, conviction, or ancillary matter to be sealed; (b) the date of final disposition of the charge, conviction, or ancillary matter as set forth in the petition; (c) the petitioner's date of birth, sex, race, and social security number, if available; and (d) the full name used by the petitioner at the time of arrest or summons. A petition may request the sealing of the criminal history record information and court records for multiple charges, convictions, or ancillary matters as set forth in subsections A and B, provided that all such charges, convictions, and ancillary matters are eligible for sealing under this section. A petition may not request the sealing of the criminal history record information and court records where the charge, conviction, or ancillary matter was finalized on the same date as a conviction or deferred dismissal that is not eligible for sealing under this section.

E. A petitioner is not limited in the number of petitions that may be granted pursuant to this section within his lifetime. Any petition granted pursuant to this section shall not be counted toward the lifetime maximum of two petitions set forth in § 19.2-392.12.

F. The Commonwealth shall be made party to the proceeding. The petitioner shall provide a copy of the petition under subsection A or B by delivery or by first-class mail, postage prepaid, to the attorney for the Commonwealth of the county or city in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 30 days after it is delivered to him or received in the mail.

G. In addition to the filing of the petition under subsection D, the petitioner shall request that the Central Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia and national criminal history record to the circuit court in which the petition was filed. Upon receiving such request, the CCRE shall electronically forward such record to the circuit court; however, if the circuit court is unable to receive an electronic transmission, the CCRE shall forward a copy of such record to the circuit court which shall be maintained under seal by the clerk unless otherwise ordered by the court. Upon completion of the hearing, the court shall cause the criminal history record to be destroyed unless, within 30 days of the date of the entry of the final order in the matter, the petitioner or the attorney for the Commonwealth notes an appeal as provided by law in civil cases.

H. After receiving the criminal history record of the petitioner, the court may conduct a hearing on the petition.

I. For a petition filed pursuant to subsection A, the court shall enter an order requiring the sealing of the records related to the charge, conviction, or ancillary matter if the court finds that seven years have passed since the date of conviction or of dismissal of the deferred charge listed in subsection A and the petitioner has not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

J. For a petition filed pursuant to subsection B, the court shall enter an order to seal the ancillary matter if the charge or conviction identified in the petition has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, or 19.2-392.11.

K. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection F that he does not object to the petition and (ii) stipulates in such written notice that the petitioner is eligible to have such charge, conviction, or ancillary matter sealed, the court may enter an order of sealing without conducting a hearing.

L. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

M. Upon the entry of an order of sealing, the clerk of the court shall maintain a copy of such order under seal and shall cause an electronic notification of such order to be forwarded to the Department of State Police. Such electronic notification shall contain (i) the petitioner's full name, date of birth, sex, race, and social security number, if available; (ii) the full name used by the petitioner at the time of arrest or summons; (iii) the petitioner's state identification number from the criminal history record; (iv) the court case number of the charge, conviction, or ancillary matter to be sealed, if available; and (v) the document control number, if available. The Department of State Police shall validate the accuracy of any criminal history record ordered to be sealed pursuant to this section but shall not validate whether such record is eligible for sealing. Upon receipt of such electronic notification, the Department of State Police shall seal such records in accordance with § 19.2-392.13. The Department of State Police shall also electronically notify the Office of the Executive Secretary of the Supreme Court and any other agencies and individuals known to maintain or to 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;

5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the regulations or institution policies required pursuant to § 23.1-1303;

6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such regulations or policies;

7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness and prevention of sexual crimes committed upon students;

8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of such property (i) developed wholly or predominantly through the use of state general funds, exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials shall remain the property of the respective institutions and may be used and developed in any manner permitted by law;

10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through electronic communication means pursuant to § 2.2-3708.3; and

11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to enforce state statutes and local ordinances with respect to offenses occurring on the property of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and 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.

A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department if such person has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or altered documents.

B. It shall be unlawful to aid any person to obtain any driver's license, special identification card, vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special identification card, vehicle registration, certificate of title, or other document obtained in violation of the provisions of subsection A.

D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is charged and convicted of a violation of this section that involved the unlawful obtaining or possession of any document issued by the Department for the purpose of engaging in any age-limited activity, including but not limited to obtaining, possessing, or consuming alcoholic beverages *or marijuana*. However, if a person is charged and convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of the cancellation to the address of record maintained by the Department.

F. A violation of this section may be prosecuted in the jurisdiction (i) from which any person obtained any document issued by the Department, (ii) where any person received or created any counterfeit, forged, or altered document used to obtain any document issued by the Department, or (iii) where any counterfeit, 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 to obtain alcoholic beverages or marijuana; penalties.

Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States Armed Forces identification card; United States passport or foreign government visa; Virginia Department of Motor Vehicles special identification card; official identification issued by any other federal, state or foreign government agency; or official student identification card of an institution of higher education to obtain alcoholic beverages ~~shall be~~ *or marijuana* is guilty of a Class 3 misdemeanor, and upon conviction of a violation of this section, the court shall revoke such convicted person's driver's license or privilege to drive a motor vehicle for a period of not less than 30 days nor more than one year.

§ 48-17.1. Temporary injunctions against alcoholic beverage sales or marijuana sales.

A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to temporarily enjoin the sale of alcohol *or marijuana* at any establishment licensed by the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such petition shall be the operator of the establishment has allowed it to become a meeting place for persons committing serious criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement officer of the locality, supported by records of such criminal acts. The court shall, upon the presentation of evidence at a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol *or marijuana* at the establishment, if it appears to the satisfaction of the court that the threat to public safety complained of exists and is likely to continue if such injunction is not granted. The court hearing on the petition shall be held within 10 days of service upon the respondent. The respondent shall be served with notice of the time and place of the hearing and copies of all documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued by the court shall be dissolved in the event the court later finds that the threat to public safety that is the basis of the injunction has been abated by reason of a change of ownership, management, or business operations at the establishment, or other change in circumstance.

B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate an investigation into the activities at the establishment complained of and conduct an administrative hearing. After the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* hearing and when a final determination has been issued by the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*, regardless of disposition, any injunction issued hereunder shall be null, without further action by the complainant, respondent, or the court.

§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.

This section shall apply to any person who is not a qualified voter because of a felony conviction, who seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the conditions and requirements set out in this section.

Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-1101, 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 felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil right to be eligible to register to vote through the process set out in this section. On such petition, the court may approve the petition for restoration to the person of his right if the court is satisfied from the evidence presented that the petitioner has completed, five or more years previously, service of any sentence and any modification of sentence including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic responsibility through community or comparable service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for the same period.

If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of that right or notice that the Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

On receipt of the certificate of restoration of the right to register to vote from the Secretary of the Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.

A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

Signing a birth or death certificate, or signing any statement certifying that the person so signing has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the

healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation or designation, or other language that identifies the type of practice for which he is licensed. No person regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in § ~~18.2-247~~ 54.1-3401, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this subsection shall prevent a person from including in any advertisement that such person is registered with the Board of Directors of the Virginia Cannabis Control Authority to issue written certifications for the use of cannabis products, as defined in § 4.1-1600.

§ 54.1-3443. Board to administer article.

A. The Board shall administer this article and may add substances to or deschedule or reschedule all substances enumerated in the schedules in this article pursuant to the procedures of the Administrative Process Act (§ 2.2-4000 et seq.). In making a determination regarding a substance, the Board shall consider the following:

1. The actual or relative potential for abuse;
2. The scientific evidence of its pharmacological effect, if known;
3. The state of current scientific knowledge regarding the substance;
4. The history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. The risk to the public health;
7. The potential of the substance to produce psychic or physical dependence; and
8. Whether the substance is an immediate precursor of a substance already controlled under this article.

B. After considering the factors enumerated in subsection A, the Board shall make findings and issue a regulation controlling the substance if it finds the substance has a potential for abuse.

C. If the Board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

D. If the Board, in consultation with the Department of Forensic Science, determines the substance shall be placed into Schedule I or II pursuant to § 54.1-3445 or 54.1-3447, the Board may amend its regulations pursuant to Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such amendments, the Board shall conduct a public hearing. At least 30 days prior to conducting such hearing, it shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be notified of a regulatory action. In the notice, the Board shall include a list of all substances it intends to schedule by regulation. The Board shall notify the House and Senate Committees for Courts of Justice of any new substance added to Schedule I or II pursuant to this subsection. Any substance added to Schedule I or II pursuant to this subsection shall remain on Schedule I or II for a period of 18 months. Upon expiration of such 18-month period, such substance shall be descheduled unless a general law is enacted adding such substance to Schedule I or II. Nothing in this subsection shall preclude the Board from adding substances to or descheduling or rescheduling all substances enumerated in the schedules pursuant to the provisions of subsections A, B, and E.

E. If any substance is designated, rescheduled, or descheduled as a controlled substance under federal law and notice of such action is given to the Board, the Board may similarly control the substance under this chapter after the expiration of 30 days from publication in the Federal Register of a final or interim final order or rule designating a substance as a controlled substance or rescheduling or descheduling a substance by amending its regulations in accordance with the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such amendments, the Board shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be notified of a regulatory action. The Board shall include a list of all substances it intends to schedule by regulation in such notice.

F. Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 4.1.

G. The Board shall exempt any nonnarcotic substance from a schedule if such substance may, under the provisions of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) or state law, be lawfully sold over the counter without a prescription.

H. Any tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether scheduled pursuant to this section shall not be included in the definition of marijuana set forth in § 4.1-600; ~~18.2-247~~; or 54.1-3401.

§ 54.1-4426. Accounting services for licensed marijuana establishments.

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

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

published by the Bureau of Labor Statistics for the U.S. Department of Labor or any successor index for the previous year.

b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income tax law or a group of such amendments enacted in the same act of Congress that collectively surpass the threshold impact, and "federal tax extender" means an amendment to federal tax law that extends the expiration date of a federal tax provision to which Virginia conforms or has previously conformed.

c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on Finance and Appropriations and the House Committees on Appropriations and Finance, shall be responsible for determining whether the criteria of subdivision a are met.

d. The Secretary of Finance shall annually provide a report on or before November 15 of each year on the fiscal impact of amendments to federal income tax law occurring since the adjournment sine die of the preceding regular session of the General Assembly to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committees on Appropriations and Finance. The Secretary of Finance shall also provide updates to the same Chairmen on any further amendments to federal income tax law occurring between submission of the required report and the first day of the subsequent regular session of the General Assembly; and

12. For taxable years beginning on and after January 1, 2026, the prohibition on utilizing tax deductions for ordinary and necessary expenditures made in connection with carrying on a trade or business licensed in Virginia pursuant to the Cannabis Control Act (§ 4.1-600 et seq.) under § 280E of the Internal Revenue Code.

C. The Department of Taxation is hereby authorized to develop procedures or guidelines for implementation of the provisions of this section, which procedures or guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 59.1-200. Prohibited practices.

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

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

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

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

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

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

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

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

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

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 46 (§ 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 remediator 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 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 seq.).

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

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.

3. That the following provisions shall become effective on November 1, 2026: (i) §§ 2.2-2499.8, 3.2-4113, 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, 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, 18.2-308.4, 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, 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, 54.1-3443, and 59.1-200 of the Code of Virginia, as amended by this act; (ii) §§ 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, 4.1-1119, 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309 of the Code of Virginia, as created by this act; and (iii) §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, as repealed by this act.

4. That by October 1, 2026, the Virginia Cannabis Control Authority (the Authority) shall issue up to 100 microbusiness licenses pursuant to § 4.1-803 of the Code of Virginia, as created by this act, to applicants that (i) (a) are industrial hemp processors or growers that (1) are registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia, completed such registration prior to January 1, 2021, and are in good standing as of July 1, 2026 or (2) were previously registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia, completed such registration prior to January 1, 2021, were in good standing prior to forfeiting such registration or allowing such registration to expire, and have established the reason for the previous forfeiture or lapse of such registration and disclosed any violations, enforcement actions, or compliance issues related to the previous registration; (b) qualify as an impact license applicant pursuant to subdivision B 13 of § 4.1-606 of the Code of Virginia, as amended by this act; or (c) qualify as a farmer under the U.S. Department of Agriculture qualifications and (ii) meet any applicable licensing requirements and financial, security, and operational readiness criteria as established by the Authority. The Authority shall begin accepting applications for such microbusiness licenses no later than July 1, 2026.

5. That a pharmaceutical processor or cannabis dispensing facility issued a permit by the Board of Directors (the Board) of the Virginia Cannabis Control Authority (the Authority) pursuant to Chapter 16 (§ 4.1-1600 et seq.) of the Code of Virginia shall apply for a dual-use marijuana facility license in a manner prescribed by the Board between July 1, 2026, and November 1, 2026. No later than July 1, 2026, the Authority shall create a streamlined application process for pharmaceutical processors and cannabis dispensing facilities to apply for such dual-use marijuana facility licenses which shall include a requirement that a pharmaceutical processor submit to and obtain approval from the Authority for a detailed medical cannabis program preservation plan describing how such processor will prioritize sales and access to medical cannabis products for qualifying patients, including a plan for managing customer traffic flow, preventing supply shortages, and ensuring appropriate staffing. Provided the applicable licensing requirements are met, by November 1, 2026, the Board shall issue the applicable dual-use marijuana facility licenses pursuant to § 4.1-807 of the Code of Virginia, as created by this act, for any location for which a permit has been issued upon the payment of a one-time \$10 million conversion fee to the Authority. On and after November 1, 2026, a pharmaceutical processor or cannabis dispensing facility issued a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of the Code of Virginia who has not applied for a dual-use marijuana facility license and paid the conversion fee shall not operate under a dual-use marijuana facility license or renew such license. Any such pharmaceutical processor or cannabis dispensing facility may continue to hold the dual-use marijuana facility license for resale to another person; however, the purchaser of such license shall be responsible for paying the one-time \$10 million conversion fee.

6. That no later than July 1, 2026, the Virginia Cannabis Control Authority (the Authority) shall create a streamlined application process for industrial hemp processors or growers to apply for a marijuana cultivation facility license or marijuana processing facility license if such industrial processors or growers (i) are registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia and completed such registration 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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