

2026 SESSION

INTRODUCED

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1 **SENATE BILL NO. 620**

2 Offered January 14, 2026

3 Prefiled January 14, 2026

4 A BILL to amend and reenact §§ 4.1-100, 4.1-103, 4.1-103.01, 4.1-204, 4.1-229, 15.2-912.4, 18.2-246.8,
5 18.2-371.2, 18.2-371.2:1, 18.2-391, 58.1-1021.04:1, and 59.1-200 of the Code of Virginia; to amend the
6 Code of Virginia by adding in Chapter 2 of Title 4.1 an article numbered 4, consisting of sections
7 numbered 4.1-241 through 4.1-254, and by adding in Chapter 3 of Title 4.1 an article numbered 4,
8 consisting of sections numbered 4.1-355 through 4.1-368; and to repeal §§ 58.1-1021.06 through
9 58.1-1021.09 and Chapter 23.2 (§§ 59.1-293.10 through 59.1-293.22) of Title 59.1 of the Code of
10 Virginia, relating to Virginia Alcoholic Beverage Control Authority; permitting of retail tobacco product
11 retailers; purchase, possession, and sale of retail tobacco products; penalties; report.

12 Patrons—Ebbin; Delegate: Hope

13 Referred to Committee on Rehabilitation and Social Services

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

15 1. That §§ 4.1-100, 4.1-103, 4.1-103.01, 4.1-204, 4.1-229, 15.2-912.4, 18.2-246.8, 18.2-371.2, 18.2-371.2:1,
16 18.2-391, 58.1-1021.04:1, and 59.1-200 of the Code of Virginia are amended and reenacted and that the
17 Code of Virginia is amended by adding in Chapter 2 of Title 4.1 an article numbered 4, consisting of
18 sections numbered 4.1-241 through 4.1-254, and by adding in Chapter 3 of Title 4.1 an article
19 numbered 4, consisting of sections numbered 4.1-355 through 4.1-368, as follows:

20 **§ 4.1-100. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

50 "Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20

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59 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the
60 Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24
61 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless ~~Internet~~ *internet* services, (v) is equipped
62 with charging stations at every seat for cellular phones or other portable devices, and (vi) during the
63 transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in
64 this subtitle or Board regulation.

65 "*Child-resistant packaging*" means packaging that is designed or constructed to meet the child-resistant
66 effectiveness standards set forth in 16 C.F.R. § 1700.15(b)(1) when tested in accordance with the protocols
67 described in 16 C.F.R. § 1700.20 as in effect on July 1, 2015.

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

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

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

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

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

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

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

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

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

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

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

113 "*Electronic smoking device*" means any device that may be used to deliver any aerosolized or vaporized
114 substance to the person inhaling from the device, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-
115 hookah. "*Electronic smoking device*" includes any component, part, or accessory of the device, whether or
116 not sold separately, and also includes any substance intended to be aerosolized or vaporized during the use
117 of the device, whether or not the substance contains nicotine. "*Electronic smoking device*" does not include
118 any (i) battery or battery charger when sold separately or (ii) device used for heated tobacco products.
119 "*Electronic smoking device*" does not include drugs or devices, as such terms are defined in 21 U.S.C. § 321,
120 or combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination

121 *products are authorized for sale by the U.S. Food and Drug Administration.*

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

124 "Farm winery" means (i) an establishment or cooperative located in the Commonwealth on land zoned
125 agricultural that has (a) a vineyard, orchard, or similar growing area that produces fruits or other agricultural
126 products used to manufacture the wine of such farm winery, subject to the requirements set forth in § 4.1-219,
127 and (b) facilities for fermenting and bottling wine on the premises where such farm winery manufactures
128 wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private
129 institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the
130 wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
131 manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and
132 apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance
133 with the requirements of this clause (ii) and Board regulations. As used in this definition, the term
134 "cooperative" means a cooperative formed by an association of individuals for the purpose of manufacturing
135 wine. In determining whether a cooperative licensed as a farm winery has met the requirements set forth in
136 clause (i), the Board shall consider all land in the Commonwealth that is owned or leased by a member of the
137 cooperative. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural
138 district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this
139 definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the
140 limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall
141 otherwise limit or affect local zoning authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

182 "Liquid nicotine" means the same as that term is defined in § 58.1-1021.01.

183 "*Liquid nicotine container*" means a bottle or other container holding liquid nicotine in any concentration
184 but does not include a cartridge containing liquid nicotine if such cartridge is prefilled and sealed by the
185 manufacturer of such cartridge and is not intended to be opened by the consumer.

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

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

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

198 "*Member of a club*" means (i) a person who maintains his membership in the club by the payment of
199 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a
200 person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal
201 descendants of a bona fide member, whether alive or deceased, of a national or international organization to
202 which an individual lodge holding a club license is an authorized member in the same locality. It shall also
203 mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident
204 members of the club, the full amount of such contribution being paid in advance in a lump sum.

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

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

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

212 "*Nicotine vapor product*" means the same as that term is defined in § 58.1-1021.01 and includes liquid
213 nicotine containers.

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

218 "*Permittee*" means any tobacco retailer to whom a retail tobacco permit has been issued by the Board.

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

223 "*Place or premises*," when used in reference to a retail tobacco permit, means the real estate, together
224 with any buildings or other improvement thereon, designated in the application for a retail tobacco permit as
225 the place at which the sale of retail tobacco products is performed, except that portion of any such building
226 or other improvement actually and exclusively used as a private residence.

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

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

237 "*Public place*" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private
238 meetings or private parties limited in attendance to members and guests of a particular group, association or
239 organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities
240 while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to
241 employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii)
242 offices, office buildings, or industrial facilities while closed to the public and in use for private meetings or
243 parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such
244 building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on

245 which alcoholic beverages are not sold.

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

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

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

265 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license,
266 an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has
267 adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption
268 at tables in dining areas on the premises, and includes establishments specializing in full course meals with a
269 single substantial entree.

270 *"Retail dealer" means the same as that term is defined in § 58.1-1021.01.*

271 *"Retail tobacco establishment" means any place of business owned by a permittee or tobacco retailer to
272 sell retail tobacco products to the general public, including any grocery store, retail tobacco product shop,
273 kiosk, convenience store, gasoline service station, bar, or restaurant where retail tobacco products are
274 available for sale to the general public. "Retail tobacco establishment" includes any facility from which
275 cigarette delivery sales, as that term is defined in § 18.2-246.6, are made. "Retail tobacco establishment"
276 does not include an establishment that does not sell retail tobacco products other than cigars and pipe
277 tobacco as those terms are defined in § 58.1-1021.01.*

278 *"Retail tobacco permit" means a permit issued by the Board, pursuant to Article 4 (§ 4.1-241 et seq.), to a
279 tobacco retailer that authorizes such retailer to sell retail tobacco products at a retail tobacco establishment
280 owned by such retailer or permittee.*

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

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

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

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

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

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

306 "Sports facility" means a coliseum, stadium, racetrack, or similar facility at which professional sports, as

307 defined in § 58.1-4030, or similar events, the types of which are approved by the Authority, are conducted.

308 "Tobacco product" means the same as that term is defined in § 58.1-1021.01.

309 "Tobacco retailer" means any person, partnership, joint venture, society, club, trustee, trust, association, organization, or corporation that owns, operates, or manages any retail tobacco establishment. "Tobacco 310
311 retailer" does not include nonmanagement employees of a retail tobacco establishment.

312 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar 313 content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or 314 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of 315 distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal 316 Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol 317 content of 21 percent by volume.

318 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not 319 more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine 320 mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, 321 fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products 322 manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages 323 shall be treated as wine for all purposes except for taxation under § 4.1-236.

324 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for 325 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio 326 required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by such 327 retail licensee.

328 **§ 4.1-103. General powers of Board.**

329 The Board shall have the power to:

330 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

331 2. Adopt, use, and alter at will a common seal;

332 3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of 333 products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose 334 of providing for the payment of the expenses of the Authority;

335 4. Make and enter into all contracts and agreements necessary or incidental to the performance of its 336 duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including 337 agreements with any person or federal agency;

338 5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, 339 investment bankers, superintendents, managers, and such other employees and special agents as may be 340 necessary and fix their compensation to be payable from funds made available to the Authority. Legal 341 services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 342 et seq.) of Title 2.2;

343 6. Receive and accept from any federal or private agency, foundation, corporation, association, or person 344 grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept 345 from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or 346 from any other source aid or contributions of either money, property, or other things of value, to be held, 347 used, and applied only for the purposes for which such grants and contributions may be made. All federal 348 moneys accepted under this section shall be accepted and expended by the Authority upon such terms and 349 conditions as are prescribed by the United States and as are consistent with state law, and all state moneys 350 accepted under this section shall be expended by the Authority upon such terms and conditions as are 351 prescribed by the Commonwealth;

352 7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall 353 be transacted and the manner in which the powers of the Authority shall be exercised and its duties 354 performed. The Board may delegate or assign any duty or task to be performed by the Authority to any 355 officer or employee of the Authority. The Board shall remain responsible for the performance of any such 356 duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by 357 written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall 358 require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the 359 Board of the responsibility to ensure faithful performance of the duties and tasks;

360 8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's 361 purposes or necessary or convenient to exercise its powers;

362 9. Develop policies and procedures generally applicable to the procurement of goods, services, and 363 construction, based upon competitive principles;

364 10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 365 2.2;

366 11. Buy, import, and sell alcoholic beverages other than beer and wine not produced by farm wineries, 367 and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for 368 sale;

369 12. Buy and sell any mixers;

370 13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international
371 trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25
372 (clothing);

373 14. Control the possession, sale, transportation, and delivery of alcoholic beverages;

374 15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or
375 operated and the location of such stores;

376 16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic
377 beverages to and from such warehouses;

378 17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
379 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
380 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein,
381 at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to
382 any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time
383 acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms
384 and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or
385 mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such
386 terms and conditions as may be determined by the Board; and occupy and improve any land or building
387 required for the purposes of this subtitle;

388 18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered
389 necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and
390 processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic
391 beverages;

392 19. Determine the nature, form, and capacity of all containers used for holding alcoholic beverages to be
393 kept or sold under this subtitle, and prescribe the form and content of all labels and seals to be placed thereon;
394 however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline
395 alcohol;

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

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

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

415 23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and
416 § 4.1-111;

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

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

420 26. Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

421 26. 27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

422 27. 28. Establish minimum food sale requirements for all retail licensees;

423 28. 29. Review and approve any proposed legislative or regulatory changes suggested by the Chief
424 Executive Officer as the Board deems appropriate;

425 29. 30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement
426 activities undertaken to enforce the provisions of this subtitle;

427 30. 31. Establish and collect fees for all permits set forth in this subtitle, including fees associated with
428 applications for such permits;

429 31. 32. Impose a requirement that a mixed beverage casino licensee pursuant to subdivision A 14 of
430 § 4.1-206.3 pay for any cost incurred by the Board to enforce such license in excess of the applicable state

431 license fee; and

432 32. 33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

433 **§ 4.1-103.01. Additional powers; access to certain tobacco sales records; inspections; penalty.**

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

437 B. All invoices, books, papers, or other memoranda and records concerning the sale of ~~cigarettes~~
438 ~~maintained by wholesale cigarette dealers pursuant to § 58.1-1007 retail tobacco products by a tobacco~~
439 ~~retailer shall be subject to inspection during normal business hours by special agents of the Board pursuant to~~
440 ~~§ 4.1-253. Additionally, all invoices, books, papers, or other memoranda and records concerning the sale of~~
441 ~~cigarettes shall be subject to inspection during normal business hours by the Attorney General or his~~
442 ~~authorized representative during any audit and investigation conducted pursuant to § 3.2-4215.1.~~ Any person
443 who, upon request by a special agent or the Attorney General or his authorized representative, unreasonably
444 fails or refuses to allow an inspection of the records authorized by this subsection ~~shall be~~ *is* guilty of a Class
445 2 misdemeanor.

446 C. The Board may use the information obtained from the Tax Commissioner or by the inspections
447 authorized by subsection B ~~for retail tobacco products~~ only for the purpose of creating and maintaining a list
448 of retail dealers to facilitate enforcement of the laws governing the sale of tobacco products *and retail*
449 *tobacco products* to minors. Neither the Board nor any special agent shall divulge any information provided
450 by the Tax Commissioner or obtained in the performance of the inspections authorized by subsection B to
451 anyone other than to another special agent. Any person violating the provisions of this subsection ~~shall be~~ *is*
452 guilty of a Class 2 misdemeanor.

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

457 **§ 4.1-204. Records of licensees and permittees; inspection of records and places of business.**

458 A. ~~Manufacturers, bottlers or wholesalers.~~ — Every licensed manufacturer, bottler, or wholesaler shall
459 keep complete, accurate, and separate records in accordance with Board regulations of all alcoholic beverages
460 purchased, manufactured, bottled, sold, or shipped by him, and the applicable tax required by § 4.1-234 or
461 4.1-236, if any.

462 B. ~~Retailers.~~ — Every retail licensee *and permittee* shall keep complete, accurate, and separate records, in
463 accordance with Board regulations, of all purchases of alcoholic beverages *or retail tobacco products*, the
464 prices charged such licensee *therefor or permittee for such purchases*, and the names and addresses of the
465 persons from whom purchased. Every retail licensee *or permittee* shall also preserve all invoices showing his
466 purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily
467 sales, showing quantities of alcoholic beverages *or retail tobacco products* sold and the total price charged by
468 him *therefor*. Except as otherwise provided in subsection D, such account need not give the names or
469 addresses of the purchasers *thereof*, except as may be required by Board regulation for the sale of alcoholic
470 beverages in kegs. In the case of persons holding retail licenses that require sales of food to determine their
471 qualifications for such licenses, the records shall also include purchases and sales of food and nonalcoholic
472 beverages.

473 Notwithstanding the provisions of subsection F, electronic records of retail licensees *or permittees* may be
474 stored off site, provided that such records are readily retrievable and available for electronic inspection by the
475 Board or its special agents at the licensed *or permitted* premises. However, in the case that such electronic
476 records are not readily available for electronic inspection on the licensed *or permitted* premises, the retail
477 licensee *or permittee* may obtain Board approval, for good cause shown, to permit the retail licensee *or*
478 *permittee* to provide the records to a special agent of the Board within three business days or less, as
479 determined by the Board, after a request is made to inspect the records.

480 C. ~~Common carriers.~~ — Common carriers of passengers by train, boat, bus, or airplane shall keep records
481 of purchases and sales of alcoholic beverages and food as required by Board regulation.

482 D. ~~Wine and beer shippers.~~ — Every wine and beer shipper licensee shall keep complete, accurate, and
483 separate records in accordance with Board regulations of all shipments of wine or beer to persons in the
484 Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether any
485 wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine and
486 beer sold and the total price charged for such wine and beer. Such records shall include the names and
487 addresses of the purchasers to whom the wine and beer is shipped.

488 E. ~~Deliveries.~~ — Every licensee or permittee that is authorized to make deliveries pursuant to § 4.1-212.1
489 shall keep complete, accurate, and separate records for a period of at least two years in accordance with
490 Board regulations of all deliveries of wine and beer to persons in the Commonwealth. Such records shall
491 include (i) the types of wine and beer sold, (ii) the total quantities of wine and beer sold, (iii) the total price
492 charged for such wine and beer, (iv) the name and date of birth of the person to whom the wine and beer are

493 delivered, and (v) the address to which the wine and beer is delivered. Licensees and permittees shall remit
 494 such records on a monthly basis for any month during which the licensee or permittee makes a delivery for
 495 which the licensee or permittee is required to collect and remit excise taxes due to the Authority pursuant to
 496 subsection E of § 4.1-212.1.

497 Every licensee that is authorized to make deliveries pursuant to § 4.1-212.2 shall keep complete, accurate,
 498 and separate records for a period of at least two years in accordance with Board regulations of all deliveries
 499 of alcoholic beverages to persons in the Commonwealth. Such records shall include all information
 500 prescribed by Board regulations. Licensees shall remit such records within 24 hours of a records request by
 501 the Authority; however, the licensee may obtain Board approval, for good cause shown, to permit the licensee
 502 to provide records to a special agent of the Board within three business days or less, as determined by the
 503 Board, after a request is made to inspect the records.

504 **F. Inspection.** — The Board and its special agents shall be allowed free access during reasonable hours to
 505 every place in the Commonwealth and to the premises of ~~both~~ (i) every wine and beer shipper licensee and;
 506 (ii) every licensee or permittee authorized to make deliveries wherever located where alcoholic beverages are
 507 manufactured, bottled, stored, offered for sale or sold; and (iii) every retail tobacco establishment for the
 508 purpose of examining and inspecting such place and all records, invoices, and accounts therein. The Board
 509 may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of
 510 the premises of a wine and beer shipper licensee, licensee, or permittee authorized to make deliveries, or any
 511 applicant for such license or permit.

512 For purposes of a Board inspection of the records of any retail licensees or permittee, "reasonable hours"
 513 means the hours between 9 a.m. and 5 p.m.; however, if the licensee or retail tobacco establishment generally
 514 is not open to the public substantially during the same hours, "reasonable hours" shall mean the business
 515 hours when the such licensee or establishment is open to the public. At any other time of day, if the ~~retail~~
 516 licensee's records are not available for inspection, the ~~retailer~~ retail licensee or permittee shall provide the
 517 records to a special agent of the Board within 24 hours after a request is made to inspect the records.

518 **§ 4.1-229. Suspension or revocation of permits; grounds; notice and hearing; exception.**

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

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

524 *Article 4.*

525 *Permitting and Restrictions for Tobacco Retailers.*

526 **§ 4.1-241. Retail tobacco permits; privileges; liabilities.**

527 The Board may grant a retail tobacco permit to a tobacco retailer that shall authorize the permittee to sell
 528 retail tobacco products in a retail tobacco establishment. The privilege of any permittee to sell retail tobacco
 529 products shall extend to such permittee and to all agents or employees of such permittee for the purpose of
 530 selling retail tobacco products under such permit. Such permittee may be held liable for any violation of this
 531 article or any Board regulation committed by his agents or employees in connection with their employment.

532 **§ 4.1-242. Separate retail tobacco permit for each place of business; transfer or amendment; posting;
 533 expiration; carriers; civil penalties.**

534 A. Each retail tobacco permit granted by the Board shall designate the place where such retail sales will
 535 be located. A separate retail tobacco permit shall be required for each separate place of business. Each retail
 536 tobacco permit shall be posted in a location conspicuous to the public at the place where such retail sales
 537 will be located.

538 B. No retail tobacco permit shall be transferable from one tobacco retailer to another, or from one place
 539 to another.

540 C. The privileges conferred by any retail tobacco permit granted by the Board shall continue until the last
 541 day of the twelfth month next ensuing, except the retail tobacco permit may be sooner terminated for any
 542 cause for which the Board would be entitled to refuse to grant a retail tobacco permit, by operation of law,
 543 voluntary surrender, or order of the Board.

544 The Board may permit a permittee who fails to pay:

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

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

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

553 **§ 4.1-243. Applications for retail tobacco permits; fees.**

554 A. Every person intending to apply for a retail tobacco permit shall file with the Board an application on

555 a form prescribed by the Board and a statement in writing by the applicant swearing and affirming that all of
556 the information contained therein is true.

557 B. Each applicant shall pay the required application fee at the time the application is filed. Each retail
558 tobacco permit application fee shall be \$400. Such application fees shall be in addition to the state permit fee
559 required pursuant to § 4.1-244 and shall be nonrefundable.

560 C. The provisions of subsection A shall not apply to the continuance of retail tobacco permits granted
561 under this article; however, such permittees shall file and maintain with the Board a current, accurate record
562 of the information required by the Board pursuant to subsection A and notify the Board of any changes to
563 such information in accordance with Board regulations.

564 **§ 4.1-244. Fees on retail tobacco products.**

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

566 1. For permittees holding (i) an Other Tobacco Products (OTP) Distributor's License or a Cigarette
567 Stamping Agent License from the Department of Taxation, \$0.

568 2. For any other permittees, \$400.

569 B. Nothing in this article shall exempt any permittee from any other tax or fee imposed by this article,
570 state merchants' license, state restaurant license, or any other state tax. Every permittee, in addition to the
571 taxes imposed by this article, shall be liable to state merchants' license taxation, state restaurant license
572 taxation, and other state or local taxation applicable to retail tobacco products.

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

575 **§ 4.1-245. Conditions under which Board may refuse to grant retail tobacco permits.**

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

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

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

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

585 c. Has been convicted, within the five years immediately preceding the date of the application for such
586 retail tobacco permit, of a violation of any law applicable to the manufacture, transportation, possession,
587 use, or sale of retail tobacco products;

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

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

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

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

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

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

602 j. Has violated or allowed the violation of any provision of this article or Article 4 (§ 4.1-355 et seq.) of
603 Chapter 3 in his establishment in the one year prior to application for a retail tobacco permit or while his
604 application for a retail tobacco permit is pending;

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

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

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

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

611 a. Does not conform to the requirements of the governing body of the locality in which such place is
612 located with respect to sanitation, health, construction, or equipment, or to any similar requirements
613 established by the laws of the Commonwealth or by Board regulation;

614 b. Is so located that granting a retail tobacco permit and operation thereunder by the applicant would
615 result in violations of this article, Board regulations, or violation of the laws of the Commonwealth or local
616 ordinances relating to peace and good order;

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

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

625 e. Is so constructed, arranged, or illuminated that law-enforcement officers and special agents of the
 626 Board are prevented from ready access to and reasonable observation of any room or area within which
 627 retail tobacco products are to be sold.

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

630 4. The Board is not authorized under this article to grant such retail tobacco permit.

631 5. The Board, the Department of Taxation, or investigators with the Office of the Attorney General have
 632 found that the applicant exceeded the legal volume limits set by § 58.1-1017.1 during the prior year.

633 6. Investigators with the Office of the Attorney General seized cigarette inventory, as authorized by
 634 § 2.2-509.1, from the applicant during the prior year.

635 **§ 4.1-246. Conditions under which Board shall refuse to grant retail tobacco permits.**

636 The Board shall refuse to grant any retail tobacco permit authorized by this article until the retail tobacco
 637 permit fee required by § 4.1-244 is paid to the Board.

638 **§ 4.1-247. Notice and hearings for refusal to grant retail tobacco permits; Administrative Process Act;
 639 exceptions.**

640 A. The action of the Board in granting or refusing to grant any retail tobacco permit shall be subject to
 641 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in
 642 subsections B and C. Review shall be limited to the evidential record of the proceedings provided by the
 643 Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any
 644 order of the court.

645 B. The Board may refuse a hearing on any application for the granting of any retail tobacco permit,
 646 provided that the:

647 1. Permit for the applicant was refused or revoked within a period of 12 months;

648 2. Permit for any premises was refused or revoked at such premises within a period of 12 months;

649 3. Applicant, within the immediately preceding 12 months, has allowed his retail tobacco permit to expire
 650 for nonpayment of the retail tobacco permit fee and, at the time of the expiration of such permit, there was a
 651 pending and unadjudicated charge, either before the Board or in any court, against the permittee alleging a
 652 violation of this article; or

653 4. Applicant received a restricted retail tobacco permit pursuant to subsection C of § 4.1-252 and
 654 reapplies for a lesser-restricted retail tobacco permit at the same location within 12 months of the date of the
 655 issuance of the restricted retail tobacco permit.

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

661 **§ 4.1-248. Grounds for which Board may suspend or revoke retail tobacco permits.**

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

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

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

669 b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-250,
 670 has (i) been convicted of a violation of any law, ordinance, or regulation of the Commonwealth, of any
 671 locality in the Commonwealth, of any state, or of the United States applicable to the manufacture,
 672 transportation, possession, use, or sale of retail tobacco products; (ii) violated any provision of this article;
 673 (iii) violated or failed or refused to comply with any regulation, rule, or order of the Board; (iv) failed or
 674 refused to comply with any of the conditions or restrictions of the retail tobacco permit granted by the Board;
 675 or (v) violated, failed, or refused to comply with Article 4 (§ 4.1-355 et seq.) of Chapter 3;

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

678 d. Is not the legitimate owner of the business conducted under the retail tobacco permit granted by the

679 *Board, or other persons have ownership interests in the business that have not been disclosed;*
680 *e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business*
681 *conducted under the retail tobacco permit granted by the Board;*
682 *f. Has been intoxicated or under the influence of some self-administered drug while upon the permitted*
683 *premises;*
684 *g. Subsequent to the granting of his original retail tobacco permit, has demonstrated by his police record*
685 *a lack of respect for law and order;*
686 *h. Is physically unable to carry on the business conducted under such retail tobacco permit or has been*
687 *adjudicated incapacitated;*
688 *i. Has possessed any illegal gambling device, as defined in § 18.2-325, upon the permitted premises;*
689 *j. Has upon the permitted premises (i) illegally possessed, distributed, sold, or used or has knowingly*
690 *allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use marijuana,*
691 *controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as*
692 *those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title*
693 *18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or*
694 *(iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or*
695 *the Drug Control Act. The provisions of this subdivision shall also apply to any conduct related to the*
696 *operation of the permitted business that facilitates the commission of any of the offenses set forth herein;*
697 *k. Has failed to take reasonable measures to prevent (i) the permitted premises, (ii) any premises*
698 *immediately adjacent to the permitted premises that are owned or leased by the permittee, or (iii) any portion*
699 *of public property immediately adjacent to the permitted premises from becoming a place where patrons of*
700 *the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1*
701 *(§ 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.),*
702 *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*
703 *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*
704 *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*
705 *violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to*
706 *public safety; or*
707 *l. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily*
708 *injury, or a recurrence of such acts, from occurring on (i) the permitted premises, (ii) any premises*
709 *immediately adjacent to the permitted premises that is owned or leased by the permittee, or (iii) any portion*
710 *of public property immediately adjacent to the permitted premises.*

711 2. *The place occupied by the permittee:*

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

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

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

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

722 *4. Any cause exists for which the Board would have been entitled to refuse to grant such retail tobacco*
723 *permit had the facts been known.*

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

730 *6. The Board, the Department of Taxation, or investigators with the Office of the Attorney General found*
731 *that the permittee exceeded the legal volume limits set by § 58.1-1017.1 during the prior year.*

732 *7. Investigators with the Office of the Attorney General seized cigarette inventory pursuant to § 2.2-509.1*
733 *from the permittee during the prior year.*

734 *8. Any other cause authorized by this article.*

735 **§ 4.1-249. Grounds for which Board shall suspend or revoke retail tobacco permits.**

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

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

740 *2. A permittee has defrauded or attempted to defraud the Board or any federal, state, or local government*

741 or governmental agency or authority by making or filing any report, document, or tax return required by
742 statute or regulation that is fraudulent or contains a willfully or knowingly false representation of a material
743 fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or
744 governmental agency or authority by making or maintaining business records required by statute or
745 regulation that are false or fraudulent.

746 **§ 4.1-250. Suspension or revocation of retail tobacco permits; notice and hearings; imposition of
747 penalties.**

748 A. 1. Except for temporary retail tobacco permits issued pursuant to § 4.1-252, before the Board may
749 impose a civil penalty or suspend or revoke any retail tobacco permit, reasonable notice of such proposed or
750 contemplated action shall be given to the permittee in accordance with the provisions of § 2.2-4020.

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

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

765 4. The action of the Board in suspending or revoking any retail tobacco permit or in imposing a civil
766 penalty shall be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et
767 seq.). Such review shall extend to the entire evidential record of the proceedings provided by the Board in
768 accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order
769 of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be
770 suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither
771 mandamus nor injunction shall lie in any such case.

772 B. In suspending any retail tobacco permit, the Board may impose, as a condition precedent to the
773 removal of such suspension or any portion thereof, a requirement that the permittee pay the cost incurred by
774 the Board in investigating the permittee and in holding the proceeding resulting in such suspension, or it may
775 impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil
776 penalty exceeding \$2,000 for the first violation occurring within the five years immediately preceding the
777 date of the violation or \$5,000 for the second violation occurring within the five years immediately preceding
778 the date of the second violation. However, if the violation involved selling retail tobacco products to a person
779 prohibited from purchasing such retail tobacco products, the Board may impose a civil penalty not to exceed
780 \$3,000 for the first violation occurring within the five years immediately preceding the date of the violation
781 and \$6,000 for a second violation occurring within the five years immediately preceding the date of the
782 second violation in lieu of such suspension or any portion thereof, or both. The Board may also impose a
783 requirement that the permittee pay for the cost incurred by the Board, not to exceed \$25,000, in investigating
784 the permittee and in holding the proceeding resulting in the violation in addition to any suspension or civil
785 penalty incurred.

786 C. Following notice to (i) the permittee of a hearing that may result in the suspension or revocation of the
787 retail tobacco permit or (ii) the applicant of a hearing to resolve a contested application, the Board may
788 accept a consent agreement as authorized in subdivision 21 of § 4.1-103. The notice shall advise the
789 permittee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b)
790 waive any right to a hearing or an appeal under the Administrative Process Act; and (c) (1) accept the
791 proposed restrictions for operating under the retail tobacco permit, (2) accept the period of suspension of the
792 permitted privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension
793 or any portion of the suspension as applicable, or (4) proceed to a hearing.

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

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

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

800 3. Establish a schedule of penalties for such offenses that prescribes the appropriate suspension of a retail
801 tobacco permit and the civil charge acceptable in lieu of such suspension; and

802 4. Establish a schedule of offenses for which any penalty may be waived upon a showing that the

803 permittee has had no prior violations within five years immediately preceding the date of the violation. No
804 waiver shall be granted by the Board, however, for a permittee's willful and knowing violation of this article
805 or Board regulations.

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

808 **§ 4.1-251. Suspension or revocation; disposition of retail tobacco products on hand; termination.**

809 A. Retail tobacco products owned by or in possession of, or for sale by, any permittee at the time the retail
810 tobacco permit of such permittee is suspended or revoked may be disposed of as follows:

811 1. Sold by such permittee to the Board at prices and terms agreed upon by the Board and such permittee;

812 2. Sold to persons in the Commonwealth who are permitted to sell such retail tobacco products; or

813 3. Upon retail tobacco permits granted by the Board and conditions specified by the Board, sold to
814 persons outside the Commonwealth for resale outside the Commonwealth upon retail tobacco permits
815 granted by the Board.

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

820 C. All retail tobacco products owned by or in possession of any permittee whose retail tobacco permit is
821 suspended or revoked shall be disposed of by such permittee in accordance with the provisions of this section
822 within 60 days from the date of such suspension or revocation.

823 D. Retail tobacco products owned by, or in possession of, or for sale by any permittee whose retail
824 tobacco permit has been terminated other than by suspension or revocation may be disposed of in
825 accordance with subsection A or B within such time as the Board deems proper. Such period shall not be less
826 than 60 days.

827 E. All retail tobacco products owned by or remaining in the possession of any permittee described in
828 subsection A, B, or D after the expiration of such period shall be deemed contraband and forfeited to the
829 Commonwealth in accordance with the provisions of § 4.1-338.

830 **§ 4.1-252. Continuation of permittee operations in certain instances; temporary retail tobacco permits.**

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

832 1. Any person who (i) purchases at a foreclosure, secured creditor's, or judicial auction sale the premises
833 or property of a permittee or (ii) has become lawfully entitled to the possession of the permitted premises to
834 continue to operate the retail tobacco establishment to the same extent as a permittee for a period not to
835 exceed 60 days or for such longer period as determined by the Board. Such retail tobacco permit shall be
836 temporary and shall confer the privileges of any retail tobacco permits held by the previous owner to the
837 extent determined by the Board. Such temporary retail tobacco permit may be issued in advance, conditioned
838 on the above requirements.

839 2. Any person who, through contract, lease, concession, license, management or similar agreement
840 (collectively, the contract), becomes lawfully entitled to the use and control of the premises of a permittee to
841 continue to operate the retail tobacco establishment to the same extent as a permittee, provided such person
842 has made application to the Board for a retail tobacco permit at the same premises. The temporary retail
843 tobacco permit shall (i) confer the privileges of any retail tobacco permits held by the previous owner to the
844 extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period as may be
845 necessary as determined by the Board pending the completion of the processing of the temporary permittee's
846 retail tobacco permit application. No temporary retail tobacco permit shall be issued without the written
847 consent of the previous permittee. No temporary retail tobacco permit shall be issued under the provisions of
848 this subdivision if the previous permittee owes any state or local taxes, or has any pending charges for
849 violation of this article or any Board regulation, unless the temporary permittee agrees to assume the liability
850 of the previous permittee for the taxes or any penalty for the pending charges. An application for a temporary
851 retail tobacco permit may be filed prior to the effective date of the contract, in which case the temporary
852 retail tobacco permit, when issued, shall become effective on the effective date of the contract. Upon the
853 effective date of the temporary retail tobacco permit, (a) the temporary permittee shall be responsible for
854 compliance with the provisions of this article and any Board regulation and (b) the previous permittee shall
855 not be held liable for any violation of this article or any Board regulation committed by, or any errors or
856 omissions of, the temporary permittee.

857 B. Every application for a temporary retail tobacco permit granted pursuant to this section shall be on a
858 form prescribed by the Board. The fee for a temporary retail tobacco permit shall be one-twelfth of the
859 combined retail tobacco permit application fee and retail tobacco permit fee computed to the nearest cent
860 and multiplied by the number of months for which the temporary retail tobacco permit is granted.

861 C. The decision to refuse to grant a temporary retail tobacco permit shall not be subject to a hearing. A
862 temporary retail tobacco permit may be revoked summarily by the Board for any cause set forth in § 4.1-248
863 without complying with subsection A of § 4.1-250. Revocation of a temporary retail tobacco permit shall be
864 effective upon service of the order of revocation upon the temporary permittee or upon the expiration of three

865 business days after the order of the revocation has been mailed to the temporary permittee at either his
 866 residence or the address given for the business in the application. No further notice shall be required.

867 **§ 4.1-253. Records of certain permittees; audits, inspections, and investigations; penalties.**

868 A. Every permittee that receives, stores, sells, handles, or transports liquid nicotine or nicotine vapor
 869 products shall preserve all invoices, books, papers, canceled checks, or other documents relating to the
 870 purchase, sale, exchange, receipt, or transportation of all liquid nicotine or nicotine vapor products for a
 871 period of three years. All such invoices, books, papers, canceled checks, or other documents shall be subject
 872 to audit or inspection at any time by any duly authorized representative of the Attorney General.

873 B. Any person who violates the provisions of subsection A is guilty of a Class 2 misdemeanor.

874 C. The Department of Taxation shall impose a penalty of \$1,000 for each day that a person fails or
 875 refuses to allow or cooperate with an audit, inspection, or investigation of such records. Such penalty shall
 876 be collected as other taxes are collected. Upon a person's refusal to cooperate with an audit, inspection, or
 877 investigation, the Attorney General may apply to the Circuit Court for the City of Richmond for injunctive
 878 relief.

879 D. The Department of Taxation, the Attorney General, any other law-enforcement agency of the
 880 Commonwealth, or any federal law-enforcement agency conducting a criminal investigation involving the
 881 trafficking of liquid nicotine or nicotine vapor products may access at any time the records required to be
 882 preserved by this section. Copies of such records shall be provided to such officials or agencies upon request.
 883 Any court, investigatory grand jury, or special grand jury that has been impaneled in accordance with the
 884 provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2 may access such records if relevant to any
 885 proceedings therein. Such records shall be exempt from disclosure under the Virginia Freedom of
 886 Information Act (§ 2.2-3700 et seq.). Investigators of the Attorney General may accompany and participate
 887 with other law-enforcement officials engaging in enforcement action relating to such trafficking.

888 **§ 4.1-254. Retail Tobacco Enforcement Fund.**

889 There is hereby created in the state treasury a special nonreverting fund to be known as the Retail
 890 Tobacco Enforcement Fund, referred to in this section as "the Fund." The Fund shall be established on the
 891 books of the Comptroller. All revenues accruing to the Fund pursuant to this article, all funds appropriated
 892 for such purpose, and any gifts, donations, grants, bequests, and other funds received on its behalf shall be
 893 paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in
 894 the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of
 895 each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall
 896 be used solely for the purposes of funding the Authority's direct and indirect costs of tobacco retail permit
 897 administration; enforcement program, including unannounced compliance checks; and administrative costs
 898 pursuant to this article. Expenditures and disbursements from the Fund shall be made by the State Treasurer
 899 on warrants issued by the Comptroller upon written request signed by the Chief Executive Officer of the
 900 Authority.

901 **Article 4.**

902 **Retail Tobacco Products.**

903 **§ 4.1-355. Illegal sale of retail tobacco products in general; penalty.**

904 Any person who is not a permittee who sells any retail tobacco product except as permitted by this subtitle
 905 or, for manufacturers or distributors licensed by the Department of Taxation, purchases such products for
 906 resale pursuant to Title 58.1, is guilty of a Class 1 misdemeanor.

907 **§ 4.1-356. Packaging of certain retail tobacco products; civil penalty.**

908 A. Cigarettes shall be sold only in sealed packages provided by the manufacturer, with the required health
 909 warning. The proprietor of every retail tobacco establishment that offers for sale any retail tobacco product
 910 shall post in a conspicuous manner and place a sign or signs indicating that the sale of retail tobacco
 911 products to any person under 21 years of age is prohibited by law.

912 B. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services
 913 Administration published as 61 Federal Register 1492, the Board may promulgate regulations that allow the
 914 Board to undertake the activities necessary to comply with such regulations.

915 C. Agents of the Authority may issue a summons for any violation of this section. Any attorney for the
 916 locality in which an alleged violation of this section occurred may enforce this section by civil action to
 917 recover a civil penalty not to exceed \$500. The civil penalty shall be paid into the local treasury. No filing fee
 918 or other fee or cost shall be charged to the locality which instituted the action.

919 D. Nothing in this section shall be construed to create a private cause of action.

920 **§ 4.1-357. Sale or distribution of liquid nicotine container; prohibition; penalty.**

921 A. No person shall sell or distribute at retail or offer for retail sale or distribution a liquid nicotine
 922 container in the Commonwealth unless such liquid nicotine container meets child-resistant packaging
 923 standards.

924 B. Any person who sells or distributes at retail or offers for retail sale or distribution a liquid nicotine
 925 container in the Commonwealth that he knows or has reason to know does not satisfy the child-resistant
 926 packaging standards required by this section is guilty of a Class 4 misdemeanor. However, no person shall

927 be guilty of a violation of this section who relies in good faith on any information provided by the
928 manufacturer of a liquid nicotine container that such container meets the requirements of this section.

929 C. The provisions of this article do not apply to any manufacturer or wholesaler of liquid nicotine
930 containers who sells or distributes a liquid nicotine container, provided that any such liquid nicotine
931 container sold or distributed is intended for use outside of the Commonwealth.

932 D. The provisions of subsection A shall be null, void, and of no force and effect upon the effective date of
933 either enacted federal legislation or final regulations issued by the U.S. Food and Drug Administration or by
934 any other federal agency where such legislation or regulations mandate child-resistant packaging for liquid
935 nicotine containers.

936 E. The provisions of this section with respect to retail sales, retail establishments, and offers for retail
937 sales shall only apply to retail sales or offers at retail of liquid nicotine containers before July 1, 2024.

938 **§ 4.1-358. Purchase of retail tobacco products from person not authorized to sell; penalty.**

939 Any person who buys retail tobacco products from any person other than a permittee authorized under
940 this subtitle is guilty of a Class 1 misdemeanor.

941 **§ 4.1-359. Persons to whom retail tobacco products may not be sold; proof of legal age; civil penalty.**

942 A. No person shall sell to any person younger than 21 years of age, knowing or having reason to believe
943 that such person is younger than 21 years of age, any retail tobacco products. No person shall sell retail
944 tobacco products from a vending machine.

945 B. 1. No person shall sell a retail tobacco product to any individual who does not demonstrate, by
946 producing a driver's license or similar photo identification issued by a government agency, that the
947 individual is at least 21 years of age.

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

954 3. This subsection shall not apply to mail order or internet sales, provided that the person offering the
955 retail tobacco product for sale through mail order or the internet (i) prior to the sale of the retail tobacco
956 product verifies that the purchaser is at least 21 years of age through a commercially available database that
957 is regularly used by businesses or governmental entities for the purpose of age and identity verification and
958 (ii) uses a method of mailing, shipping, or delivery that requires the signature of a person at least 21 years of
959 age before the retail tobacco product is released to the purchaser.

960 C. A violation of subsection A or B by an individual is punishable by a civil penalty in the amount of \$500
961 for a first violation and a civil penalty in the amount of \$2,500 for a second or subsequent violation within a
962 three-year period. Such civil penalty shall not preclude the Board from taking administrative action against a
963 permittee for the conduct of his agent or employee who violates subsection A or B. If applicable, upon a
964 second or subsequent violation within a three-year period, the Board may suspend or revoke any retail
965 tobacco permit issued pursuant to this subtitle.

966 **§ 4.1-360. Prohibiting possession of retail tobacco products by a person younger than 21 years of age;
967 seizure.**

968 A. No person younger than 21 years of age shall possess any retail tobacco product. The provisions of this
969 section shall not apply to the possession of retail tobacco products by a person younger than 21 years of age
970 (i) making a delivery of retail tobacco products in pursuance of his employment or (ii) as part of a scientific
971 study being conducted by an organization for the purpose of medical research to further efforts in cigarette
972 and tobacco use prevention and cessation and tobacco product regulation, provided that such medical
973 research has been approved by an institutional review board pursuant to applicable federal regulations or by
974 a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection
975 shall not apply to the possession of any retail tobacco product by a law-enforcement officer or his agent
976 when the same is necessary in the performance of his duties.

977 B. Any retail tobacco product possessed in violation of this section shall be deemed contraband and may
978 be seized by a law-enforcement officer. Any such retail tobacco product, the lawful possession of which is not
979 established, seized by such officer shall be forfeited and disposed of according to the process described in
980 subdivision A 2 of § 19.2-386.23.

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

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

984 **§ 4.1-361. Purchasing retail tobacco products for person to whom they may not be sold; penalty;
985 forfeiture.**

986 A. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail
987 tobacco products to another person, when he knows or has reason to know that such person is younger than
988 21 years of age, except (i) where possession of the retail tobacco products by a person younger than 21 years

989 of age is due to such person's making a delivery of retail tobacco products in pursuance of his employment or
 990 (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to
 991 further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation,
 992 provided that such medical research has been approved by an institutional review board pursuant to
 993 applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et
 994 seq.) of Title 32.1. This subsection shall not apply to the possession of any retail tobacco product by a law-
 995 enforcement officer or his agent when the same is necessary in the performance of his duties.

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

999 C. Any retail tobacco products purchased or possessed in violation of this section shall be deemed
 1000 contraband and may be seized by a law-enforcement officer. Any such retail tobacco product, the lawful
 1001 possession of which is not established, seized by such officer shall be forfeited and disposed of according to
 1002 the process described in subdivision A 2 of § 19.2-386.23.

1003 **§ 4.1-362. Liquid nicotine and nicotine vapor product; directory.**

1004 The Attorney General shall establish and maintain a directory that lists all liquid nicotine or nicotine
 1005 vapor product manufacturers and liquid nicotine and nicotine vapor products for which current and accurate
 1006 certification forms have been submitted in accordance with the provisions of § 4.1-363. The Attorney General
 1007 shall make the directory available for public inspection on its website. The Attorney General shall update the
 1008 directory as necessary.

1009 **§ 4.1-363. Liquid nicotine and nicotine vapor product; certification; penalty.**

1010 A. By December 31, 2026, and annually thereafter, every manufacturer of liquid nicotine or nicotine
 1011 vapor products that are sold for retail sale in the Commonwealth, whether directly or through a wholesaler,
 1012 distributor, tobacco retailer, or similar intermediary, shall certify in a form and manner as prescribed by the
 1013 Attorney General that the manufacturer agrees to comply with the provisions of this article and that:

1014 1. The manufacturer has received a marketing authorization or similar order for the liquid nicotine or
 1015 nicotine vapor product from the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j; or

1016 2. The liquid nicotine or nicotine vapor product was marketed in the United States as of August 8, 2016,
 1017 or the manufacturer submitted a premarket tobacco product application for the liquid nicotine or nicotine
 1018 vapor product to the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j on or before
 1019 September 9, 2020 and the application either remains under review by the U.S. Food and Drug
 1020 Administration or a final decision on the application has not otherwise taken effect.

1021 B. A manufacturer of liquid nicotine or nicotine vapor products shall submit a certification form for each
 1022 liquid nicotine and nicotine vapor product that such manufacturer sells for retail sale in the Commonwealth.

1023 C. Each certification form shall be accompanied by:

1024 1. A copy of the marketing authorization or other order for each liquid nicotine or nicotine vapor product
 1025 issued by the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 387j or evidence that the
 1026 premarket tobacco product application for the liquid nicotine or nicotine vapor product was submitted to the
 1027 U.S. Food and Drug Administration and a final authorization or order has not yet taken effect;

1028 2. A fee of \$2,000 for each liquid nicotine and nicotine vapor product, to be remitted with the
 1029 manufacturer's first certification submission that identifies any such product and with any resubmission of a
 1030 certification for any such product following any period of noncertified status; and

1031 3. A fee of \$500 to be submitted annually for each liquid nicotine and nicotine vapor product to be
 1032 remitted with the manufacturer's annual recertification submission identifying any liquid nicotine or nicotine
 1033 vapor product, where such recertification does not follow any period of noncertified status.

1034 D. A manufacturer required to submit a certification pursuant to this section shall notify the Attorney
 1035 General within 30 days of any material change to the certification form, including the issuance or denial of a
 1036 marketing authorization or other order or action by the U.S. Food and Drug Administration pursuant to 21
 1037 U.S.C. § 387j or any other order or action by the U.S. Food and Drug Administration that affects the ability
 1038 of the liquid nicotine or nicotine vapor product to be introduced or delivered into interstate commerce for
 1039 commercial distribution in the United States.

1040 E. Any manufacturer that falsely represents any of the information required by this section is guilty of a
 1041 Class 3 misdemeanor for each false representation. Venue for prosecution of a violation of this subsection
 1042 shall be proper in the Circuit Court for the City of Richmond.

1043 **§ 4.1-364. Removal or exclusion from liquid nicotine or nicotine vapor product directory.**

1044 A. The Attorney General shall, in accordance with the provisions of this section, remove or exclude from
 1045 the directory any liquid nicotine or nicotine vapor product manufacturer or liquid nicotine or nicotine vapor
 1046 product that the Attorney General determines is not in compliance with the provisions of this article.

1047 B. If the Attorney General determines to remove or exclude from the directory a liquid nicotine or nicotine
 1048 vapor product manufacturer or a liquid nicotine or nicotine vapor product in the directory, the Attorney
 1049 General shall notify, by electronic or other practicable means, the manufacturer's registered agent in the
 1050 Commonwealth of such determination. The liquid nicotine or nicotine vapor product manufacturer shall have

1051 10 business days from receipt of such notice to establish that the liquid nicotine or nicotine vapor product
1052 manufacturer or liquid nicotine or nicotine vapor product meets the requirements to be included in the
1053 directory. If the liquid nicotine or nicotine vapor product manufacturer fails to establish compliance within
1054 the 10-business-day period, the Attorney General shall remove or exclude from the directory the liquid
1055 nicotine or nicotine vapor product manufacturer or liquid nicotine or nicotine vapor product.

1056 C. Any determination by the Attorney General to remove or exclude from the directory a manufacturer or
1057 a product shall be subject to review by the filing of a civil action for prospective declaratory or injunctive
1058 relief in the Circuit Court for the City of Richmond.

1059 D. If a liquid nicotine or nicotine vapor product is removed from the directory:

1060 1. Each tobacco retailer shall have 30 days to sell the product or remove such product intended for retail
1061 sale in the Commonwealth from its inventory and return the product to the manufacturer for disposal. After
1062 21 days following the removal from the directory, the liquid nicotine and nicotine vapor products removed
1063 from the directory shall be subject to seizure, forfeiture, and destruction and shall not be purchased or sold
1064 in the Commonwealth.

1065 2. Each manufacturer, wholesaler, or retail dealer selling the product intended for retail sale in the
1066 Commonwealth shall notify each purchaser of the product that it has been removed from the directory at the
1067 time of delivery of such product. Unless otherwise provided by contract or purchase agreement, the
1068 manufacturer, wholesaler, or retail dealer shall provide the purchaser a refund of the purchase price of the
1069 removed product. If a manufacturer, wholesaler, or retail dealer fails to provide such refund, the purchaser
1070 may bring an action against the manufacturer, wholesaler, or retail dealer in a court of competent
1071 jurisdiction to recover the purchase price and reasonable attorney fees and costs.

1072 **§ 4.1-365. Agent for service of process; liquid nicotine or nicotine vapor product directory.**

1073 A. Any nonresident manufacturer of liquid nicotine or nicotine vapor products that has not registered to
1074 do business in the Commonwealth as a foreign corporation or business entity shall, as a condition precedent
1075 to being included in the directory established by the Attorney General pursuant to § 4.1-362, appoint and
1076 continually engage without interruption the services of an agent in the Commonwealth to act as agent for the
1077 service of process in any action or proceeding against such nonresident manufacturer concerning or arising
1078 out of the enforcement of this article, and such nonresident manufacturer may be served in any manner
1079 authorized by law. Such service shall constitute legal and valid service of process on the nonresident
1080 manufacturer. The nonresident manufacturer shall provide the name, address, telephone number, and proof
1081 of the appointment and availability of such agent to the Attorney General.

1082 B. The nonresident manufacturer shall provide notice to the Attorney General 30 calendar days prior to
1083 termination of the authority of an agent and shall further provide proof to the satisfaction of the Attorney
1084 General of the appointment of a new agent no less than five calendar days prior to the termination of an
1085 existing agent appointment. In the event an agent terminates an agency appointment, the nonresident
1086 manufacturer shall notify the Attorney General of the termination within five calendar days and shall include
1087 proof to the satisfaction of the Attorney General of the appointment of a new agent.

1088 C. Any nonresident manufacturer whose liquid nicotine or nicotine vapor products are sold in the
1089 Commonwealth who has not appointed and engaged the services of an agent as required by this section shall
1090 be deemed to have appointed the Secretary of the Commonwealth as its agent for service of process. The
1091 appointment of the Secretary of the Commonwealth as agent shall not satisfy the condition precedent to be
1092 included in the directory required in subsection A.

1093 **§ 4.1-366. Sale or distribution of liquid nicotine or nicotine vapor product prohibited.**

1094 A. Beginning December 31, 2026, no person shall sell, distribute or import for resale, or offer for sale a
1095 liquid nicotine or nicotine vapor product for retail sale in the Commonwealth unless such liquid nicotine or
1096 nicotine vapor product is included in the directory established by the Attorney General pursuant to § 4.1-362.

1097 B. Beginning December 31, 2025, no liquid nicotine or nicotine vapor product manufacturer shall sell for
1098 retail sale, either directly or through a wholesaler, distributor, retailer, or similar intermediary or
1099 intermediaries, a liquid nicotine or nicotine vapor product in the Commonwealth unless such liquid nicotine
1100 or nicotine vapor product is included in the directory established by the Attorney General pursuant to
1101 § 4.1-362.

1102 C. Any person that violates the provisions of subsection A is subject to a fine of \$1,000 per day for each
1103 product offered for sale in violation until the offending product is removed from the market or until the
1104 offending product is properly listed in the directory.

1105 D. A liquid nicotine or nicotine vapor product manufacturer that violates the provisions of subsection B is
1106 subject to a fine of \$1,000 per day for each product offered for sale in violation until the offending product is
1107 removed from the market or until the offending product is properly listed in the directory.

1108 E. Each retailer shall have 60 days from the date that the Attorney General first makes the directory
1109 available for inspection on its public website to sell any products that were in its inventory and not included
1110 in the directory or to remove from inventory and return such products to the manufacturer for disposal.

1111 F. Each distributor or wholesaler shall have 60 days from the date that the Attorney General first makes
1112 the directory available for inspection on its public website to remove any products intended for sale in the

1113 Commonwealth from its inventory and return such products to the manufacturer for disposal.

1114 G. In an action brought under this section, the attorney for the Commonwealth or the attorney for the
1115 locality may recover reasonable costs of investigation, the costs of the action, and attorney fees.

1116 H. Any civil penalties assessed under this section in an action brought in the name of a locality shall be
1117 paid into the general fund of the locality.

1118 I. All fees collected by the Attorney General pursuant to this section shall be used for the administration
1119 and enforcement of §§ 4.1-362 through 4.1-366.

1120 **§ 4.1-367. Liquid nicotine or nicotine vapor products; enforcement; inspection.**

1121 A. Notwithstanding any other provisions of law to the contrary, any attorney for the Commonwealth or
1122 the attorney for any locality may cause an action to be brought in the appropriate circuit court in the name of
1123 the Commonwealth or of the locality to enjoin any violation of §§ 4.1-362 through 4.1-366. The circuit court
1124 having jurisdiction may enjoin such violations notwithstanding the existence of an adequate remedy at law.
1125 In any action under §§ 4.1-362 through 4.1-366, it shall not be necessary that damages be proved.

1126 B. The circuit courts are authorized to (i) issue temporary or permanent injunctions to restrain and
1127 prevent violations of §§ 4.1-362 through 4.1-366 and (ii) order forfeiture of any property seized for a
1128 violation of §§ 4.1-362 through 4.1-366.

1129 C. Each violation of §§ 4.1-362 through 4.1-366 shall constitute a separate violation and shall be subject
1130 to any penalties imposed.

1131 **§ 4.1-368. Liquid nicotine and nicotine vapor product; report.**

1132 The Attorney General shall provide an annual report on or before January 31 to the General Assembly
1133 regarding the status of the directory, manufacturers and products included in the directory, revenues and
1134 expenditures related to the administration of §§ 4.1-362 through 4.1-367, and enforcement activities
1135 undertaken pursuant to §§ 4.1-362 through 4.1-367.

1136 **§ 15.2-912.4. Regulation of retail tobacco, nicotine, and hemp product retail sale locations.**

1137 Any locality may, by ordinance, regulate the a retail sale locations of retail tobacco products
1138 establishment, as such term is defined in § 18.2-371.2 4.1-100, or retail sale location of hemp products
1139 intended for smoking, as such term is defined in § 3.2-4112, for any such retail sale location and may prohibit
1140 a retail sale such establishment or location on property within 1,000 linear feet of a child day center as
1141 defined in § 22.1-289.02 or a public, private, or parochial school. An ordinance adopted pursuant to this
1142 section shall not affect (i) a licensee holding a valid license under § 4.1-206.3 or (ii) any retail sale location of
1143 retail tobacco products establishment or the retail sale location of hemp products intended for smoking
1144 operating before July 1, 2024.

1145 **§ 18.2-246.8. Age verification requirements.**

1146 A. No person shall mail, ship, or otherwise deliver cigarettes in connection with a delivery sale unless
1147 prior to the first delivery sale to a consumer such person:

1148 1. Obtains from the prospective consumer a certification that includes (i) a reliable confirmation that the
1149 consumer is at least the legal minimum purchase age and (ii) a statement signed by the prospective consumer
1150 in writing that certifies the prospective consumer's address and that the consumer is at least 21 years of age.
1151 Such statement shall also confirm (a) that the prospective consumer understands that signing another person's
1152 name to such certification is illegal, (b) that the sale of cigarettes to individuals under the legal minimum
1153 purchase age is illegal, and (c) that the purchase of cigarettes by individuals under the legal minimum
1154 purchase age is illegal under the laws of the Commonwealth;

1155 2. Makes a good faith effort to verify the information contained in the certification provided by the
1156 prospective consumer pursuant to subdivision 1 against a commercially available database of valid,
1157 government-issued identification that contains the date of birth or age of the individual placing the order, or
1158 obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or
1159 age of the individual placing the order;

1160 3. Provides to the prospective consumer, via email or other means, a notice that meets the requirements of
1161 § 18.2-246.9; and

1162 4. Receives payment for the delivery sale from the prospective consumer by a credit or debit card that has
1163 been issued in such consumer's name or by a check drawn on the consumer's account.

1164 B. 1. ~~Except as provided in § 58.1-1021.06, if~~ If a purchase order for a liquid nicotine or nicotine vapor
1165 product, as defined in § 58.1-1021.01, is made via the ~~Internet~~ internet, no person shall make a delivery for
1166 such order unless the delivery is to a retail dealer, as defined in § 58.1-1021.01.

1167 2. Persons accepting purchase orders made via the ~~Internet~~ internet for delivery sales may request that
1168 prospective consumers provide their email addresses.

1169 **§ 18.2-371.2. Prohibiting sale or distribution, etc. of hemp products intended for smoking by
1170 persons under 21 years of age; civil penalties.**

1171 A. As used in this section, "hemp product" and "hemp product intended for smoking" mean the same as
1172 those terms are defined in § 3.2-4112.

1173 B. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person
1174 younger than 21 years of age, knowing or having reason to believe that such person is younger than 21 years

1175 of age, any ~~retail tobacco product~~ or hemp product intended for smoking.

1176 No person shall sell ~~retail tobacco products~~ or hemp products intended for smoking from a vending
1177 machine.

1178 B. C. No person shall sell a ~~retail tobacco product~~ or hemp product intended for smoking to any individual
1179 who does not demonstrate, by producing a driver's license or similar photo identification issued by a
1180 government agency, that the individual is at least 21 years of age.

1181 Before a ~~retail dealer~~ may sell ~~retail tobacco products~~, other than cigar and pipe tobacco products as
1182 defined in § 58.1-1021.01, to any consumer, the person selling, offering for sale, giving, or furnishing the
1183 ~~retail tobacco products~~ shall verify that the consumer is of legal age by examining from any person who
1184 appears to be under 30 years of age a government issued photographic identification that establishes that the
1185 person is of legal age or, if required pursuant to subdivision C 4 b of § 58.1-1021.04:1 or subdivision B 2 b of
1186 § 59.1-293.12, verifying the identification presented using identification fraud detection software,
1187 technology, or a scanner that confirms the authenticity of such identification.

1188 This subsection shall not apply to mail order or ~~Internet~~ *internet* sales, provided that the person offering
1189 the ~~retail tobacco product~~ or hemp product intended for smoking for sale through mail order or the ~~Internet~~
1190 *internet* (i) prior to the sale of the ~~retail tobacco product~~ or hemp product intended for smoking verifies that
1191 the purchaser is at least 21 years of age through a commercially available database that is regularly used by
1192 businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of
1193 mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the ~~retail~~
1194 ~~tobacco product~~ or hemp product intended for smoking will be released to the purchaser.

1195 C. D. A violation of subsection A B or B C by an individual or by a separate retail establishment is
1196 punishable by a civil penalty in the amount of \$500 for a first violation and a civil penalty in the amount of
1197 \$2,500 for a second or subsequent violation within a three-year period. If applicable, upon a second or
1198 subsequent violation within a three-year period, the Department of Taxation may suspend or revoke any
1199 approved license, permit, or registration issued pursuant to subsection C of § 58.1-1021.04:1.

1200 For any violation of this section by an employee of a retail establishment, (i) such penalty shall be
1201 assessed against the establishment and (ii) an additional penalty of \$100 shall be assessed against the
1202 employee.

1203 Any attorney for the Commonwealth of the ~~county or city~~ *locality* in which an alleged violation occurred
1204 may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any
1205 law-enforcement officer may issue a summons for a violation of subsection A B or B C.

1206 D. E. 1. Cigarettes and hemp Hemp products intended for smoking shall be sold only in sealed packages
1207 provided by the manufacturer, with the required health warning. The proprietor of every retail establishment
1208 that offers for sale any ~~retail tobacco product~~ or hemp product intended for smoking shall post in a
1209 conspicuous manner and place a sign or signs indicating that the sale of ~~retail tobacco products~~ or hemp
1210 products intended for smoking to any person under 21 years of age is prohibited by law. Any attorney for the
1211 ~~county, city, or town~~ *locality* in which an alleged violation of this subsection occurred may enforce this
1212 subsection by civil action to recover a civil penalty not to exceed \$500. The civil penalty shall be paid into
1213 the local treasury. No filing fee or other fee or cost shall be charged to the ~~county, city, or town~~ *locality*
1214 which instituted the action.

1215 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services
1216 Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services
1217 may promulgate regulations which allow the Department to undertake the activities necessary to comply with
1218 such regulations.

1219 3. Any attorney for the ~~county, city, or town~~ *locality* in which an alleged violation of this subsection
1220 occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$500. The civil
1221 penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the ~~county, city, or town~~ *locality*
1222 which instituted the action.

1223 E. F. Nothing in this section shall be construed to create a private cause of action.

1224 F. G. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may
1225 issue a summons for any violation of this section. Additionally, any ~~retailer~~ selling ~~retail tobacco products~~
1226 shall be subject to the enforcement, and compliance provisions of Chapter 23.2 (§ 59.1-293.10 et seq.) of
1227 Title 59.1.

1228 G. As used in this section:

1229 "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized
1230 substance to the person inhaling from the device, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-
1231 hookah. "Electronic smoking device" includes any component, part, or accessory of the device, whether or
1232 not sold separately, and also includes any substance intended to be aerosolized or vaporized during the use of
1233 the device, whether or not the substance contains nicotine. "Electronic smoking device" does not include any
1234 (i) battery or battery charger when sold separately or (ii) device used for heated tobacco products. "Electronic
1235 smoking device" does not include drugs or devices, as such terms are defined in 21 U.S.C. § 321, or
1236 combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination

1237 products are authorized for sale by the U.S. Food and Drug Administration.

1238 "Hemp product" and "hemp product intended for smoking" mean the same as those terms are defined in
1239 § 3.2-4112.

1240 "Retail tobacco product" means (i) any product containing, made of, or derived from tobacco or that
1241 contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked,
1242 heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated
1243 tobacco product, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (ii) any electronic smoking device
1244 and any substances that may be aerosolized or vaporized by such device, whether or not the substance
1245 contains nicotine; and (iii) any component, part, or accessory of a product described in clause (i) or (ii),
1246 whether or not such component, part, or accessory contains tobacco or nicotine, including filters, rolling
1247 papers, blunt or hemp wraps, and pipes. "Retail tobacco product" includes any nicotine vapor product as that
1248 term is defined in § 58.1-1021.01. "Retail tobacco product" does not include drugs or devices, as such terms
1249 are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. § 353, if such
1250 drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug Administration.

1251 "Wrappings" includes materials made or sold for covering or rolling tobacco or other materials for
1252 smoking in a manner similar to a cigarette or cigar.

1253 **§ 18.2-371.2:1. Prohibiting possession of hemp products intended for smoking by a person younger
1254 than 21 years of age; seizure.**

1255 A. No person younger than 21 years of age shall possess any ~~retail tobacco product~~ or hemp product
1256 intended for smoking, as ~~those terms are that term is~~ defined in § 18.2-371.2 3.2-4112. The provisions of this
1257 section shall not be applicable to the possession of ~~retail tobacco products~~ or hemp products intended for
1258 smoking by a person younger than 21 years of age (i) making a delivery of ~~retail tobacco products~~ or hemp
1259 products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being
1260 conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco
1261 use prevention and cessation and tobacco product regulation, provided that such medical research has been
1262 approved by an institutional review board pursuant to applicable federal regulations or by a research review
1263 committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1. This subsection shall not apply to the
1264 possession of any ~~retail tobacco product~~ or hemp product intended for smoking by a law-enforcement officer
1265 or his agent when the same is necessary in the performance of his duties.

1266 B. Any ~~retail tobacco product~~ or hemp product intended for smoking, as ~~those terms are that term is~~ defined in § 18.2-371.2 3.2-4112, possessed in violation of this section shall be deemed contraband and may
1267 be seized by a law-enforcement officer. Any such product, the lawful possession of which is not established,
1268 seized by such officer shall be forfeited and disposed of according to the process described in subdivision A 2
1269 of § 19.2-386.23.

1270 C. The seizure of contraband pursuant to subsection B shall be the sole penalty for a violation of this
1271 section.

1272 D. The provisions of this section shall not preclude prosecution under any other statute.

1273 **§ 18.2-391. Unlawful acts; penalties.**

1274 A. It shall be is unlawful for any person to sell, rent, or loan to a juvenile, knowing or having reason to
1275 know that such person is a juvenile, or to knowingly display for commercial purpose in a manner whereby
1276 juveniles may examine and peruse:

1277 1. Any picture, photography, drawing, sculpture, motion picture in any format or medium, video or
1278 computer game, electronic file or message containing an image, or similar visual representation or image of a
1279 person or portion of the human body ~~which that~~ depicts sexually explicit nudity, sexual conduct, or
1280 sadomasochistic abuse and ~~which that~~ is harmful to juveniles, or

1281 2. Any book, pamphlet, magazine, printed matter however reproduced, electronic file or message
1282 containing words, or sound recording ~~which that~~ contains any matter enumerated in subdivision 1 of this
1283 subsection, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual
1284 conduct, or sadomasochistic abuse and ~~which that~~, taken as a whole, is harmful to juveniles.

1285 However, if a person uses services of an ~~Internet~~ internet service provider or an electronic mail service
1286 provider in committing acts prohibited under this subsection, such ~~Internet~~ internet service provider or
1287 electronic mail service provider shall not be held responsible for violating this subsection.

1288 B. It shall be is unlawful for any person knowingly to sell to a juvenile an admission ticket or pass, or
1289 knowingly to admit a juvenile to premises whereon there is exhibited a motion picture, show, or other
1290 presentation ~~which that~~, in whole or in part, depicts sexually explicit nudity, sexual conduct, or
1291 sadomasochistic abuse and ~~which that~~ is harmful to juveniles or to exhibit any such motion picture at any
1292 such premises ~~which that~~ are not designed to prevent viewing from any public way of such motion picture by
1293 juveniles not admitted to any such premises.

1294 C. It shall be is unlawful for any juvenile falsely to represent to any person mentioned in subsection A or
1295 subsection B hereof, or to his agent, that such juvenile is 18 years of age or older, with the intent to procure
1296 any material set forth in subsection A, or with the intent to procure such juvenile's admission to any motion
1297 picture, show, or other presentation, as set forth in subsection B.

1299 D. It shall be is unlawful for any person knowingly to make a false representation to any person
1300 mentioned in subsection A or subsection B hereof or to his agent, that he is the parent or guardian of any
1301 juvenile, or that any juvenile is 18 years of age, with the intent to procure any material set forth in subsection
1302 A, or with the intent to procure such juvenile's admission to any motion picture, show, or other presentation,
1303 as set forth in subsection B.

1304 E. No person shall sell, rent, or loan any item described in subdivision A 1 or A 2 to any individual who
1305 does not demonstrate his age in accordance with the provisions of subsection B C of § 18.2-371.2.

1306 F. A violation of subsection A, B, C, or D is a Class 1 misdemeanor. A person or separate retail
1307 establishment who violates subsection E shall be liable for a civil penalty not to exceed \$100 for a first
1308 violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for
1309 a third or subsequent violation.

1310 **§ 58.1-1021.04:1. Distributor's or remote retail seller's license; penalties.**

1311 A. 1. No person shall engage in the business of selling or dealing in tobacco products as a distributor in
1312 the Commonwealth without first having received a separate license from the Department for each location or
1313 place of business. Each application for a distributor's license shall be accompanied by a fee to be prescribed
1314 by the Department. Every application for such license shall be made on a form prescribed by the Department
1315 and the following information shall be provided on the application:

1316 a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name
1317 and address of each of its members shall be provided. If the applicant is a corporation, the name and address
1318 of each of its principal officers shall be provided;

1319 b. The address of the applicant's principal place of business;

1320 c. The place or places where the business to be licensed is to be conducted; and

1321 d. Such other information as the Department may require for the purpose of the administration of this
1322 article.

1323 2. A person outside the Commonwealth who ships or transports tobacco products to retailers in the
1324 Commonwealth, to be sold by those retailers, may make application for license as a distributor, be granted
1325 such a license by the Department, and thereafter be subject to all the provisions of this article. Once a license
1326 is granted pursuant to this section, such person shall be entitled to act as a licensed distributor and, unless
1327 such person maintains a registered agent pursuant to Chapter 9 (§ 13.1-601 et seq.), 10 (§ 13.1-801 et seq.),
1328 12 (§ 13.1-1000 et seq.), or 14 (§ 13.1-1200 et seq.) of Title 13.1 or Chapter 2.1 (§ 50-73.1 et seq.) or 2.2
1329 (§ 50-73.79 et seq.) of Title 50, shall be deemed to have appointed the Clerk of the State Corporation
1330 Commission as the person's agent for the purpose of service of process relating to any matter or issue
1331 involving the person and arising under the provisions of this article.

1332 The Department shall conduct a background investigation, to include a Virginia criminal history records
1333 search, and fingerprints of the applicant, or the responsible principals, managers, and other persons engaged
1334 in handling tobacco products at the licensable locations, that shall be submitted to the Federal Bureau of
1335 Investigation if the Department deems a national criminal records search necessary, on applicants for
1336 licensure as tobacco products distributors. The Department may refuse to issue a distributor's license or may
1337 suspend, revoke, or refuse to renew a distributor's license issued to any person, partnership, corporation,
1338 limited liability company, or business trust if it determines that the principals, managers, and other persons
1339 engaged in handling tobacco products at the licensable location of the applicant have been (i) found guilty of
1340 any fraud or misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny,
1341 embezzlement, fraudulent conversion, gambling, perjury, bribery, treason, or racketeering; or (iii) convicted
1342 of a felony. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a material fact or
1343 knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application
1344 for a distributor's license to the Department, is guilty of a Class 1 misdemeanor. The Department may
1345 establish an application or renewal fee not to exceed \$750 to be retained by the Department to be applied to
1346 the administrative and other costs of processing distributor's license applications, conducting background
1347 investigations, and issuing distributor's licenses. Any amount collected pursuant to this section in excess of
1348 such costs as of June 30 in even-numbered years shall be reported to the State Treasurer and deposited into
1349 the state treasury.

1350 3. No person inside or outside the Commonwealth shall make a remote retail sale of cigars or pipe tobacco
1351 to consumers in the Commonwealth without (i) completing an application for and being granted a license as a
1352 remote retail seller; (ii) determining whether economic nexus activity thresholds have been met to register for
1353 a dealer's certificate under § 58.1-613; (iii) if economic nexus thresholds are met, collecting and remitting the
1354 excise tax pursuant to subsection A of § 58.1-1021.02; (iv) providing for age verification through an
1355 independent, third-party age verification service that compares information available from a commercially
1356 available database, or aggregate of databases, that is regularly used by government agencies and businesses
1357 for the purpose of age and identity verification to the personal information entered by the individual during
1358 the ordering process that establishes that the individual is of age; and (v) if economic nexus thresholds are
1359 met and excise tax is being remitted using the actual cost list method to calculate the excise tax, providing the
1360 remote retail seller's certified actual cost list to the Department for each SKU to be offered for remote retail

1361 sale in the subsequent calendar year. The actual cost list shall be updated quarterly as new SKUs are added to
 1362 a remote retail seller's inventory. New SKUs will be added using the actual cost first paid for the SKU.

1363 B. Upon receipt of an application in proper form and payment of the required license fee, the Department
 1364 shall, unless otherwise provided by this article, issue to the applicant a license, which shall permit the
 1365 licensee to engage in business as a distributor at the place of business shown on the license. Each license, or a
 1366 copy thereof, shall be prominently displayed on the premises covered by the license. No license shall be
 1367 transferable to any other person. Distributor's licenses issued pursuant to this section shall be valid for a
 1368 period of three years from the date of issue unless revoked by the Department in the manner provided herein.
 1369 The Department may at any time revoke the license issued to any distributor who is found guilty of violating
 1370 or noncompliance with any of the provisions of this chapter or any of the rules of the Department adopted and
 1371 promulgated under authority of this chapter. The Department shall suspend or revoke the license issued to
 1372 any distributor who is found guilty of a second or subsequent violation of subsection A or B or C of
 1373 § 18.2-371.2.

1374 C. 1. No person shall engage in the business of selling or dealing liquid nicotine or nicotine vapor
 1375 products or shipping or transporting liquid nicotine or nicotine vapor products to retailers in the
 1376 Commonwealth, to be sold by those retailers, as a manufacturer, distributor, or retail dealer in the
 1377 Commonwealth without first having received a separate license from the Department for each location or
 1378 place of business, and any person who violates such prohibition shall be subject to a penalty of \$400 in
 1379 addition to any other applicable taxes or fees. Each application for a manufacturer's, distributor's, or retail
 1380 dealer's liquid nicotine and nicotine vapor products license shall be accompanied by a fee to be prescribed by
 1381 the Department. Any retail dealer who holds an approved Retail Sales and Use Tax Exemption Certificate for
 1382 Stamped Cigarettes Purchased for Resale or an Other Tobacco Products (OTP) Distributor's License issued
 1383 by the Department shall not be required to obtain a license under this subsection. Every application for such
 1384 liquid nicotine and nicotine vapor products license shall be made on a form prescribed by the Department and
 1385 the following information shall be provided on the application:

1386 a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name
 1387 and address of each of its members shall be provided. If the applicant is a corporation, the name and address
 1388 of each of its principal officers shall be provided;

1389 b. The address of the applicant's principal place of business;

1390 c. The place or places where the business to be licensed is to be conducted; and

1391 d. Such other information as the Department may require for the purpose of the administration of this
 1392 article.

1393 2. The Department shall conduct a background investigation, to include a Virginia criminal history
 1394 records search of the applicant, or the responsible principals and managers of liquid nicotine and nicotine
 1395 vapor products at the licensable locations that shall be submitted to the Federal Bureau of Investigation if the
 1396 Department deems a national criminal records search necessary, on applicants for licensure as a liquid
 1397 nicotine and nicotine vapor products manufacturer, distributor, or retailer, as applicable. The Department may
 1398 refuse to issue a license or may suspend, revoke, or refuse to renew a license issued to any person,
 1399 partnership, corporation, limited liability company, or business trust if it determines that the principals and
 1400 managers at the licensable location of the applicant have been (i) found guilty of any fraud or
 1401 misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny, embezzlement,
 1402 fraudulent conversion, gambling, perjury, bribery, treason, tax evasion, or racketeering; or (iii) convicted of a
 1403 felony within the last five years. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a
 1404 material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in
 1405 any application for a license to the Department is guilty of a Class 1 misdemeanor. The Department may
 1406 establish an application or renewal fee to be retained by the Department to be applied to the administrative
 1407 and other costs of processing license applications, conducting background investigations, and issuing
 1408 licenses. Any amount collected pursuant to this section in excess of such costs as of June 30 in even-
 1409 numbered years shall be reported to the State Treasurer and deposited into the state treasury.

1410 3. Upon receipt of an application in proper form and payment of the required license fee, the Department
 1411 shall, unless otherwise provided by this article, issue to the applicant a liquid nicotine and nicotine vapor
 1412 products license, which shall permit the licensee to engage in business as a manufacturer, distributor, or retail
 1413 dealer at the place of business shown on the license. Each license, or a copy thereof, shall be prominently
 1414 displayed on the premises covered by the license. No license shall be transferable to any other person,
 1415 partnership, corporation, limited liability company, or business trust; however, the Department may grant a
 1416 temporary license to any applicant that has purchased the business of any manufacturer, distributor, or retail
 1417 dealer licensed pursuant to this section while such applicant's application for licensure is pending. Licenses,
 1418 other than temporary licenses, issued pursuant to this section shall be valid for two years from the date of
 1419 issue unless revoked by the Department in the manner provided in this section. The Department may at any
 1420 time suspend or revoke the approved license, permit, or registration issued in accordance with this subsection
 1421 to any person who is found guilty of violating or noncompliance with any of the provisions of this chapter or
 1422 any of the rules of the Department adopted and promulgated under authority of this chapter. Any person

1423 authorized to sell liquid nicotine or nicotine vapor products pursuant to this subsection shall, as a condition of
1424 renewing or extending an approved license, permit, or registration, be required to submit to the Department
1425 an accurate record of any taxes paid on liquid nicotine pursuant to § 58.1-1021.02.

1426 4. No person shall make a sale of liquid nicotine or nicotine vapor products (i) to any person who has not
1427 attained the legal age for purchasing liquid nicotine or nicotine vapor products and (ii) without a valid liquid
1428 nicotine and nicotine vapor products license issued pursuant to this subsection. Any person who is found
1429 guilty of violating or noncompliance with this subdivision shall be subject to the following penalties:

1430 a. For the first violation in a 36-month period, a penalty of no less than \$1,000;
1431 b. For a second violation in a 36-month period, a penalty of no less than \$5,000 and a 30-day suspension
1432 of the liquid nicotine and nicotine vapor products license. If the person is found to be in violation of clause (i)
1433 of this subdivision 4, such person shall be required to verify that any consumer who appears to be under 30
1434 years of age is of legal age by verifying such consumer's government-issued photographic identification using
1435 fraud detection software, technology, or a scanner that confirms the authenticity of such identification; and

1436 c. For a third violation in a 36-month period, a penalty of no less than \$10,000, revocation of the liquid
1437 nicotine and nicotine vapor products license, and ineligibility to possess a liquid nicotine and nicotine vapor
1438 products license for a period of three years from the date of the most recent violation.

1439 5. No person inside or outside the Commonwealth shall make a retail sale of liquid nicotine and nicotine vapor
1440 products without verifying that the consumer is of legal age by examining from any person who
1441 appears to be under 30 years of age a government-issued photographic identification that establishes that the
1442 person is of legal age or providing for age verification through an independent age verification service that
1443 compares information available from a commercially available database, or aggregate of databases, that is
1444 regularly used by government agencies and businesses for the purpose of age and identity verification to the
1445 personal information entered by the individual during the ordering process that establishes that the individual
1446 is of age.

1447 6. For any transaction between a distributor and a retail dealer involving liquid nicotine or nicotine vapor
1448 products, both the distributor and the retail dealer shall maintain and retain records of any invoice or sales
1449 receipt involved that shall include itemized lists of the types of products included in such transaction, the tax
1450 due on each product pursuant to subsection B of § 58.1-1021.02, and the total amount of taxes paid. Such
1451 records shall be produced and provided to the Department as necessary for auditing, compliance, and
1452 enforcement purposes.

1453 D. C. The Department shall compile and maintain a current list of licensed distributors and remote retail
1454 sellers of tobacco products and of manufacturers, distributors, and retail dealers of liquid nicotine and
1455 nicotine vapor products. The list shall be updated on a monthly basis and published on the Department's
1456 website, available to any interested party.

1457 § 59.1-200. Prohibited practices.

1458 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer
1459 transaction are hereby declared unlawful:

- 1460 1. Misrepresenting goods or services as those of another;
- 1461 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 1462 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,
1463 with another;
- 1464 4. Misrepresenting geographic origin in connection with goods or services;
- 1465 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
1466 benefits;
- 1467 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
- 1468 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,
1469 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly
1470 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,
1471 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects, or
1472 "not first class";
- 1473 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the
1474 price or upon the terms advertised.

1475 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant
1476 thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or
1477 offered, shall be *prima facie* evidence of a violation of this subdivision. This paragraph shall not apply when
1478 it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are
1479 advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or
1480 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or
1481 reasonably expected to have at least such quantity or amount for sale;

1482 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of
1483 price reductions;

1484 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts

1485 installed;

1486 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill
1487 for merchandise or services previously ordered;

1488 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
1489 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
1490 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
1491 goods or services advertised or offered for sale;

1492 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or
1493 attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that
1494 are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal
1495 statutes or regulations;

1496 13a. Failing to provide to a consumer, or failing to use or include in any written document or material
1497 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,
1498 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so
1499 provide, use, or include the statement, disclosure, notice, or other information in connection with the
1500 consumer transaction;

1501 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
1502 with a consumer transaction;

1503 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,
1504 or 3.2-6519 is a violation of this chapter;

1505 16. Failing to disclose all conditions, charges, or fees relating to:

1506 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
1507 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
1508 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
1509 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
1510 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
1511 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
1512 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
1513 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
1514 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
1515 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
1516 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
1517 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
1518 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
1519 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

1520 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of
1521 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the
1522 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure
1523 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

1524 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
1525 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
1526 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
1527 overpayments. If the credit balance information is incorporated into statements of account furnished
1528 consumers by suppliers within such 60-day period, no separate or additional notice is required;

1529 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
1530 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

1531 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

1532 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

1533 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

1534 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17
1535 et seq.);

1536 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

1537 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et
1538 seq.);

1539 24. Violating any provision of § 54.1-1505;

1540 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
1541 (§ 59.1-207.34 et seq.);

1542 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

1543 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

1544 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

1545 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

1546 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et

1547 seq.);

1548 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

1549 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

1550 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

1551 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

1552 35. Using the consumer's social security number as the consumer's account number with the supplier, if

1553 the consumer has requested in writing that the supplier use an alternate number not associated with the

1554 consumer's social security number;

1555 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

1556 37. Violating any provision of § 8.01-40.2;

1557 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

1558 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

1559 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

1560 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525

1561 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in

1562 § 59.1-526;

1563 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);

1564 43. Violating any provision of § 59.1-443.2;

1565 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);

1566 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;

1567 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;

1568 47. Violating any provision of § 18.2-239;

1569 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);

1570 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has

1571 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable

1572 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has

1573 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the

1574 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's

1575 products that are used, secondhand or "seconds";

1576 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);

1577 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;

1578 52. Violating any provision of § 8.2-317.1;

1579 53. Violating subsection A of § 9.1-149.1;

1580 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling

1581 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This

1582 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective

1583 drywall has been permanently installed or affixed;

1584 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a

1585 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to

1586 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of

1587 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et

1588 seq.) of Title 54.1;

1589 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

1590 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;

1591 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,

1592 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer

1593 by a supplier to a small business, as those terms are defined in § 59.1-207.45;

1594 59. Violating any provision of subsection E of § 32.1-126;

1595 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under

1596 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

1597 61. Violating any provision of § 2.2-2001.5;

1598 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;

1599 63. Violating any provision of § 6.2-312;

1600 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;

1601 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;

1602 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

1603 67. Knowingly violating any provision of § 8.01-27.5;

1604 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel

1605 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a

1606 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an

1607 obligation to pay for the goods or services;

1608 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,

1609 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic
 1610 derivative" means a chemical compound produced by man through a chemical transformation to turn a
 1611 compound into a different compound by adding or subtracting molecules to or from the original compound.
 1612 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug
 1613 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit
 1614 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

1615 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
 1616 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
 1617 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 1618 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
 1619 16 (§ 4.1-1600 et seq.) of Title 4.1;

1620 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
 1621 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
 1622 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
 1623 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
 1624 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
 1625 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
 1626 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
 1627 accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to
 1628 standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting
 1629 body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
 1630 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
 1631 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 1632 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
 1633 16 (§ 4.1-1600 et seq.) of Title 4.1;

1634 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in
 1635 § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol
 1636 that depicts or is in the shape of a human, animal, vehicle, or fruit;

1637 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
 1638 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper
 1639 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §
 1640 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,
 1641 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,
 1642 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

1643 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a
 1644 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to
 1645 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
 1646 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16
 1647 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July
 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

1649 75. Violating any provision of § 59.1-466.8;

1650 76. Violating subsection F of § 36-96.3:1;

1651 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any
 1652 kratom product that does not include a label listing all ingredients and with the following guidance: "This
 1653 product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose,
 1654 treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the
 1655 plant *Mitragyna speciosa* or any extract thereof;

1656 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved
 1657 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted
 1658 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,
 1659 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not
 1660 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the
 1661 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning
 1662 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not
 1663 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the
 1664 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved
 1665 location;

1666 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a
 1667 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any
 1668 such good or provision of any such continuous service;

1669 80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

1670 81. Selling or offering for sale services as a professional mold remediator to be performed upon any

1671 residential dwelling without holding a mold remediation certification from a nationally or internationally
1672 recognized certifying body for mold remediation, and failing to comply with (i) the U.S. Environmental
1673 Protection Agency's publication on Mold Remediation in Schools and Commercial Buildings, as revised; (ii)
1674 the ANSI/IICRC S520 Standard for Professional Mold Remediation, as revised; or (iii) any other equivalent
1675 ANSI-accredited mold remediation standard, when conducting or offering to conduct mold remediation in the
1676 Commonwealth;

1677 82. Willfully violating any provision of § 59.1-444.4;

1678 83. Violating any provision of ~~Chapter 23.2 (§ 59.1-293.10 et seq.)~~ § 4.1-253, 4.1-356, 4.1-357, or
1679 4.1-362 through 4.1-368;

1680 84. Selling any food that is required by the FDA to have a nutrition label that does not meet the
1681 requirements of 21 C.F.R. Part 101;

1682 85. Obtaining, disclosing, selling, or disseminating any personally identifiable reproductive or sexual
1683 health information without the consent of the consumer;

1684 86. Violating any provision of Chapter 58 (§ 59.1-607 et seq.); and

1685 87. (Effective July 1, 2026) Violating any provision of the Medical Debt Protection Act (§ 59.1-611 et
1686 seq.).

1687 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease
1688 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth
1689 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation
1690 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

1691 2. That §§ 58.1-1021.06 through 58.1-1021.09 and Chapter 23.2 (§§ 59.1-293.10 through 59.1-293.22) of
1692 Title 59.1 of the Code of Virginia are repealed.

1693 3. That for each retail tobacco permittee, the Board of Directors of the Virginia Alcoholic Beverage
1694 Control Authority (the Board) shall conduct an unannounced underage buyer operation at least once
1695 every 24 months to verify that the permittee is not selling retail tobacco products to persons under 21
1696 years of age. If the Board determines that the permittee has violated the provisions of § 4.1-359, as
1697 created by this act, the Board shall conduct an additional underage buyer operation of the permittee
1698 within six months of a Board order substantiating such violation.